

his decedent, that any part of the said claim hath been discharged except what (if any) is credited, and that to the best of the deponent's knowledge and belief no part of the said claim hath been discharged, and no security or satisfaction given for the same, except what (if any) is credited.

If residuary legatees are injured they may appeal from an order passing claim of executor, or may have issues sent to a court of law to determine validity of claim, but in neither case will costs and counsel fees be allowed such legatees out of estate. (See notes to sec. 5.) *Bell v. Funk*, 75 Md. 371.

Although the affidavit is not strictly in form, the defect is cured if the account is passed by the court. *Semmes v. Young*, 10 Md. 246.

Cited but not construed in *Watson v. Watson*, 58 Md. 446.

An. Code, sec. 96. 1904, sec. 95. 1888, sec. 96. 1798, ch. 101, sub-ch. 9, sec. 19.

98. In no case shall an administrator be allowed to retain for his own claim against the decedent, unless the same be passed by the orphans' court, and every such claim shall stand on an equal footing with other claims of the same nature.

Claims of administrators and executors against estate which they represent stand on same footing as other claims. *Semmes v. Young*, 10 Md. 247. *Nichols v. Hodges*, 1 Pet. 565.

An administration account is *prima facie* evidence to sustain a payment made by administrator to himself as well as to third persons. *Owens v. Collinson*, 3 G. & J. 38.

In case an administrator has a claim against estate, statute of limitations does not run while he is such administrator. *Semmes v. Young*, 10 Md. 247; *Spencer v. Spencer*, 4 Md. Ch. 464.

As to when an executor will be allowed interest upon over-payments, see *Billingslea v. Henry*, 20 Md. 286. As to over-payments, see also *Watkins v. Dorsett*, 1 Bl. 530; *Collinson v. Owens*, 6 G. & J. 4; *Gist v. Cockey*, 7 H. & J. 135.

This section referred to as indicating that claim of an heir or devisee against estate stands on same footing as other claims. *Hammond v. Hammond*, 2 Bl. 385.

Cited but not construed in *Levering v. Levering*, 64 Md. 413; *Ellicott v. Welch*, 2 Bl. 249.

An. Code, sec. 97. 1904, sec. 96. 1888, sec. 97. 1798, ch. 101, sub-ch. 9, sec. 15.

99. No administrator shall be allowed in his account for any claim discharged by him unless he produce the claim passed by the orphans' court, or proven as herein directed.

This section has no application to taxes; executors must take notice of, and pay them. *Bonaparte v. State*, 63 Md. 469.

This section referred to in construing sec. 109—see notes thereto. *Coburn v. Harris*, 53 Md. 372.

See notes to secs. 85 and 121.

An. Code, sec. 98. 1904, sec. 97. 1888, sec. 98. 1798, ch. 101, sub-ch. 9, sec. 9.

100. It shall not be considered as the duty of an administrator to avail himself of the act of limitations to bar what he supposes to be a just claim, but the same shall be left to his honesty and discretion.

If an administrator acts honestly under this section, he will not be removed for not pleading statute of limitations. *Dunningan v. Cummins*, 115 Md. 297.

If the executor does not plead statute, no one else can. *Gordon v. Small*, 53 Md. 559; *Spencer v. Spencer*, 4 Md. Ch. 465. And see *Miller v. Dorsey*, 9 Md. 323; *Bowling v. Lamar*, 1 Gill, 359.

For a case dealing with limitations, where the administrator is also a creditor of the estate, see *Semmes v. Young*, 10 Md. 242.

As to how far the plea of limitations is applicable to orphans' court proceedings, see *Bowling v. Lamar*, 1 Gill, 358.

See notes to sec. 98.