

sales of personal estate, and the orphans' court may allow such executor a commission on the proceeds of such sale, not less than two nor more than ten per cent., but such sale shall not be valid or effectual, unless ratified and confirmed by the orphans' court, after notice by publication given in the same manner as practised in cases of sales of lands, under decrees in equity, and the bond of such executor shall be answerable for the proceeds of sales of the real estate which may come in his possession, to the same extent as if it were personal estate in his hands; in case the purchaser of any such real estate has transferred or shall transfer his said purchase to another person, it shall be lawful for the orphans' court, upon petition in writing by the original purchaser, and such assignee, and upon being satisfied that such substitute or transfer may be made without injury to the estate, to pass an order substituting such assignee as purchaser of the said real estate upon such terms as may be deemed expedient; regard being had to the interests of the estate and directing the executor to convey the said real estate to the said assignee, his heirs and assigns.

In force from June 1, 1865.

1865, c. 162 adds the following sections:

1865, c. 162, s. 1.
Proceedings
where executor
does not act
under will
directing sale.

281. In all cases in which a testator, by will, has directed his or her real estate to be sold for the payment of debts, or for any other purpose, and the executor or executors therein named shall refuse or decline to act, or shall die without executing the powers vested in him or them, it shall and may be lawful for the several orphans' courts of this state, upon petition of any party interested, to appoint an administrator *de bonis non* with the will annexed, or to empower the administrator, with the will annexed previously appointed, to execute the trusts of said will in the same manner and to the same extent