

For a case denying the application of words "for costs and extraordinary expenses (not personal) laid out in the recovery or security of any part of the estate" to an alleged attorney's fee, see *Flater v. Weaver*, 108 Md. 676. And see *Browne v. Preston*, 38 Md. 380 (involving a contingent fee); *Billingslea v. Henry*, 20 Md. 287; *Edelen v. Edelen*, 11 Md. 416.

While allowance of counsel fee is not subject of issues, it is subject of appeal as to reasonableness of amount allowed. *Miller v. Gehr*, 91 Md. 714; *Maynadier v. Armstrong*, 98 Md. 180.

Funeral expenses.

It is within the discretion of the court to allow funeral expenses not to exceed the maximum mentioned in this section; hence, such matter is not a proper subject for issues. *Maynadier v. Armstrong*, 98 Md. 180. And as to funeral expenses, see *Wethered v. Safe Deposit Co.*, 79 Md. 160; *Lentz v. Pilert*, 60 Md. 300; *Shaeffer v. Shaeffer*, 54 Md. 684.

This section limits funeral expenses to \$300. Orphans' court may not, after having allowed an amount for funeral expenses in excess of \$300, make an additional allowance for tombstones. *Quaere*, is husband's estate liable for funeral expenses of a wife who survived him? *McComas v. Wiley*, 135 Md. 588 (decided prior to act, 1922, ch. 329).

A husband as executor of his wife's estate will not be allowed for funeral expenses, medical attendance and tombstone—see notes to art. 45, sec. 21. *Stonesifer v. Shriver*, 100 Md. 30.

As to funeral expenses, see also art. 16, sec. 233.

Generally.

There is no inconsistency between provision of this section *re.* the allowance of extraordinary expenses (not personal) and sec. 365 of District of Columbia Code. *Brosnan v. Fox*, 284 Fed. (Ct. Apps. D. C.) 926.

Cited but not construed in *Winder v. Diffenderfer*, 2 Bl. 207; *West v. Smith*, 8 How. 412.

See secs. 6, 66, 75 and 97, and notes.

Taxes are a preferred debt—art. 81, sec. 76; see also art. 81, sec. 74.

An. Code, sec. 6. 1904, sec. 6. 1888, sec. 6. 1798, ch. 101, sub-ch. 14, sec. 5. 1847, ch. 230.

6. If anything be bequeathed to an executor by way of compensation, no allowance of commissions shall be made unless the said compensation shall appear to the court to be insufficient; and if so it shall be reckoned in the commission to be allowed by the court.

This section does not apply unless bequest is expressly made in lieu of compensation as executor, and even then discretionary power is left in orphans' court provided the maximum of ten per cent. be not exceeded. *Handy v. Collins*, 60 Md. 231.

This section presents only exception to power of orphans' court to fix commissions, within limits prescribed by sec. 5. *In re Watts*, 108 Md. 698.

A legacy held to have been given in lieu of commissions. This section construed in connection with sec. 5. An executor held not to be entitled to additional compensation because a portion of estate passed through his hands as administrator *pendente lite*. *Renshaw v. Williams*, 75 Md. 505.

Cited but not construed in *Beachley v. Estate of Bollinger*, 119 Md. 157.

An. Code, sec. 7. 1904, sec. 7. 1888, sec. 7. 1823, ch. 131, sec. 1.

7. The orphans' courts are hereby authorized, wherever they are satisfied that an agent has been employed in the administration of an estate, to examine such agent on oath, touching all proceedings which may have taken place relative to the administration of the estate in which such agent may have been employed, in like manner as they are authorized to examine administrators.