to the care and management of the person of the infant; but the application must allege such improper conduct, and the decision of the Orphans Court may be reviewed on appeal under Art. 5, sec. 29,[29] of the Code.

Common law guardians.—The other kinds of Guardianship are explained at some length by Mr. Hargrave in his notes to Co. Litt. 88 b. *et seq.* It appears from this authority, that guardianship by nature, in the correct sense of the term, was that which belonged to an ancestor in respect of his heir apparent, whether male or female, an heiress presumptive being considered an heir apparent for this purpose, and that in respect of his other children his guardianship is properly a guardianship for nurture. With us, of course, no such distinction obtains. The father has the first claim to this guardianship by nature, and after him the mother. But it is properly a custody of the person only, though it is treated otherwise in our Acts of Assembly, and was formerly held to yield to guardianship in socage. It has been before observed, that the only exception to the power of the Orphans Courts now to appoint guardians for infants is where they have been appointed by last will and testament. This natural guardianship lasts until the age of twenty-one, and so the law is laid down in Smith v. Williamson, 1 H. & J. 147. In Corrie's case, 2 Bl. 502, the Chancellor seems to have thought that the guardianship of a mother did not continue longer than the age of fourteen. In Keller v. Donnelly, 5 Md. 211, the Court of Appeals thought that, considering the policy of the legislature of this State with regard to females, the age of eighteen years must be regarded as the period when the mother's right as natural guardian ceases.

With respect to guardianship for nurture, that also extends to the person only, and the father is entitled to it in the first place, and, at his decease, the mother. It also lasts only until the age of fourteen in children of both sexes, Co. Litt. *supra*. However, the parent is now considered to be substantially a guardian for nurture till the child attains twenty-one. But from R. v. Hewes, 3 E. & E. 332, it appears that, though the father is entitled to the custody of his children till they reach twenty-one, yet the Court will not grant a *habeas corpus* to hand over a child to its father, provided it has attained an age of sufficient discretion to enable it to exercise a wise choice for its own interests. The matter depends upon age
475 alone, and in that case *the Court considered that the father was entitled to his daughter under the age of sixteen years, regard being had to the Statute of 4 & 5 P. & M. c. 8, s. 3; see R. v. Greenhill, 4 A. & E. 624. It should seem, however, that Chancery, upon the principles laid down by Chancellor Bland in Corrie's case *supra*, might, where it was *for the benefit of the child*, interfere in such a case and enforce the paternal authority. A guardian for nurture, however, has a legal right to the custody of the ward, irrespective of its wishes, during the period of nurture, unless it be shown that the custody is sought for improper objects, or that the applica-

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[29] Code 1911, Art. 5, sec. 39. Under the Act of 1890, ch. 425, a guardian may also be removed for physical or mental incapacity, or inability to bestow such direct personal care and supervision over the person and estate of his ward as may be requisite. Code 1911, Art. 93, sec. 237; Macgill v. McEvoy, 85 Md. 293.