

This section and secs. 332, 360 and 363 prescribe every condition essential to regular probate of a valid will. See notes to sec. 357. *Snyder v. Snyder*, 142 Md. 295.

Prayers granted held not to justify a reversal although they did not follow exactly the language of this section as to testamentary capacity. *Kamps v. Alexander*, 133 Md. 202.

This section furnishes the rule by which capacity of 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 testator is of legal age; this rule is not altered by art. 53, sec. 25; *contra*, where *will creates* term of years or leasehold interest. *Holzman v. Wager*, 114 Md. 322.

The effect of the portion of this section relative to 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 secs. 332 and 348.

An Code, sec. 323. 1904, sec. 317. 1888, sec. 310. 1798, ch. 101, sub-ch. 1, sec. 4. 1884, ch. 293.

332. 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 328, 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 witnesses should actually see testator sign; it is sufficient if they are present when he signs, or if 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 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 prayer held not to meet requirements of this section; it is not sufficient to prove that two or more competent witnesses signed will, but it must be attested and subscribed to in presence of testatrix. It is doubtful whether an issue reading, "Was the will of ——— executed by her according to the laws of the state of Maryland, relating to the execution of wills," submits question of attestation of witnesses. A will held to have been properly witnessed, and a witness held competent. *Conrades v. Heller*, 119 Md. 458.

Where a witness states that a will was executed in his presence and that it was signed by both witnesses in his office, but does not state that witnesses signed in testator's presence, an attestation in accordance with this section is not established. *Tinnan v. Fitzpatrick*, 120 Md. 348.

Proof of execution and attestation of a will made in 1874 held sufficient to justify its probate. Requisites of attestation of a will; effect of attestation clause; negative statement by one of attesting witnesses. *Woodstock College v. Hankey*, 129 Md. 679.

This section had its origin in statute of frauds, and is same as the statute in force in most of other states and in England. The witnesses must sign either upon the same sheet as testator or on some sheet physically connected with it. Meaning of "to subscribe." An attestation across sealed portion of envelope containing will is invalid. *Shane v. Wooley*, 138 Md. 77.