

TESTAMENTARY SYSTEM.

delivery as soon as the same shall be ascertained; and on failure of any former guardian appointed by the court, or of an executor or administrator, to comply with such order, his bond may be put in suit, and he may also be attached for contempt, and fined not exceeding thirty dollars aforesaid; and the court shall have power to call on any guardian for new security, and on failure, may appoint a new guardian of its own, or of the orphan's choice, as the case may require.

6. Every guardian appointed by the court, having the care of a real estate, shall, within one month after executing his bond, procure the said estate to be viewed and reported on by two skilful discreet persons, not related to either party, and appointed by some judge or justice, and by him sworn to act as appraisers according to law, without favour or prejudice, and to the best of their skill and judgment; and it shall be the duty of the appraisers to examine the estate, and estimate the annual value thereof, including any slaves, working beasts and stock, and utensils thereon belonging to the orphan, and proper to be leased with the land; they shall likewise set down, in writing, what dwelling-houses, out-houses, orchards, gardens, enclosures, and other improvements, are on the land, and the condition thereof; and they shall make out a certificate, under their hands and seals, of the whole they have done, to which shall be annexed a certificate of their appointment, and of their having taken the oath aforesaid; and the same shall be returned by the guardian to the orphans court, within one month as aforesaid; and the same shall be evidence against him, in case of any suit for misconduct brought against him.

7. No guardian shall commit waste on the land, but the court may, on his application, allow him to cut down and sell wood, and account for the sale, in case it shall deem the same advantageous or necessary for the ward's education and maintenance.

8. And each guardian having a real estate under his care, shall either cultivate the same, with the slaves, working beasts, stock and utensils belonging to the ward, or to be purchased with his or her money, with the approbation of the court, or he shall lease the same from year to year, or for any term not exceeding three years, and within the non-age of the ward; or he may, with the court's approbation, undertake the estate on his own account, and be answerable for the annual value fixed by the appraisers.

9. Every guardian shall account for all profit and increase of the estate, or annual value as aforesaid, and shall not be answerable for any loss or decrease sustained without his fault, to be allowed by the orphans court.

10. And once in each year, or oftener if required, a guardian shall settle an account of his trust with the orphans court; and the said court shall ascertain, at discretion, the amount of the sum to be annually expended in the maintenance and education of the orphan, regard being had to the future situation, prospects and destination of the ward; and the said court, if it shall 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 to sell part of the same, under its order; provided nevertheless, that no part of the real estate shall, on account of such maintenance or education, be diminished, without the approbation of the court of chancery, or general court, as well as of the orphans court.

11. And on the first account to be rendered by a guardian, he shall state the property by him received from an executor or administrator, or otherwise belonging to his ward, and every increase, and the profits thence arising, (if any.)

12. In case the personal property of a ward shall consist of specific articles, such as slaves, working beasts, animals of any kind, stock, furniture, plate, books, and so forth, the court, if it shall deem it advantageous for the ward, may at any time pass an order for the sale thereof for ready money, or on credit, the purchaser,