

Where a will is presented with a petition stating that it is not the will of the deceased, and only testimony on behalf of those assailing the will is heard, those in favor of the will being given no opportunity to be heard, the orphans' court is without jurisdiction to decide the question of probate. *Emmert v. Stouffer*, 64 Md. 553.

A question as to whether the notice required by this section has been given can not be raised for the first time in the court of appeals after the argument there. *Stanley v. Safe Deposit Co.*, 87 Md. 458.

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 can not again be raised by a suit in ejectment. *Johns v. Hodges*, 62 Md. 534.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483.

See notes to sections 343 and 344.

1904, art. 93, sec. 339. 1888, art. 93, sec. 330. 1860, art. 93, sec. 318. 1798, ch. 101, sub-ch. 2, secs. 9, 10.

**346.** If any person whatever shall enter a caveat against such will or codicil, either before or after it shall be exhibited to the register of wills or orphans' court, the said caveat shall be decided by the court. If any person shall enter a caveat against any will or codicil of which probate shall have been taken by the register as aforesaid, no letters testamentary shall be granted until a determination shall be had in the orphans' court.

This section gives the orphans' court jurisdiction to decide caveats, and when issues have been properly submitted and fairly passed upon, the decision of the court is final and binding unless reversed. This is equally true where the issues are passed upon by the orphans' court as where they are passed upon by a jury. *McDaniel v. McDaniel*, 86 Md. 626. And see *Offutt v. Gott*, 12 G. & J. 386.

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 can not again be raised by a suit in ejectment. *Johns v. Hodges*, 62 Md. 534.

The caveat of a will in the orphans' court distinguished from a caveat in equity against a patent. *Cunningham v. Browning*, 1 Bl. 324.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483.

As to issues, see sections 253 and 255 and notes.

*Ibid.* sec. 340. 1888, art. 93, sec. 331. 1860, art. 93, sec. 319.

1798, ch. 101, sub-ch. 2, sec. 12. 1890, ch. 416.

**347.** Every executor or other person exhibiting a will shall be examined on oath whether or not he knows of any other will or codicil, and in what manner the will or codicil exhibited came into his hands.

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 can not again be raised by a suit in ejectment. *Johns v. Hodges*, 62 Md. 534.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483.

*Ibid.* sec. 341. 1888, art. 93, sec. 332. 1860, art. 93, sec. 320.

1798, ch. 101, sub-ch. 2, sec. 13.

**348.** If the probate of any will or codicil be taken as aforesaid without contest, any person, before letters testamentary or of administration with a copy of the will shall be actually granted, may file a petition to the court praying that the case may be again examined and heard; and thereupon the orphans' court shall delay the granting of letters until a decision shall be had on the petition; and in case the letters shall have been granted, and any person shall file such petition,