

shall be *prima facie* evidence of such claims, and sufficient to entitle them to distribution out of the proceeds of the real estate of said deceased debtor, unless the same be excepted to by some person interested in said estate.

For a case involving how the question of the insufficiency of the personal assets should be raised and determined, the effect of a decree for sale, and how creditors should come into the proceedings, see *Hammond v. Hammond*, 2 Bl. 306. And see *Arthur v. The Attorney-General*, 2 Bl. 245.

As to the proof of claims in the orphans' court, see art. 93, sec. 88, *et seq.*  
See notes to sec. 242.

An. Code, 1924, sec. 235. 1912, sec. 220. 1904, sec. 205. 1888, sec. 190. 1838, ch. 303.

**244.** The court may decree a sale of vessels or other personal property held by two or more persons jointly.

As to the sale of personal property which cannot be partitioned, and for a note on the joint ownership of personal property, see *Crapster v. Griffith*, 2 Bl. 5. And see *Hewitt's Case*, 3 Bl. 184.

As to the partition of lands, etc., see sec. 159.

An. Code, 1924, sec. 236. 1912, sec. 221. 1904, sec. 206. 1888, sec. 191. 1847, ch. 150.

**245.** When there is a decree for the sale of any reversion in lands to which rent is incident, the court may order any rent in arrear to be sold with such estate, and the purchaser shall have the same right to recover such rent by distress, entry or action, as if he had been owner of the estate when the rent accrued.

An. Code, 1924, sec. 237. 1912, sec. 222. 1904, sec. 207. 1888, sec. 192. 1835, ch. 380, sec. 1.

**246.** In all cases where a suit is instituted for the sale of real or personal property, or where from the nature of the case a sale is the proper mode of relief, the court, in its discretion, may order a sale of the property before final decree, if satisfied clearly by proof that, at the final hearing of the case, a sale will be ordered, and order the money arising from such sale to be deposited or invested, to be disposed of as the court shall direct by the final decree.

Object of this section and effect of an order of sale thereunder. This section should never be applied except in very plain and unquestionable cases, and even then only after a full hearing. Proof held insufficient to justify a sale. Bill of complaint may be amended after the decree of sale. *Kelly v. Gilbert*, 78 Md. 435. And see *Title Co. v. Burdette*, 104 Md. 673; *Donohue v. Daniel*, 58 Md. 600; *Washington, etc., R. R. Co. v. Southern, etc., R. R. Co.*, 55 Md. 156; *Cornell v. McCann*, 37 Md. 99; *Dorsey v. Garey*, 30 Md. 498.

To justify a sale under this section, it should appear beyond a reasonable doubt that a sale must be inevitably decreed at the final hearing. A sale under this section upheld. Proper parties. *Donohue v. Daniel*, 58 Md. 597. And see *Washington, etc., R. R. Co. v. Southern, etc., R. R. Co.*, 55 Md. 156; *Cornell v. McCann*, 37 Md. 99.

Upon satisfactory proof as prescribed in this section, the court may pass an order of sale at any time after bill filed, without waiting for the defendant's appearance or answer. Proof held sufficient. This section applied. Sec. 241 must be read in connection with, and is subordinate to, this section. The discretion of the court in ordering a sale, is reviewable on appeal. What "final decree" is contemplated by this section? *Dorsey v. Dorsey*, 30 Md. 528. And see *Cornell v. McCann*, 37 Md. 99.

No appeal lies from the refusal to order a sale under this section, nor from the rescission of an order of sale. An appeal lies, however, under art. 5, sec. 23, from an order directing a sale. *Washington, etc., R. R. Co. v. Southern, etc., R. R. Co.*, 55 Md. 155. *Cf. Dorsey v. Garey*, 30 Md. 499.

A decree of sale under this section, cannot be inquired into collaterally, provided the court had jurisdiction. *Dorsey v. Garey*, 30 Md. 499.

A sale held not to have been ordered under this section, and that the proof did not justify a sale thereunder. *Cornell v. McCann*, 37 Md. 98. *Cf. Dorsey v. Garey*, 30 Md. 495.

It is the habit of the court to apply this section in applications for sales of real estate to pay debts, under sec. 242. *Hammond v. Hammond*, 2 Bl. 359.

Where court has assumed jurisdiction of trust, it may under this section order sale of trust property before final decree. *Elkton Electric Co. v. Perkins*, 145 Md. 238, 249.