

Non-residents can not be considered parties for any other purpose than that necessarily arising out of the object of the bill as stated in the order of publication. Object of such order. *McGaw v. Gorter*, 96 Md. 494.

Jurisdiction over non-resident infants assumed under this section, and section 89 of the code of 1860, held to bind the infants as effectually as if they had been summoned and defended by a guardian. The publication has the effect of a notice although the infants are too young to know anything, but the infants are not charged with knowledge of the entire proceedings. Effect of a decree *pro confesso*. *Jenkins v. Whyte*, 62 Md. 431. And see *Comegys v. State*, 10 G. & J. 182.

The definition of a non-resident within the meaning of this section is the same as that of a non-resident in the attachment law—see notes to article 9, section 2. *Dorsey v. Dorsey*, 30 Md. 531. And see *Hollander v. Central Metal Co.*, 109 Md. 161; *McKim v. Odom*, 3 Bl. 428; *Snowden v. Snowden*, 1 Bl. 557.

If the defendant is in fact a resident, the order of publication is a nullity. *Snowden v. Snowden*, 1 Bl. 558.

This section referred to in construing section 135—see notes thereto. *Johnson v. Robertson*, 31 Md. 488.

Cited but not construed in *Neale v. Hagthorp*, 3 Bl. 573; *Buckingham v. Peddicord*, 2 Bl. 454.

#### Cross references.

As to where a bill against non-residents should be filed, see sec. 90.

As to the mortgage and lease of property owned in part by non-residents, see sec. 59, *et seq.*

As to who fiduciaries may proceed against as non-residents, see sec. 211.

As to alimony against non-residents, see sec. 16.

See sections 95, 130 and 135 and notes.

As to non-resident guardians and infants, see art. 93, sec. 196, *et seq.*

1904, art. 16, sec. 118. 1888, art. 16, sec. 106. 1860, art. 16, sec. 90.

1795, ch. 88, sec. 1. 1842, ch. 216, sec. 1.

**125.** In all cases in chancery, if any person *non compos mentis* and not residing in this State is a defendant, the court may order notice to be given to such non-resident, by publication in some newspaper, to appear and answer such bill or petition, and upon the failure of such non-resident to appear and answer the bill or petition, such decree may be passed as the circumstances of the case may require; provided no decree shall pass unless the allegations in the bill or petition are fully proved, under a commission to be issued for that purpose, or before one of the examiners of the court; the court shall assign a solicitor for such non-resident defendant to cross-examine the witnesses, which solicitor shall be paid by the plaintiff, or out of the estate of the defendant, at the discretion of the court.

*Ibid.* sec. 119. 1888, art. 16, sec. 107. 1860, art. 16, sec. 91. 1773, ch. 7, sec. 4.

1787, ch. 30, sec. 3. 1792, ch. 41, sec. 5. 1795, ch. 88,

sec. 1. 1799, ch. 79, sec. 4.

**126.** Where a decree has passed for the specific execution of any contract or agreement for the sale or conveyance of real or personal estate, or any interest therein against a non-resident defendant, without his having answered, such non-resident may file a bill of review at any time within twelve months after the date of the decree; and if such non-resident be an infant, he may file a bill of review at any time within twelve months after he arrives at age; or if such infant dies under age, his heir or other representative may file a bill of review at any time