

and the court on hearing both sides—that is to say, the petitioner and the grantee of such letters—shall decide against the probate, the letters aforesaid shall be revoked, and the power of the party under the letters shall cease; and the said will shall not be proved in any other county, unless the decision be reversed on appeal.

Where a will has been probated after contest, such action is final and the same questions can not be raised again in the orphans' court by other parties, in the absence of fraud or collusion in the probate. How and when a question of fraud or collusion must be raised. *Pleasants v. McKenney*, 109 Md. 292; *McCambridge v. Walraven*, 88 Md. 381; *Worthington v. Gittings*, 56 Md. 547.

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. *Johns v. Hodges*, 62 Md. 536.

Any person having an interest in the estate in case the probate already granted should be revoked, may file a petition for that purpose within the three years allowed by section 342, although letters of administration have been granted. *Home for the Aged v. Bantz*, 106 Md. 151.

Where a caveat is dismissed before being tried and the will thereafter probated without contest, it is probated in common form, and this section applies. *Price v. Moore*, 21 Md. 373. And see *Levy v. Levy*, 28 Md. 32.

Where a will is presented with a petition stating that it is not the will of the deceased, and only testimony on behalf of those assailing the will is heard, those in favor of the will being given no opportunity to be heard, the orphans' court is without jurisdiction to decide the question of probate. *Emmert v. Stouffer*, 64 Md. 553.

For a petition filed under this section praying that the probate be again examined, see *Harris v. Pue*, 39 Md. 540.

This section referred to in construing section 36—see notes thereto. *Pacy v. Cosgrove*, 113 Md. 319.

This section construed in connection with section 248—see notes thereto. *Stockbridge v. Smith*, 64 Md. 106.

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

See notes to sec. 345.

1904, art. 93, sec. 342. 1888, art. 93, sec. 333. 1860, art. 93, sec. 321.
1798, ch. 101, sub-ch. 2, sec. 11.

349. In case the adjudication of the orphans' court to whom any will or codicil shall be exhibited for probate shall be against the said will or codicil, it shall not be received for probate in any other county.

It does not follow from this section that parties not bound by the order refusing probate are excluded thereafter from probating the will in the same county. *Emmert v. Stouffer*, 64 Md. 559 (dissenting opinion).

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. *Johns v. Hodges*, 62 Md. 536.

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

Ibid. sec. 343. 1888, art. 93, sec. 334. 1860, art. 93, sec. 323. 1831, ch. 315.
sec. 1. 1888, ch. 453. 1890, ch. 416. 1892, ch. 81.

350. In proving a will or codicil all the witnesses thereto shall be examined if their attendance can be had, and the register of wills of any county or of the city of Baltimore where any will shall have been filed for probate, or any deputy of his when directed so to do by an order of the orphans' court may examine and take the deposition of any or all of the witnesses thereto who from any cause cannot conveniently attend to the office of said register of wills wherever he may find such witness or witnesses, whether within the State of Maryland or beyond