

for loss and commission as aforesaid, to be delivered to the party or to his heirs, devisees, or legal representatives, upon their respective applications, and satisfying the court of the parties' right in case the purposes for which the attachment was issued cannot be answered.

An. Code, 1924, sec. 251. 1912, sec. 242. 1904, sec. 241. 1888, sec. 237. 1831, ch. 315, sec. 5. 1937, ch. 442.

251. The Orphans' Court may, in their discretion, and whenever it shall seem proper to them, either *ex-officio* or upon application, order any administrator to whom they may have granted administration, or any guardian whom they may have appointed or whose bond they may have approved, to bring into Court, or place in bank, or invest in bank or other incorporated stock, or any other good security, any money or funds received by such administrator or guardian; and the Court shall direct the manner and form in which such money or funds shall be placed in bank or invested, and the same shall at all times be subject to the order and control of the Court; and if the administrator or guardian shall not, within a reasonable time to be fixed by the Court, comply with the order, his administration or guardianship may be revoked; provided, however, that no administrator or guardian shall be liable for loss because of any deposit of any money or funds in bank, provided said administrator or guardian shall exercise due care in the selection of the depository, and in the deposit of said money or funds received by such administrator or guardian.

Investments.

Where a Baltimore testator directs trustees to invest in "good safe securities," trustees are not limited to securities included in trust list of supreme bench. Shrinkage in railroad and street railways company stock. Trustees not liable where they act with good faith and disinterestedness. Broker's advice condemned. Distinction between responsibilities for losses of conventional and testamentary trustees. *Fox v. Harris*, 141 Md. 502.

The orphans' court has no jurisdiction to authorize a guardian to invest ward's funds in a loan to guardian himself upon his promissory note bearing interest. Definition of term "investment." *Fidelity & Deposit Co. v. Freud*, 115 Md. 32.

It is the privilege as well as duty of an executor, or of any party in interest, to apply to orphans' court for authority to invest a fund and make such disposition of it as will require. *Oesterla v. Gaither*, 90 Md. 44.

Where subsequent to an investment orphans' court gives its sanction to it, the transaction is as effectual as though originally authorized, and guardian is relieved from liability. Implied authorization of an investment. *O'Hara v. Shepherd*, 3 Md. Ch. 306.

The orphans' court may order an investment in stock yielding six per cent. on its face, although same may be selling above par so as not to yield six per cent. on amount invested. *Ex parte Stone*, 2 Md. 294.

A verbal order of court authorizing an investment is not sufficient. *Carlysle v. Carlysle*, 10 Md. 446.

Where court declines to direct executor to invest, executor is not liable for interest unless he used money or made interest out of it. *Ex parte, Walsh*, 26 Md. 498.

This section referred to in deciding that executrix was not liable in equity for the loss of money through investment in gas stock. *McCoy v. Horwitz*, 62 Md. 190. See also *Gray v. Lynch*, 8 Gill, 421.

As to investments under order of court, see also sec. 12.

Generally.

This section applicable only where Court has ordered guardian to bring into Court money or funds, the purpose of the statute being to give the Court power to select depository when doubt arose as to security of funds. *Fay v. Fay*, 172 Md. 570.

Cited but not construed in *Johnson v. Webster*, 168 Md. 580.

The discretion vested in orphans' court is a sound legal one, and not to be arbitrarily exercised. Notice of order to bring money into court should always be given. *Porter v. Timanus*, 12 Md. 292. And see *Ex parte Shipley*, 4 Md. 496; *Wampler v. Wolfinger*, 13 Md. 347.

No appeal lies from action of court in removing administrator under this section. This section distinguished from secs. 246 and 255. (See also art. 5, sec. 64.) *Macgill v.*