

This section construed in connection with sec. 336—see notes thereto. *Remington v. Metropolitan Bank*, 76 Md. 548; *Western Maryland College v. McKinstry*, 75 Md. 190; *Hooper v. Creager*, 84 Md. 252 (dissenting opinion).

1937, ch. 303.

**338.** A will shall be revoked by the subsequent marriage of the testator coupled with birth, adoption or legitimation of a child by him. No will shall be revoked merely by the subsequent birth, adoption or legitimation of a child by the testator; provided, however, that if a will provides for an existing child or children but makes no provision for a child subsequently born, adopted or legitimated by the testator, then any such child subsequently born, adopted or legitimated shall be entitled to the same share of the estate, real and personal, which it would have taken if the testator had died intestate; provided such child born, adopted or legitimated by the testator shall survive such testator. This section shall apply to the estates of all persons dying on or after June 1, 1937, but not to estates of any persons dying prior to that date.

An. Code, 1924, sec. 334. 1912, sec. 325. 1904, sec. 319. 1892, ch. 169, sec. 311A.  
1894, ch. 143.

**339.** Sections 336 and 337 of this article shall not apply to any will or bequest executed prior to the first day of August, 1884, but as to any such will or bequest, the law as it existed prior to the said date shall apply and govern the same.

This section construed in connection with sec. 336—see notes thereto. *Remington v. Metropolitan Bank*, 76 Md. 548; *Western Maryland College v. McKinstry*, 75 Md. 190; *Hooper v. Creager*, 84 Md. 252 (dissenting opinion).

An. Code, 1924, sec. 335. 1912, sec. 326. 1904, sec. 320. 1888, sec. 313. 1810, ch. 34, sec. 4.  
1832, ch. 295. 1910, ch. 37 (p. 323). 1920, ch. 202.

**340.** No devise, legacy or bequest shall lapse or fail of taking effect by reason of the death of any devisee or legatee (actually and specially named as devisee or legatee, or who is or shall be mentioned, described, or in any manner referred to, or designated or identified as devisee or legatee in any will, testament or codicil) in the lifetime of the testator, but every such devise, legacy or bequest shall have the same effect and operation in law to transfer the right, estate and interest in the property mentioned in such devise or bequest as if such devisee or legatee had survived the testator.

**Application of this section.**

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.

This section referred to in construing sec. 345. *Gassinger v. Thillman*, 160 Md. 196.

Orphans' Court has jurisdiction to determine whether legacy in lieu of dower to wife, by husband who survived her, was saved from lapsing and vested in her next of kin. *Longerbeam v. Iser*, 159 Md. 245.

This section as amended by ch. 37, 1910, did not apply where testatrix was continuously incompetent to execute valid deed or contract between death of legatee and death of testatrix, the testatrix dying before act of 1920, ch. 202, was enacted. *Livingston v. Safe Dep. & Tr. Co.*, 157 Md. 492.

This section has no application to a devise to one who is dead at time the will is made. The terms "lapse" and "fail of taking effect," defined. *Billingsley v. Tongue*, 9 Md. 581.

This section has no application where the legatee or devisee is given a life estate only. *Mercer v. Hopkins*, 88 Md. 314.

History of this section. Purpose of act of 1832, ch. 295. This section has no application to a devise to the surviving children of A. *Young v. Robinson*, 11 G. & J. 341. And see *Craycroft v. Craycroft*, 6 H. & J. 54; *Helms v. Franciscus*, 2 Bl. 560.