

action of court remains unchallenged, guardian's bond is not liable. The account, however, may be reopened and restated. The orphans' court may abrogate and modify its orders. Bond is liable for a failure of the guardian to pay for maintenance and education of ward out of property under his control. *State v. Fidelity & Deposit Co. of Md.*, 132 Md. 469 (decided in 1918).

The discretion reposed in the court under this section is not an arbitrary or capricious one, but to be exercised in accordance with established legal principles. Distinction between irreviewable discretion and discretion vested in court under this section. Order appealable. Information which court should have before exercising its discretion under this section. The court should not merely permit guardian to exercise her discretion. *In re Wilmer*, 137 Md. 31.

Orphans' court has no authority to allow a guardian for education and maintenance of his ward previous to his appointment. (But see sec. 185.) Allowances for maintenance and education are not final and conclusive, but may be shown to be improper. *Spedden v. State*, 3 H. & J. 257.

The principal of the ward's estate will not be expended for improvements to his property; such expenditures are limited to maintenance and education. *Brodess v. Thompson*, 2 H. & G. 126.

This section referred to in reviewing the various acts of assembly authorizing sale of infant's real estate for maintenance and education, and in upholding validity of such laws. *Williams' Case*, 3 Bl. 200; *Thaw v. Falls*, 136 U. S. 519.

Cited but not construed in *Kopp v. Herrman*, 82 Md. 349.

See art. 16, secs. 69 and 101.

An. Code, sec. 166. 1904, sec. 165. 1888, sec. 166. 1798, ch. 101, sub-ch. 12, sec. 12.

**171.** In case the personal property of a ward shall consist of specific articles, such as working beasts, animals of any kind, furniture, stock, plate, books and so forth, the court may order a sale thereof, for ready money or on credit, the purchaser giving bond with security to the said ward, bearing interest; and all proceedings relative to said sale shall be as directed respecting sales by administrators.

This section referred to in construing sec. 170. *Thaw v. Falls*, 136 U. S. 519.

An. Code, sec. 167. 1904, sec. 166. 1888, sec. 167. 1816, ch. 203, sec. 2. 1868, ch. 380.

**172.** The orphans' court, if they shall think such sale advantageous to the ward, may order any guardian to sell leasehold estates of his ward, and shall order the proceeds to be invested in bank stock or any other good security, in the name of the ward; and no sale, transfer or disposal of the said stock shall be made without the order of the court. The said court may also, if they shall think the same advantageous to the ward, order any guardian to lease any leasehold estates of the ward, for the whole or any part of the unexpired term, on such terms as may be deemed advantageous; provided, that such agreement for a lease shall not have any effect until reported to and approved by the court, and the rents arising on such lease shall be accounted for as other property or income of the ward.

If a loss results from an investment unauthorized by the court, guardian is responsible. A verbal order of court is not sufficient. Intent of this section. *Carlyle v. Carlyle*, 10 Md. 446.

This section referred to in deciding that a guardian had no power to execute a certain mortgage and as showing with what strictness a guardian must act. Ordinarily the power to sell does not include the power to mortgage. *Tyson v. Latrobe*, 42 Md. 333.

Security taken on investment will not be avoided if not taken in the name of the ward. *O'Hara v. Shepherd*, 3 Md. Ch. 314.

See notes to sec. 178.

As to the payment of the proceeds of the sale in equity of the real or leasehold property of an infant to his guardian, see art. 16, sec. 68.

See notes to sec. 178.