

This section referred to in discussing the jurisdiction of equity to appoint a guardian. *Corrie's Case*, 2 Bl. 502.

As to jurisdiction of orphans' court to allow a guardian to exceed in expenditures income of a ward's estate, as to personalty and also as to real estate, see sec. 174.

#### Costs and counsel fees.

The powers of orphans' court cannot be extended by construction or implication. The power to allow a fee for advice given an administrator in his individual capacity and before his appointment denied. *Flater v. Weaver*, 108 Md. 677. And see *Browne v. Preston*, 38 Md. 380; *Townshend v. Brooke*, 9 Gill, 91.

The orphans' court has no power to allow residuary legatees costs and counsel fees incurred in fighting claim of executrix. *Bell v. Funk*, 75 Md. 371.

#### Generally.

Orphans' Courts are Courts of special limited jurisdiction and are confined to the letter of their authority. *Baldwin v. Hopkins*, 171 Md. 100; *Talbot Packing Corp. v. Wheatley*, 172 Md. 369.

Cited in *Goldsborough v. DeWitt*, 171 Md. 266.

Cited in dissenting opinion in *Fay v. Fay*, 172 Md. 582.

Orphans' Court does not have power to order decedent's grave opened to determine whether burial charges, as stated in administrator's account, were excessive. *Tsaracklis v. Characklis*, 176 Md. 32.

The jurisdiction of orphans' court is limited to inquiries relative to the probate, such as testamentary capacity, fraud, undue influence and execution of the will. Courts of law and equity must determine what passes under will, and questions of title dependent upon operation and effect of will, and decide upon right of disposition. *Schull v. Murray*, 32 Md. 15. And see *Ramsey v. Welby*, 63 Md. 588; *State v. Warren*, 28 Md. 356; *Blackburn v. Craufurd*, 22 Md. 466; *Michael v. Baker*, 12 Md. 169; *Spencer v. Ragan*, 9 Gill, 482.

Orphans' courts are courts of special limited jurisdiction, and are confined to letter of their authority. They must exercise their powers in accordance with law, and necessary jurisdictional facts must not be left to inference but must affirmatively appear upon face of their proceedings. This section referred to in construing art. 21, sec. 99—see notes thereto. *Norment v. Brydon*, 44 Md. 116; *Taylor v. Bruscup*, 27 Md. 225; *Lowe v. Lowe*, 6 Md. 352; *Conner v. Ogle*, 4 Md. Ch. 452.

This section does not militate against authority of orphans' court to determine who are next of kin and entitled to distribution under sec. 243—see notes thereto. *Blackburn v. Craufurd*, 22 Md. 466. *Cf. Ramsey v. Welby*, 63 Md. 588; *State v. Warren*, 28 Md. 356.

The orphans' court has no jurisdiction to determine validity and amount of claims due creditors, although such claims may be passed for payment. *Levering v. Levering*, 64 Md. 413; *Schwallerberg v. Jennings*, 43 Md. 559; *Bowie v. Ghiselin*, 30 Md. 556; *Miller v. Dorsey*, 9 Md. 323.

The orphans' court has no jurisdiction to pass on title to personal property except under sec. 253 on a charge of concealment by administrator. How other questions of title to personal property may be determined. *Fowler v. Brady*, 110 Md. 208.

This section construed in connection with art. 16, sec. 104. The jurisdiction of orphans' court closes when executor has fully settled his accounts; hence said court has no jurisdiction thereafter to pass upon title to real estate sold by a trustee who is also executor. Equity alone can enforce a trust. *Blumenthal v. Moitz*, 76 Md. 566. And see *Taylor v. Bruscup*, 27 Md. 219; *Gable v. Cheston*, 51 Md. 380.

The orphans' court has no jurisdiction to determine question of sanity of applicant for letters—see sec. 60 and notes. *Kearney v. Turner*, 28 Md. 425.

An order of court directing property remaining in hands of administrators to be paid over to certain parties without notice, etc., provided in sec. 151, held invalid under this section. *Conner v. Ogle*, 4 Md. Ch. 451.

The orphans' court has no jurisdiction to decree return to administrator of goods taken by surety under order of court, counter security having been demanded and not given. Right of action in such case. *Scott v. Burch*, 6 H. & J. 79.

The orphans' court has no jurisdiction upon *ex parte* application of a widow, to order a sale of real estate devised to her for life and after her death to be sold by executors. *Snook v. Munday*, 90 Md. 702.

The orphans' court has no jurisdiction where a petition merely alleges the insertion in inventory of property which belongs to petitioner. *Spencer v. Ragan*, 9 Gill, 482.

Orphans' court has inherent power to correct by revocation, etc., errors into which it has fallen. *In re Stratton*, 46 Md. 553; *Raborg v. Hammond*, 2 H. & G. 51.

The orphans' court has no power to adjust equities resulting from the vacating of a sale. *Eichelberger v. Hawthorne*, 33 Md. 596.

This section referred to in deciding that letters of administration granted where there is an executor named in will not disqualified and not excluded from acting in conformity with law are void. *Kane v. Paul*, 14 Pet. 33.

This section referred to as indicating that a final account so far as debts are concerned must be stated before orphans' court can order legacies paid or distribution made. *Lowe v. Lowe*, 6 Md. 355. *Cf. Clarke v. Sandrock*, 113 Md. 422.