

hundred dollars (\$300.00) except by special order of the Court, and provided the estate of the decedent be solvent; second, his allowance for costs and extraordinary expenses (not personal) which the Court may think proper to allow, laid out in the administration or distribution of the estate or in the recovery or security of any part thereof, costs to include reasonable fees for legal services rendered upon any matter in connection with the administration or distribution of the estate in respect to which the Court may believe legal services proper, and in addition to include commissions, which shall be at the discretion of the Court not under two per cent nor exceeding ten per cent on the first Twenty Thousand Dollars (\$20,000.00) of the estate, and on the balance of the estate not more than two per cent; third, the widow's allowance as in this article directed to be paid; fourth, all taxes due by his decedent; fifth, charges for medical attendance, including nursing attendance in last illness, to be allowed at the discretion of the Court according to the conditions and circumstances of the deceased, not to exceed One Hundred Dollars (\$100.00), not more than Fifty Dollars (\$50.00) of which shall be paid to the physician or physicians furnishing said medical attendance and not more than Fifty Dollars (\$50.00) of which shall be paid to the nurse or nurses furnishing said nursing attendance; sixth, the allowance for things lost or which have perished without the party's fault, which allowance shall be according to the appraisement; seventh, debts of the deceased proved or passed in the following order, (a) claims for rent in arrears against deceased persons, for which a distress might be levied by law, but not for a period of more than three months; (b) claims for wages, salaries or commissions to clerks, servants, salesmen or employees contracted not more than three months prior to decedent's death, and claims founded on judgments and decrees, (c) all other just claims. If there be not sufficient to discharge all such judgments and decrees, a proportionate dividend shall be made between the judgment and decree creditors.

Commissions.

Practice of Orphans' Court of approving inventories in which whole estate is returned regardless of liens and claims, and of fixing commission based on inventory, not at variance with statutes—assets outside of state. Discretion of Orphans' Court in fixing commissions. *York v. Md. Trust Co.*, 150 Md. 358.

Discretion of Orphans' Court in fixing commissions; no appeal. *Brown v. Tydings*, 149 Md. 25.

This section referred to relative to the discretion of courts to fix the commissions to be allowed trustees. *Schloss v. Rives*, 162 Md. 346.

This section referred to in construing art. 81, sec. 104. *Downes v. Safe Dep. & Tr. Co.*, 164 Md. 301.

Orphans' Court has power to allow commissions within limits prescribed and to review its action on application within reasonable time, and to reduce the commissions originally fixed, since they are not earned until administration account is passed. *Harlan v. Hunter*, 170 Md. 518.

No provision of testator can affect discretion vested in orphans' court to fix commissions within limits prescribed by this section, and failure of executor to claim commissions is immaterial. (See, however, sec. 8.) Construction of a direction in a will that executor be allowed "reasonable" commissions. When only an appeal lies from action of court in fixing commissions. *In re Watts*, 108 Md. 698; *Handy v. Collins*, 60 Md. 231; *Dalrymple v. Gamble*, 68 Md. 167; *In re Baxley*, 47 Md. 561; *Wilson v. Wilson*, 3 G. & J. 23; *Ringgold's Case*, 1 Bl. 9; *McKim v. Duncan*, 4 Gill, 84; *Nichols v. Hodges*, 1 Pet. 565. *Cf. State v. Baker*, 8 Md. 49.

An executor will not be allowed commissions on notes or bonds for payment of money unless he collects same; *contra* as to stocks and bonds payable to bearer, and having a market value. *Handy v. Collins*, 60 Md. 231 (decided prior to act of 1884, ch. 470). *Cf. Hardt v. Birely*, 72 Md. 138.

Where the will contains a bequest to one of two executors in lieu of commissions—see sec. 8—the other executor can only be allowed one-half of the maximum stated in this section. *Lee v. Lee*, 6 G. & J. 316.

The minimum rate of commissions as prescribed in this section only applies where administration is full and complete. Commissions for partial administration. *In re*