

unless the contrary intention shall appear in the will or codicil containing such devise or bequest.

This section applied. The appointee takes title directly from the donor in the same manner as if the power and the instrument executing it had been incorporated in one instrument. *Prince de Bearn v. Winans*, 111 Md. 469.

This section applies only to wills. How a power may be validly exercised. Title upheld. *Farlow v. Farlow*, 83 Md. 122. And see *Mines v. Gambrill*, 71 Md. 35.

This section not relied upon because the will was a formal execution of the power. *Cherbonnier v. Bussey*, 92 Md. 425.

This section has no retroactive effect; law prior thereto. *Thom v. Thom*, 101 Md. 452; *Cooper v. Haines*, 70 Md. 283; *Balls v. Dampman*, 69 Md. 393.

1904, art. 93, sec. 324. 1894, ch. 438, sec. 316 A.

331. In all wills hereafter executed, the real estate of every testator not specifically devised shall be chargeable with the payment of pecuniary legacies, wherever the personal estate after the payment of debts shall prove to be insufficient, unless the contrary intention shall clearly appear.

Under wills executed prior to the adoption of this section, the personal estate is the primary fund for the payment of legacies, and they are never charged upon real estate unless such an intention is manifest; such intention held not to be shown. *Pearson v. Wartman*, 80 Md. 531.

This section has no retroactive operation; law prior thereto. *Ewell v. McGregor*, 96 Md. 359.

Ibid. sec. 325. 1888, art. 93, sec. 317. 1862, ch. 161.

332. In any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or any other words which may import either a want or a failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime, or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention shall appear by the will.

This section applied. The words "dies without bodily heirs" are embraced within this section—these words construed. A will held not to show a "contrary intention." *Weybright v. Powell*, 86 Md. 576; *Combs v. Combs*, 67 Md. 16.

Except as to cases covered by this section, and unless there be words in the will to explain and restrict the legal import of the words "dying without heirs," etc., a limitation over on such contingency, is void. *Gable v. Ellender*, 53 Md. 315. And see *Mason v. Johnson*, 47 Md. 355; *Woollen v. Frick*, 38 Md. 437.

This section applied; object thereof. This section distinguished from a similar English statute. *Gambrill v. Forest Grove Lodge*, 66 Md. 25 (*cf.* the dissenting opinion in this case). *Mason v. Johnson*, 47 Md. 355.

This section applied. *Hutchins v. Pearce*, 80 Md. 445; *Lednum v. Cecil*, 76 Md. 153.

This section has no retroactive operation; law prior thereto. *Benson v. Luthicum*, 75 Md. 144; *Comegys v. Jones*, 65 Md. 320; *Dickson v. Satterfield*, 53 Md. 322; *James v. Rowland*, 52 Md. 466; *Estep v. Mackey*, 52 Md. 596; *Woollen v. Frick*, 38 Md. 437.

Prior to this section the rigidity with which the rule in *Shelly's* case was applied elsewhere, had been relaxed somewhat in Maryland. *Henderson v. Henderson*, 64 Md. 191.

This section held to prevent an estate tail from arising by implication. *Goldsborough v. Martin*, 41 Md. 503.