

the head of just allowances, if necessary to the proper management of the estate, *Jones v. Stockett*, 2 Bl. 417, but not counsel fees paid by the successful party in a contest as to who shall administer the trust, *McKim v. Handy*, 4 Md. Ch. Dec. 228; and counsel fees were refused in *Laroque v. Candolle*, *ibid.* 347, for services rendered at the instance of the attorney in fact of the *cestui que trust*, and the same rule would apply to the counsel of the *cestui que trust*, or of a party who is a mere stakeholder, *Ohio Life Ins. & Trust Co. v. Winn & Ross*, *ibid.* 253. Where trustees properly proceed against parties, who have negligently permitted the conversion of trust funds, and **201** the alienation of them to innocent and irresponsible *third parties their costs are allowed out of the fund, *Farmers & Mechanics Bank v. Wayman*, 5 Gill, 336. And if a trustee proceed to collect purchase money at law, by suit on the bonds of a purchaser, he will be allowed counsel fees as a compensation; but if he re-sells he receives another commission, *Farmers & Planters Bank v. Martin*, 7 Md. 342. A trustee in insolvency may also be allowed counsel fees where the interests of creditors are concerned, *Neilson v. Rierison*, 8 Md. 300.⁹ By the Act of 1785, ch. 72, secs. 15-18, allowances to commissioners, witnesses, and auditor in the Chancery Court are made as costs, and payment may be compelled by order of Court, Code, Art. 16, secs. 19, 109, 144, 145;¹⁰ see *Dorsey v. Hammond*, 1 Bl. 467; *Hall v. McPherson*, 3 Bl. 533; *Winder v. Diffenderffer*, 2 Bl. 166. Postage, notarial seals, &c., are not taxable as costs, *McMechen v. Story*, 1 Bl. 186 n. In *Owings' case*, 1 Bl. 409, it was held that a decree may be revived for costs, *Ridgely v. Bond*, 18 Md. 433.

fants, an allowance of counsel fees to the attorney conducting the proceeding is proper. *Senseney v. Repp*, 94 Md. 77.

Counsel for administrators are entitled to be paid fees out of the personal estate of the decedent for attempting to defeat a claim against the estate, although their efforts were unsuccessful. The case was decided below in favor of the administrators but reversed on appeal. The court said it was the duty of the administrators to employ counsel to try the cause on appeal. *Carson v. Phelps*, 40 Md. 73, 101.

In *Bauernschmidt v. Bauernschmidt*, 101 Md. 148, a counsel fee was allowed for defending a deed of trust.

⁹ And where a trustee in insolvency refuses to institute proceedings to set aside a conveyance from the insolvent and one of the creditors on behalf of himself and others files a bill for that purpose, as a result of which the conveyance is finally set aside, the fee charged by his counsel should be allowed out of the insolvent estate. *Estate of Leiman*, 32 Md. 225.

¹⁰ Code 1911, Art. 16, secs. 20, 176, 266, 267.

As to appearance fees, see Code 1911, Art. 36, sec. 10. Appearance fees are not allowed on exceptions to auditors' accounts, or other collateral proceedings by petition. *Dodge v. Stanhope*, 55 Md. 113. Nor are they allowed in proceedings to sell mortgaged property under a power of sale. *Ruley v. Hyland*, 77 Md. 487.

As to premiums on bonds of surety companies, see Code 1911, Art. 24, sec. 10.