

infant, or physical or mental incapacity of the guardian to properly fulfill his duties and the purposes of the office, or any other matter or thing whereby it appears that the guardian is or has become unable to bestow such direct personal care and supervision over the person or estate of his ward as is requisite to the proper discharge of the duties of guardianship, inquire into the same, and, at its discretion, remove such guardian and make choice of another who shall give security and conduct himself in the manner herein prescribed and shall receive the property and custody of the said ward.

In case of any ill treatment or neglect of duty on part of guardian toward ward, this section presents remedy. *Lefever v. Lefever*, 6 Md. 478.

An application for removal of a guardian must allege improper conduct relative to ward's property and person, and allegations must be sustained by proof. *Slattery v. Smiley*, 25 Md. 393; *Forney v. Shriner*, 60 Md. 421; *Owen v. Pye*, 115 Md. 406.

Nature and limits of the power conferred by this section. Refusal to remove a guardian upheld. *Macgill v. McEvoy*, 85 Md. 293; *Owen v. Pye*, 115 Md. 406.

An appeal lies from action of court in removing or refusing to remove a guardian under this section. This section distinguished from section 257. (See also art. 5, sec. 64.) *Macgill v. McEvoy*, 85 Md. 289; *Forney v. Shriner*, 60 Md. 421; *Slattery v. Smiley*, 25 Md. 393; *Owen v. Pye*, 115 Md. 406.

Unless a natural guardian has failed to give bond under sec. 159, or has been removed under this section, the appointment of another guardian is unauthorized and void. Presumption that orphans' court acted within its jurisdiction. *Fridge v. State*, 3 G. & J. 113.

The construction of this section as to nature of discretion vested in court thereunder referred to in construing sec. 170—see notes thereto. *In re Wilmer*, 137 Md. 32.

An. Code, sec. 238. 1904, sec. 237. 1888, sec. 233. 1798, ch. 101, sub-ch. 15, sec. 13.

247. The court may issue a summons for any person concerned in the affairs of a deceased person or for a witness, or any other person whose appearance in said courts shall be deemed necessary or proper for any purpose. And such summons may issue to any county in the State, and shall be returnable in their discretion; and they may enforce obedience to their summons by attachment, and may punish the party for his contempt, by a fine not exceeding thirty dollars.

An. Code, sec. 239. 1904, sec. 238. 1888, sec. 234. 1798, ch. 101, sub-ch. 15, sec. 13.

248. The court may, if a witness before the court shall refuse to give evidence, commit him to the custody of the sheriff or coroner, as the case may be, until he give evidence or be discharged according to law, or they may attach and sequester his estate.

An. Code, sec. 240. 1904, sec. 239. 1888, sec. 235. 1798, ch. 101, sub-ch. 15, sec. 15.

249. The court may, whenever two summonses shall be regularly returned "*non est*" by the sheriff, or other officer of the county where the party last resided, issue an attachment against his lands and tenements, goods and chattels; and upon return thereof, with a schedule of the property annexed, may by order or commission under seal, authorize some person or persons to take into his or their custody the property contained in such schedule, or any part thereof, and to receive the profits thereof, to be accounted for until the party summoned shall appear and obey the order of the court, or until further order; and the sheriff or other officer