

of abode of one of them, if said parties or any of them reside in said county or city; or if none of the said parties live in the said county or city, set up the same on the land or premises where land or real estate is to be distrained or sold, or deliver to any person in possession thereof, a statement showing the aggregate amount of property of every description with which the person is assessed, and the amount of the taxes due thereon with a notice annexed thereto, that unless the taxes so due are paid within thirty days thereafter he will proceed to collect the same by way of distress or execution to be levied on said real or personal property. This section shall not apply to Garrett or Talbot counties.

Before equity will grant relief to a plaintiff whose property has been sold for taxes, he must pay or bring into court taxes due and interest thereon. Lower court sitting in the tax case held to have no power to strike out an order of ratification of a tax sale on a petition filed over three months after such ratification and over nineteen months after sale. *Reth v. Levinson*, 135 Md. 399.

Validity of tax sales depends on a substantial compliance by collector with all essential requirements of statute. Where it is proven that party upon whom notice prescribed by this section was alleged to have been served was at time deceased, the proceedings are fatally defective, notice required by the statute being jurisdictional. *Benzinger v. Gies*, 87 Md. 708; *Taylor v. Forrest*, 96 Md. 531; *Shaw v. Devecmon*, 81 Md. 217; *Guisebert v. Etchison*, 51 Md. 485; *Polk v. Rose*, 25 Md. 153.

Where taxes on land are not due in lifetime of testator, his devisees and not his executors should be served with notice prescribed by this section. If creditors have instituted proceedings for a sale of property and a decree has passed, property is in constructive possession of court and collector should secure taxes due by an appropriate order of court. *Prince George's County v. Clarke*, 36 Md. 219.

This section and following ones have no relation to secs. 166 and 166A, which impose upon a corporation duty of collecting tax payable by shareholders on corporate stock owned by them. *Hull v. Southern Development Co.*, 89 Md. 10.

Where a statute authorizes collection of taxes by distress or an action of debt, an action of assumpsit will lie, remedy by distress or debt being cumulative only. *Baltimore v. Howard*, 6 H. & J. 383.

The change wrought in this section by act of 1872, ch. 384, was as to the mode of serving the statement and notice. *Ex parte Tax Sale of Lot 172*, 42 Md. 198.

This section referred to in construing sec. 60—see notes thereto. *Dyer v. Boswell*, 39 Md. 469.

Cited but not construed in *Magraff v. Cunningham*, 57 Md. 586.

See art. 83, sec. 12.

An. Code, sec. 53. 1904, sec. 51. 1888, sec. 50. 1844, ch. 236, sec. 5. 1872, ch. 384. 1874, ch. 483, sec. 49. 1888, ch. 515. 1898, ch. 123, sec. 50. 1900, ch. 619.

59. After the proceedings required by the preceding section shall have been had, if the said taxes are not then paid, the collector shall levy upon any property of the delinquent; and, after giving twenty days' notice of the time and place of sale by advertisement in at least one newspaper in the county or city where a newspaper is published and also by notice stuck up at the court-house door and if no newspaper is printed in the county, then in addition to the notice at the court-house door at two other public places in the neighborhood, shall, agreeably to said notice, either on the premises, or at the court-house door of the county or city, proceed to sell by public auction, the property so levied on, for cash to the highest bidder, retaining out of the proceeds of such sales the amount of the taxes due from such delinquent, with interest thereon together with all the costs incurred in