altered by article 53, section 24; *contra*, where the *will creates* the term of years or leasehold interest. Holzman *v.* Wager, 114 Md. 322.

The effect of the portion of this section relative to the requisite age of a female to make a will, referred to in discussing when a female becomes of age for other purposes. Waring *v.* Waring, 2 Bl. 674; Corrie's Case, 2 Bl. 491; Davis *v.* Jacquin, 5 H. & J. 110.

For a case involving the subsequent adoption and ratification of a will not valid when made, see Boofter *v.* Rogers, 9 Gill, 44.

Cited but not construed in Garrison *v.* Hill, 81 Md. 556.

See notes to sec. 323.

1904, art. 93, sec. 317. 1888, art. 93, sec. 310. 1860, art. 93, sec. 301. 1798, ch. 101, sub-ch. 1, sec. 4. 1884, ch. 293.

323. All devises and bequests of any lands, or tenements, or interest therein, and all bequests of any goods, chattels or personal property of any kind, as described in section 319, shall be in writing and signed by the party so devising or bequeathing the same, or by some other person for him, in his presence and by his express direction, and shall be attested and subscribed in the presence of the said devisor by two or more credible witnesses, or else they shall be utterly void and of none effect.

Attestation.

It is not necessary that all of the witnesses should actually see the testator sign; it is sufficient if they are present when he signs, or if the paper after being signed is acknowledged as a will in their presence, and is signed and attested by them in his presence. Etchison *v.* Etchison, 53 Md. 357. And see Stirling *v.* Stirling, 64 Md. 138; Wampler *v.* Wampler, 9 Md. 540; Cramer *v.* Crumbaugh, 3 Md. 491; Mason *v.* Harrison, 5 H. & J. 480. *Cf.* Welty *v.* Welty, 8 Md. 22; Edelen *v.* Hardey, 7 H. & J. 67.

The witnesses must be requested to sign by the testator. What amounts to a request? Gross *v.* Burneston, 91 Md. 386; Etchison *v.* Etchison, 53 Md. 357; Higgins *v.* Carlton, 28 Md. 141. And see Brengle *v.* Tucker, 114 Md. 602.

A will is duly attested where another person signs the name of the witness, the latter making his mark. Appeal of Reaver's Executors, 96 Md. 736.

The word "credible" defined. An executor who is also appointed guardian of the testator's children is a competent witness. Estep *v.* Morris, 38 Md. 423; Higgins *v.* Carlton, 28 Md. 140. And see Leitch *v.* Leitch, 114 Md. 336.

A paper written and signed by the deceased, witnessed by a physician and delivered by the former just prior to his death to a third party in the presence of various persons who knew that the deceased was attempting to make a will, held invalid because of a failure to comply with this section. Brengle *v.* Tucker, 114 Md. 597.

A memorandum indorsed "for the instruction of my executors", written in the testator's handwriting two days after the execution of a will but not attested, can not operate as a will. Such a paper could not be incorporated into the will by reference because it was not in existence when the will was executed. Chase *v.* Stockett, 72 Md. 245.

As to the examination of witnesses to wills, see sec. 350: for the procedure when they are dead or inaccessible, see sec. 353.

Generally.

Although parol evidence has not been excepted to as provided by article 5, section 36, it will not be given effect so as practically to make a will for a testator contrary to this section. Lowe *v.* Whitridge, 105 Md. 189.

A will held to have been executed and attested in conformity with this and the preceding section. Buchanan *v.* Turner, 26 Md. 4.

For a case involving the signature of a testator by his mark with the assistance of one of the subscribing witnesses, see Higgins *v.* Carlton, 28 Md. 122.