bunal; or even sent abroad to be exhibited to witnesses who can testify respecting it, but who cannot be brought before the Court to whom the question of its authenticity is to be submitted. *Frederick* v. *Aynscombe*, 1 *Atk.* 627; *Morse* v. *Roach*, 1 *Dick.* 65; *S. C.* 2 *Stran.* 961; *Williams* v. *Floyer*, *Amb.* 343; *Lake* v. *Causfield*, 3 *Bro. C. C.* 263; *Forder* v. *Wade*, 4 *Bro. C. C.* 476; *Carrington* v. *Payne*, 5 *Ves.* 411; *Hodson* v. ——, 6 *Ves.* 135; *Ford* v. ——, 6 *Ves.* 802.

In Maryland also, it is the duty of the executor to have the will proved; and, for that purpose, to have it lodged with the register of wills of the proper county. But now, as under the Provincial Government, there seems to have been but one form of probate, and that is, by the oath of the executor, and also by the testimony of witnesses; and not merely in the one or the other of those forms as in England. *Dep. Com. Guide*, 72. After the probate has been thus made here, the will is recorded; and the original will is, in all cases, held for safe custody by the register, as is done by the English Ecclesiastical Court. This practice or common law of Maryland by which * wills are required to be recorded, has been recognized and affirmed by positive legislative enactments. 1798, ch. 101, sub-ch. 2, and sub-ch. 15, s. 9; *Carroll's Lessee* v. *Llewellin*, 1 *H. & McH.* 162; *Smith's Lessee* v. *Steele*, 1 *H. & McH.* 419; *Collins' Lessee* v. *Nicols*, 1 *H. & J.* 400; *Hall* v. *Gittings*, 2 *H. & J.* 121. But it appears, that those originals have been very carelessly preserved; for, in some of the counties there are long spaces of time within which, under the Provincial Government and since, there are no original wills to be found; although the records of them in the same offices are in a good state of preservation.

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It seems, that in Scotland and in Ireland also, the original will itself, when proved, is retained in the office of the Court in which it has been authenticated in regard to movables; and, therefore, if the same will makes any disposition of property in England, it may be proved in the Ecclesiastical Court there by producing a copy only. *Toller Execu.* 71; *Robertson on Succession*, 281.

But the mere copy of a will made and deposited among the records of a Court of another State is not here deemed sufficient to warrant a probate, and the granting of letters testamentary upon it. *Ratrie* v. *Wheeler*, 6 *H. & J.* 94; *Armstrong* v. *Lear*, 12 *Wheat.* 169. And, although it is declared by our law, that the Orphans' Court may take the probate or cause to be proved any last will or testament, although the same concern the title of lands; 1715, ch. 39, s. 2, and 29; yet such a probate has been held to be no more than *prima facie* evidence; and, consequently, if the validity of the will be denied, it must be regularly established here, as in England, according to law. *Carroll's Lessee* v. *Llewellin*, 1 *H. & McH.* 162; *Belt* v. *Belt*, 1 *H. & McH.* 409; *Collins* v.