

1904, art. 93, sec. 330. 1888, art. 93, sec. 322. 1860, art. 93, sec. 310.
1798, ch. 101, sub-ch. 2.

337. Probate of wills may be made in the following manner, that is to say:

See notes to sections 338 and 345.

Ibid. sec. 331. 1888, art. 93, sec. 323. 1860, art. 93, sec. 311. 1798, ch. 101, sub-ch. 15, sec. 1. 1831, ch. 315, sec. 1.

338. The orphans' courts, and in their recess, the registers of wills in this State, are authorized to take the probate of any will, testament or codicil, whether the same has relation to real or personal estate, or to both real and personal estate.

What is meant by the probate of a will, and what is necessary thereto? *Tilghman v. France*, 99 Md. 615.

The probate of a will decides merely on the *factum* of the instrument, and not upon the right of disposition or the proper exercise of a power; the latter questions belong to courts of law and equity. *Michael v. Baker*, 12 Md. 168.

This section referred to in deciding that when a will has been granted or denied probate after contest, the decision is final and the same question can not again be raised by a suit in ejectment. Operation and effect of the act of 1831, ch. 315. *Johns v. Hodges*, 62 Md. 534.

For other cases involving the act of 1831, ch. 315, see *Colvin v. Warford*, 20 Md. 386; *Warford v. Colvin*, 14 Md. 532; *Randall v. Hodges*, 3 Bl. 481; *Townshend v. Duncan*, 2 Bl. 86.

The act of the orphans' court in admitting to record as a will a paper which is not a testamentary paper, is null and void. *Robey v. Hannon*, 6 Gill, 463.

For a case drawing a distinction between the effect of the probate of a will of real estate and one of personalty, under the acts of 1715, ch. 39, and 1798, ch. 101, see *Warford v. Colvin*, 14 Md. 553. And see *Randall v. Hodges*, 3 Bl. 481.

See notes to sections 323 and 345; see also, sections 272 and 343.

Ibid. sec. 332. 1888, art. 93, sec. 324. 1860, art. 93, sec. 312.
1798, ch. 101, sub-ch. 2, sec. 2.

339. It shall be lawful for any private person in whose possession or custody a will or codicil shall be after the death of the testator to open and read the same in the presence of any near relations of the deceased who may conveniently have notice thereof, and other persons, and immediately thereafter to deliver the same to the register of wills of the county, whose duty it shall be to keep the same safe until proceedings may be had for the probate thereof in the said office, or until it be demanded by an executor or other person authorized to demand it for the purpose of having it proved according to law.

The executor is entitled to the custody of a will. *Bridge v. Dillard*, 104 Md. 422.

Cited but not construed in *Campbell v. Porter*, 162 U. S. 483.

Ibid. sec. 333. 1888, art. 93, sec. 325. 1860, art. 93, sec. 313.
1798, ch. 101, sub-ch. 2, sec. 3.

340. If any private person, in whose possession or custody a will or codicil shall be after the death of the testator shall wilfully neglect to deliver the same to the register of wills of the county where the said person resides, or where it is proper to prove the same, or to some