

The plaintiffs by their petition prayed leave so to amend their bill as to allege, that the defendant *Odom* was then a non-resident; and to pray for an order of publication against him. The leave was granted as prayed; and the bill amended accordingly. And then on motion of the plaintiffs, on the 31st of October, 1829, an order of publication was passed, in the usual form, warning the defendant *Odom* to appear and answer on or before the 8th day of March then next.

On the 13th of November, 1829, the commissioners made return of their proceedings under the interlocutory decree of the 14th of April, 1828, and in the testimony, so taken and returned, there is evidence which goes to sustain some of the claims of the defendant *Law* for disbursements as alleged in his answer.

After the 8th of March, 1830, the plaintiffs produced a certificate of the order of the 31st of October, having been published as required. And the parties submitted to the Chancellor sundry affidavits as to the residence of the defendant *Odom*.

13th March, 1830.—BLAND, Chancellor.—This case having been again submitted on the part of the plaintiffs, with a prayer for a decree to account; and with notes on the part of the defendants objecting to the passing of any such decree, the proceedings were read and considered.

On a careful consideration of all the affidavits filed since the passing of the order of the 6th of July last, it very satisfactorily appears, that the defendant *John Odom* always has been since the institution of this suit; and must still be deemed a resident of the state of Maryland; and therefore the order of publication treating him as a person who resided beyond the jurisdiction of this court, is erroneous in point of fact, and has been improvidently passed.

Whereupon it is *Ordered*, that the said order of the 31st of October last, be and the same is hereby rescinded.

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After which the death of the plaintiff *Moore* was suggested; and on the 1st of October, 1830, the defendant *Odom* put in his answer to this amended bill, which was, in substance, the same as his answer to the first bill. To all these separate answers of the defendants, the plaintiff put in a general replication. A commission having been issued, was returned and filed on the 29th of December, 1830, without any testimony having been taken under it. After which the commissioners, on the 7th of March, 1830, filed a certificate, in which they stated, that by an agreement