

This section construed in connection with sec. 332—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, sec. 325. 1904, sec. 319. 1892, ch. 169, sec. 311A. 1894, ch. 143.

334. Sections 332 and 333 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. 332—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, sec. 326. 1904, sec. 320. 1888, sec. 313. 1810, ch. 34, sec. 4. 1832, ch. 295. 1910, ch. 37 (p. 323). 1920, ch. 202.

335. 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 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.

The act of 1832, ch. 295, held to have no application where will was made and testator died before its passage. *Wootten v. Burch*, 2 Md. Ch. 197.

This section applied—see notes to sec. 133. *Halsey v. The Convention*, 75 Md. 283; *Lindsay v. Wilson*, 103 Md. 275.

Insanity—Retroactive Construction.

The act of 1910, ch. 37 (p. 323), held to have no application to cases where a testator became insane or incompetent before its passage. Statutes will not be construed retrospectively if they can reasonably be construed prospectively only, particularly, if by a retrospective construction, injury is done. The word "shall" ordinarily refers to the future, but, in remedial statutes, it can be used in a general sense including both past and future. This section does not mean that if a testator becomes insane or incompetent between the execution of will and the death of devisee, but recovers or has lucid intervals during which he could have revoked or altered his will, the devise must lapse. *Quære*, Does act of 1910, ch. 37, apply only to wills made after its passage? History of this section. *Hemsley v. Hollingsworth*, 119 Md. 438.

This section as it stood prior to act of 1920, ch. 202, applies to wills made before its passage when testatrix became insane after its passage but before death of legatee, and then survived latter. When statutes will be given a retroactive construction. Burden of proof of insanity. *Hemsley v. Hollingsworth*, 119 Md. 431, discussed and minor errors corrected. History of this section. *Bartlett v. Ligon*, 135 Md. 622.

Generally.

The time of transfer under this section is the death of the testator, and those to whom transfer is made are those in being entitled to the distribution of legatee's estate in case of intestacy. *Hays v. Wright*, 43 Md. 125; *Glenn v. Belt*, 7 G. & J. 367; *Redwood v. Howison*, 129 Md. 588.