

**326.**

Fact that husband joined with wife in conveyance to third person of property owned by them as tenants by entireties, so that such person might reconvey to wife, did not involve surrender of his marital right in such property on her death. Affirmative act on part of husband is necessary to release statutory right in deceased wife's estate. Fraud. *Jaworski v. Wisniewski*, 149 Md. 115.

**Wills.<sup>1</sup>****330.**

See sec. 305B.

**332.**

Testimony of draftsman of lost will as to its due execution in presence of two attesting witnesses, held, under special circumstances, *prima facie* proof of valid will; fraudulent destruction or concealment. Revocation of will; evidence. *Preston v. Preston*, 149 Md. 507.

This section is satisfied where witnesses subscribe before testator signs, if he signs in their presence immediately after their subscription, and all acts are part of one transaction. *Sellers v. Hayden*, 154 Md. 118.

To first note to this section, page 2987, vol. 2, of Code, add *Brittingham v. Brittingham*, 147 Md. 155.

**333.**

Will may be revoked only as provided in this section. Whether tearing will amounts to revocation depends upon testator's intention. Act must be free and voluntary and mental capacity same as required for execution of will. Refusal to probate will improper. Laches. Limitations. *Hunter v. Baker*, 154 Md. 315.

Apparent revocation of part of will by tearing out a particular clause; reinsertion. Fraud. *Measley v. Housman*, 144 Md. 350.

See notes to sec. 332.

**335.**

This section has no application where legacy is to class and members of that class are in being at death of life tenants, who were entitled to take gift to class. *Stahl v. Emery*, 147 Md. 126.

1929, ch. 543.

**335A.** In all wills executed after July 1, 1929, unless a contrary intention is expressly stated in the will, the provisions of Section 335 in regard to lapse shall apply to all devises and bequests to two or more persons as a class in the same manner as though such devises or bequests had been made to such persons by their individual names.

**342.**

Rule in *Shelley's Case* applied to will probated in 1883. Effect and application of rule. *Rhodes v. Brinsfield*, 151 Md. 481.

**344.**

Holographic will made in Germany, with spaces left for signature of testator and for witnesses after attestation clause, with absence of proof as to whether name in introduction can be regarded as signature, properly refused probate in Maryland. *Quaere*, as to date and place. *DeGarmendia's Estate*, 146 Md. 51.

<sup>1</sup> As to appointment of guardian by parent by will, see art. 72A, sec. 4.