

for any loss or decrease unless caused by his default, to be allowed by the court.

This section referred to in connection with right of creditors to apply real estate of a decedent in hands of infant heirs to payment of his debts, personalty having been exhausted. *Hammond v. Hammond*, 2 Bl. 344.

See notes to sec. 167.

An. Code, 1924, sec. 170. 1912, sec. 165. 1904, sec. 164. 1888, sec. 165. 1798, ch. 101, sub-ch. 12, sec. 10. 1931, ch. 438.

**174.** Once in each year, or oftener if required by the court, a guardian shall settle an account of his trust with the Orphans' Court and shall exhibit to the court the bonds, certificates of stocks, securities of any kind, deeds of property, bank books of deposits or other evidences of property belonging to his ward; and the said court shall ascertain at its discretion the amount of the sum to be annually expended in the maintenance and education of the infant, regard being had to his future situation, prospects and destination; and the said court, if it deem it advantageous to the ward, may allow the guardian to exceed the income of the estate and to make use of his principal and sell part of the same under its order; but no part of the real estate shall on account of such maintenance or education be diminished without the approbation of a Court of Equity as well as the Orphans' Court.

The condition of a guardian's bond does not require him to pay all of ward's bills out of income, but he is required to settle an account with orphans' court, and that court must ascertain, at its discretion, amount to be annually expended in maintenance and education of ward. Where guardian has settled his account under direction of court and has paid out an amount in excess of income received, and 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. 187.) 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. 73 and 106.

An. Code, 1924, sec. 171. 1912, sec. 166. 1904, sec. 165. 1888, sec. 166. 1798, ch. 101, sub-ch. 12, sec. 12.

**175.** 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. 174. *Thaw v. Falls*, 136 U. S. 519.