

sold; and for articles so sold he shall be charged the price according to the return; and if any articles have been sold for credit and not yet paid for, they shall be accounted for in a subsequent account; and all moneys received for debts due the decedent shall be included in said account.

An account stated in accordance with this section, is not intended to express or imply an opinion of the court in relation to the ownership of the property. At all events, the account is only *prima facie*—see notes to section 1. *Haslett v. Glenn*, 7 H. & J. 23.

This section referred to as indicating that debts due the decedent form no part of the inventory. *Handy v. Collins*, 60 Md. 240.

Cited but not construed in *Fowler v. Brady*, 110 Md. 207.

1904, art. 93, sec. 5. 1888, art. 93, sec. 5. 1860, art. 93, sec. 5. 1798, ch. 101, sub-ch. 10, sec. 2. 1841, ch. 178, sec. 3. 1874, ch. 155. 1884, ch. 470. 1906, ch. 410.

5. On the other side shall be stated the disbursements by him made, viz.: First, funeral expenses, to be allowed at the discretion of the court according to the condition and circumstances of the deceased, not to exceed three hundred dollars; second, charges for medical attendance in last illness, to be allowed at the discretion of the court according to the condition and circumstances of the deceased, not to exceed fifty dollars; third, the debts of the deceased proved or passed, as herein directed, and paid or retained; fourth, the allowance for things lost or which have perished without the party's fault, which allowance shall be according to the appraisal; fifth, his 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 of the estate, and on the balance of the estate not more than two per cent.; sixth, his allowance for cost and extraordinary expenses (not personal), which the court may think proper to allow, laid out in the recovery or security of any part of the estate; and the court may allow him credit for live stock killed for the necessary use of the family before a sale.

#### Commissions.

No provision of the testator can affect the discretion vested in the orphans' court to fix commissions within the limits prescribed by this section, and the failure of the executor to claim commissions is immaterial. (See, however, section 6.) Construction of a direction in a will that the executor be allowed "reasonable" commissions. When only an appeal lies from the action of the 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 the payment of money unless he collects the same; *contra* as to stocks and bonds payable to bearer, and having a market value. *Handy v. Collins*, 60 Md. 231 (decided prior to the 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 section 6—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 the administration is full and complete. Commissions for partial administration. *In re Estate of Baxley*, 47 Md. 559; *Parker v. Gwynn*, 4 Md. 425; *McPherson v. Israel*, 5 G. & J. 63.