

# TESTAMENTARY SYSTEM.

## C H A P. XIV.

### *Guardians and orphans.*

1. **W**HENEVER land shall descend, or be devised, to a male, under the age of twenty-one years, or to a female under sixteen, or any such male or female shall be entitled to a distributive share of the personal estate of an intestate, or to a legacy or bequest under a last will or codicil, and the said male or female shall not have a natural guardian, or guardian appointed by last will, agreeably to the statute in that case provided, the orphans court of the county where the land lies, or in which administration of the personal estate is granted, shall have power to appoint a guardian to such infant, until the age of twenty-one years (if a male,) and until the age of sixteen (if a female,) or marriage, and such appointment may be made at any time after the probat of the will, or administration granted on the estate of the deceased, under whom the infant appears to be so entitled to land; and it may be made, if the court shall think proper, in the case of personal estate, either before or after the executor or administrator shall have passed his account.

2. The said court shall have power to call or have brought before them any orphan as aforesaid, for the purpose of appointing a guardian, and if it shall appear to the court, that such orphan is above the age of fourteen years, the said orphan shall have the privilege of choosing, as a guardian, any man above the age of twenty-one years, a citizen of the United States, having a fixed residence in this state, and of good fame; but if the orphan be under the age of fourteen, the court may choose a guardian; provided nevertheless, that if the guardian be chosen by the court, the orphan, at any time after attaining such age of fourteen years, may come into court and choose another guardian; and the court, upon any complaint made in behalf of the orphan who hath attained such age, may have the orphan brought before them for the purpose of choosing; and the choice of a guardian by the orphan shall supersede any guardian before appointed by the court, provided that the guardian so chosen shall give bond as herein required.

3. The court shall also have power, on application of any friend of the infant as aforesaid entitled to land, or a legacy, or distributive share, to call on any guardian under the statute aforesaid, or natural guardian, to give bond for performance of his or her trust, and the court, at discretion, may direct such bond to be given; and on the guardian's failure or neglect, the court may appoint another guardian.

4. And every guardian appointed by the court, either with or without the choice of the orphan, before he shall have authority to act as such, shall enter into bond to the state of Maryland, in such penalty, and with such sureties, as the court shall approve; and the said bond shall be recorded, and be subject to be put in suit, and be in all respects on a footing with the bond given by an executor or administrator; and the form of the condition of it shall be as follows:

“ The condition of the above obligation is such, that if the above bounden  
“ ———, as guardian to ———, of ——— county, shall faithfully ac-  
“ count with the orphans court of ——— county, as directed by law, for the  
“ management of the property and estate of the orphan under his care, and shall  
“ also deliver up the said property, agreeably to the order of the said court, or  
“ the directions of law, and shall in all respects perform the duty of guardian to  
“ the said ———, according to law, then the above obligation shall cease;  
“ it shall otherwise remain in full force and virtue in law.”

5. On a guardian's executing such bond, the court shall have power to order the land, distributive share, or other property belonging to such orphan, to be delivered to such guardian immediately, or at such time as shall appear reasonable; in the case of a legacy or bequest, the court shall direct the delivery as soon as it shall appear that the same may be delivered without prejudice to the person administering; and in the case of a distributive share, the court shall direct the  
delivery