

devise or bequeath the right of entry or reverter which may arise on breach of such condition or conditions, under the following restrictions.

There is nothing in sections 319 to 336 prohibiting an attesting witness to a will from being a beneficiary thereunder. *Leitch v. Leitch*, 114 Md. 336.

The act of 1798, ch. 101, sub-ch. 1, section 1, did not embrace leasehold property. Origin of this section. *Devecmon v. Devecmon*, 43 Md. 346. And see *Holzman v. Wager*, 114 Md. 322.

A power of sale in a will extends to surviving executors, trustees, etc., or to his or their successor, unless the will indicates a contrary intention—art. 16, sec. 251.

1904, art. 93, sec. 315. 1888, art. 93, sec. 308. 1860, art. 93, sec. 299. 1798, ch. 101, sub-ch. 1, sec. 2.

320. No will, testament or codicil shall be effectual to create any interest or perpetuity, or make any limitation, or appoint any uses not now permitted by the constitution or laws of this State.

Cited but not construed in *Russell v. Allen*, 107 U. S. 163; *Ould v. Washington Hospital*, 95 U. S. 303.

1908, ch. 569.

321. The rule against perpetuities shall not apply to any contingent remainder, executory devise, bequest or limitation of real or personal property, or both, by will or testament, intended to transfer the same from any corporation incorporated for charitable or educational objects to an individual or from any such corporation to any other such corporation on a contingency or future event, nor to any condition subsequent, or breach thereof upon which any such devise, bequest or limitation is intended to operate. This section is not intended to be, and shall not be construed as an interpretation of existing law.

1904, art. 93, sec. 316. 1888, art. 93, sec. 309. 1860, art. 93, sec. 300. 1798, ch. 101, sub-ch. 1, sec. 3.

322. No will, testament or codicil shall be good and effectual for any purpose whatsoever, unless the person making the same be at the time of executing or acknowledging it as hereafter directed, of sound and disposing mind, and capable of executing a valid deed or contract. No will, testament or codicil shall be good and effectual to pass any interest or estate in any lands, tenements or incorporeal hereditaments, unless the person making the same, if a male, be of the full age of twenty-one years, and if a female, of the full age of eighteen years.*

This section furnishes the rule by which the capacity of a testator is to be measured. Burden of proof. *Tyson v. Tyson*, 37 Md. 582; *Davis v. Calvert*, 5 G. & J. 299.

A prayer which explains clearly the terms used in this section but does not vary them, is proper. *Calvin v. Warford*, 20 Md. 388; *Higgins v. Carlton*, 28 Md. 125.

The last portion of this section has no application to leasehold property, that is a term of years in *esse*, and hence, a will bequeathing such property is valid though executed before the testator is of legal age; this rule is not

*No attempt is here made to collect or annotate the cases involving testamentary capacity—see Brantly's Digest.