

tors or administrators shall have remedy by an action on the case for the recovery of any loss or damage they may be subject to or suffer by the executor or administrator whose powers shall have been revoked as aforesaid.

When proceedings in Orphans' Court by an executor against co-executor for latter's removal become plenary, the petitioner has the right to have issues sent to a court of law under Secs. 264 and 265. *Flaks v. Flaks*, 173 Md. 358.

One executor cannot sue his co-executor. If loss is apprehended from conduct of the co-executor, this section sets forth the remedy. *Beall v. Hilleary*, 1 Md. 197; *Hesson v. Hesson*, 14 Md. 14.

This section has no application to a petition by an executor asking that an account stated by his co-executors prior to expiration of time within which creditors might file their claims, and without notice to petitioner, be set aside. *Yakel v. Yakel*, 96 Md. 244.

This section applies only to proceedings by one joint administrator or executor against another. *Linthicum v. Polk*, 93 Md. 94.

An appeal lies from action of court in revoking letters under this section. This section distinguished from sec. 251. (See also art. 5, sec. 64.) *Magill v. McEvoy*, 85 Md. 290; *Forney v. Shriner*, 60 Md. 421; *Stake v. Stake*, 138 Md. 54.

See notes to sec. 236.

1937, ch. 443.

256. The Orphans' Court may, upon the suggestion of any party in interest, including a creditor, or of the Register of Wills, remove an Executor, Administrator or Guardian, who shall have left the State and have failed in any of his duties required to be performed by him as such Executor, Administrator or Guardian; provided, however, that no order to this effect shall be passed until after two *non ests* to a citation to appear in court and to show cause and provided further, that copies of each of the two notices to appear, shall be sent to such Executor, Administrator or Guardian by registered mail, to his last known address.

An. Code, 1924, sec. 256. 1912, sec. 247. 1904, sec. 246. 1888, sec. 242. 1831, ch. 315, sec. 6.

257. Whenever the orphans' court shall revoke letters testamentary or of administration or of guardianship, it shall be the duty of the party whose letters or guardianship may be revoked forthwith to render to such court an account of his administration or guardianship up to the period of the rendition of such account; and in case he shall fail to do so within the time fixed by such court, the court may compel the rendition of such account by attachment, sequestration of property and imprisonment of the party so failing, until such account shall be rendered as aforesaid.

This section referred to in construing sec. 235—see notes thereto. *Kealhofer v. Emmert*, 79 Md. 251.

Cited but not construed in *Marbury v. Ward*, 163 Md. 334; *Blum v. Fox*, 173 Md. 531.

Cited in construing Sec. 255. *Flaks v. Flaks*, 173 Md. 365.

See notes to sec. 252.

An. Code, 1924, sec. 257. 1912, sec. 248. 1904, sec. 247. 1888, sec. 243. 1831, ch. 315, sec. 7.

258. When any orphans' court shall revoke any letters testamentary or of administration, and there be no remaining executor or administrator, it shall be the duty of the court to appoint a new administrator; and if the party whose letters testamentary or of administration may be revoked shall not, within a reasonable time to be fixed by the court, deliver over to such new administrator, or to the remaining executor or administrator, as the case may be, all the property of the deceased remaining in his hands unadministered, and also all the books, bonds, notes and evidences of debt or funds, and all title to property or stocks which belong to or are due, or which may become due to the decedent, in his possession,