

replevin, *scire facias* on judgment or decree, nor to heirs, devisees or terre-tenants, against whom process may be issued to another county.

The question of jurisdiction and privilege arising out of this section may be raised by motion for *non pros.*, or by plea "in the nature of a plea in abatement." If such question is raised by motion, it is passed upon by the court; if by plea, by a jury. Practice. *Tyler v. Murray*, 57 Md. 435. And see *Yoe v. Gelston*, 37 Md. 235; *State v. Gittings*, 35 Md. 173; *Gittings v. State*, 33 Md. 463; *Hamilton v. State*, 32 Md. 352.

In view of article 1, section 14, this section applies to private corporations. It does not, however, apply to municipal corporations. *Phillips v. Baltimore*, 110 Md. 436; *Henderson v. Maryland Home Ins. Co.*, 90 Md. 49. Cf. *Baltimore v. Meredith's Ford Turnpike Company*, 104 Md. 351. As to the law prior to article 1, section 14, see *Baltimore, etc., Co. v. Crowther*, 63 Md. 571.

What is carrying on "any regular business" or habitually engaging "in any avocation or employment," within the meaning of this section? *State v. Shipley*, 98 Md. 661; *Cromwell v. Willis*, 96 Md. 264; *Gambrill v. Schooley*, 95 Md. 275; *Chappell v. Lacey*, 77 Md. 173.

What constitutes "residence" within the meaning of this section? *Tyler v. Murray*, 57 Md. 441.

Where a defendant pleads in abatement that he is not a resident of the county in which he is sued and does not carry on any regular business, etc., therein, the burden of proof is upon him. *Gambrill v. Schooley*, 95 Md. 271.

A defendant cannot avail himself of the privilege or exemption allowed by this section, after the time for filing dilatory pleas. Purpose of this section. *Cromwell v. Royal Ins. Co.*, 49 Md. 383; *Yoe v. Gelston*, 37 Md. 236; *State v. Gittings*, 35 Md. 172.

This section referred to in discussing the distinction between local and transitory actions. Section 148 shows that the last clause of this section does not include all the actions excepted from its operation. *Crook v. Pitcher*, 61 Md. 514. And see *Patterson v. Wilson*, 6 G. & J. 500.

In view of article 1, section 13, the word "county" as used in this section includes the city of Baltimore. *Chappell v. Lacey*, 77 Md. 173.

As to when an objection to the jurisdiction is waived, see *State v. Shipley*, 98 Md. 662; *Ireton v. Baltimore*, 61 Md. 432.

For a case dealing with the act of 1801, ch. 74, see *Cape Sable Co.'s Case*, 3 Bl. 664.

As to process against insurance, surety or bonding companies, see sec. 23.

1904, art. 75, sec. 145. 1888, art. 75, sec. 133. 1860, art. 75, sec. 88.
1785, ch. 87, sec. 4. 1838, ch. 329.

148. If any trespass shall be committed on any real property and the person committing the same shall remove from the county where such property may lie, or cannot be found in such county, such trespasser may be sued in any county where he may be found, and an executor may be sued either in the county where he resides or where he obtained administration.

Under this section a suit in trespass *q. c. f.* must be brought in the county where the land lies and where the injury was committed, unless the defendant removes therefrom or can not be found therein; hence, a municipal corporation may be sued in such action in courts other than its own. *Baltimore v. Meredith's Ford Turnpike Co.*, 104 Md. 358.

This section shows that the last clause of section 147 does not include all the actions excepted from its operation. *Crook v. Pitcher*, 61 Md. 514.

This section referred to as showing that the distinction between local and transitory actions still exists. *Patterson v. Wilson*, 6 G. & J. 500.

The last clause of this section is intended to facilitate recovery against an executor, and does not affect the nature of the demand. *Bonaparte v. State*, 63 Md. 474.