

The award of costs under this section is in discretion of orphans' court, and not reviewable upon appeal. *Bantz v. Bantz*, 52 Md. 696; *Brown v. Johns*, 62 Md. 335; *French v. Washington County Home*, 115 Md. 315.

This section and sec. 263 afford no warrant for allowing an administrator appointed in Maryland, for personal expenses, services and counsel fees spent in unsuccessfully attacking a will probated in another state. Application of portion of this section relative to costs. *Dalrymple v. Gamble*, 68 Md. 162; *French v. Washington County Home*, 115 Md. 315.

Generally.

This section referred to in deciding that when a will has been granted or denied probate after contest, the decision is final and the same question cannot again be raised by a suit in ejectment. *Johns v. Hodges*, 62 Md. 534.

This section referred to in construing sec. 245—see notes thereto. *Conner v. Ogle*, 4 Md. Ch. 451.

This section referred to in construing sec. 358—see notes thereto. *Price v. Moore*, 21 Md. 374.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483; *Ormsby v. Webb*, 134 U. S. 47; *Van Ness v. Van Ness*, 6 How. 62; *Nicholls v. Hodges*, 1 Pet. 562.

See notes to secs. 263 and 326, and to art. 5, sec. 12.

An. Code, sec. 256. 1904, sec. 255. 1888, sec. 251. 1818, ch. 204, sec. 3.

265. In all cases of plenary proceedings, or caveat filed in any of the orphans' courts of this State, where any motion or application to the court shall be made in writing, it shall be the duty of the court to reduce to writing, and sign the order or decree that may be made by them on such motion or application; and the said motion or application to the court and the order or decree thereon shall be filed as a part of the proceedings, and, in case of appeal from the final decree of the orphans' court, be transmitted to the appellate court with the other proceedings, and be subject to the judgment and revision of such appellate court.

The right of appeal under this section upheld. Caveators, by temporarily submitting to interlocutory orders, held not to have waived their rights under this section. *Humes v. Shillington*, 22 Md. 357.

Although order appealed from is not signed by judges of orphans' court, the defect may be remedied by agreement of counsel. *Watson v. Watson*, 58 Md. 445.

See notes to secs. 263 and 264.

As to appeals, *cf.* secs. 254 and 323, and art. 5, sec. 64, *et seq.*

An. Code, sec. 257. 1904, sec. 256. 1888, sec. 252. 1798, ch. 101, sub-ch. 8, sec. 12. 1841, ch. 173, sec. 1.

266. The several orphans' courts of this State shall have power, with the consent of both parties, to be entered on their proceedings, to arbitrate between a claimant and an executor or administrator, or between an executor and a person against whom he has a claim, or the dispute may by the parties be referred to any person or persons approved by the orphans' court.

No appeal lies whether reference of question to orphans' court is made under this section, or to judges as individuals; and fact that agreement of reference provides for appeal is immaterial. *Strite v. Reiff*, 55 Md. 94 (distinguishing *Woods v. Matchett*, 47 Md. 394).

This section refers only to claims against estate of a decedent which are asserted against executor in his fiduciary character; it has no reference to personal debts of executor. Agreement of reference held to be under this section, orphan's court not being mere arbitrators selected by the parties. *Browne v. Preston*, 38 Md. 379.

This and the two following sections point out only way in which orphans' court can pass upon validity of a claim, or sufficiency of defense thereto. *Bowie v. Ghese-lin*, 30 Md. 557.