

administrator may voluntarily appear to the action, or otherwise become or be made a party defendant as in cases of other parties defendant; provided, however, that if letters testamentary or of administration of the estate of such decedent shall after the making of such foreign executor or administrator a party defendant be granted upon the estate of such decedent by any orphans' court or register of wills of this State, the executor or administrator so appointed may intervene in such chancery case, if the same be still pending, and shall thereupon be substituted as a party defendant in place of said foreign executor or administrator, and shall thereafter represent the personal estate of said decedent.

As to administration by foreign executors, see art. 93, sec. 77, *et seq.*

An. Code, sec. 134. 1904, sec. 126. 1888, sec. 113. 1795, ch. 88, sec. 1. 1820, ch. 161, sec. 3.

141. Any non-resident, or person proceeded against as a non-resident, may appear and answer before final decree, on such reasonable terms as the court may prescribe.

Where, upon an appeal from a decree of sale, a case is remanded that further proof may be taken, a defendant may appear and answer. *Johnson v. Robertson*, 34 Md. 172.

An. Code, sec. 135. 1904, sec. 127. 1888, sec. 114. 1773, ch. 7, sec. 3. 1787, ch. 30, sec. 2. 1795, ch. 88, sec. 1. 1797, ch. 114, sec. 3. 1799, ch. 79, sec. 1. 1818, ch. 133, sec. 1. 1826, chs. 178, 199. 1841, ch. 22, secs. 3-5. 1842, ch. 229, secs. 4, 5. 1852, ch. 173, sec. 4. 1868, ch. 435. 1888, ch. 486. 1896, ch. 38.

142. In all suits in chancery against non-residents or against persons who may be proceeded against, as if they were non-residents, the court may order notice to be given by publication, in one or more newspapers, stating the substance and object of the bill or petition, and warning such party to appear on or before the day fixed in such order and show cause why the relief prayed should not be granted, and such notice shall be published as the court may direct, not less, however, than once a week for four successive weeks, previous to fifteen days before the day fixed by such order for the appearance of the party; provided, if a copy of the order be personally served on such party one month before the day fixed for his appearance, if he be within the limits of the United States, or three months if beyond, such service shall have the same effect as a publication. Proof of said service must be as follows: First, if served by the sheriff, his certificate thereof; second, if by any other person, his affidavit or affirmation thereof made and signed before a notary public and certified by him; third, the written admission of the defendant proved to the satisfaction of the court; and such certificate, affidavit, affirmation or admission shall state the time and place of service. And any person making a false affidavit or affirmation as to any such service shall be guilty of perjury, and any sheriff making a false certificate as to the service of any such notice shall be liable for making a false return.

Theory of notice by publication. Strict compliance with the requirements of the statute required, but questions of whether the non-resident saw the notice, or was able to respond to it, are immaterial. *Dorsey v. Dorsey*, 30 Md. 534; *Dorsey v. Thompson*, 37 Md. 44. *Cf. Johnson v. Robertson*, 34 Md. 173.

Proof that the notice required by this section was given, held insufficient, and a recital of the decree that the order of publication "had been duly published," held not to cure the defect. *Johnson v. Robertson*, 31 Md. 488.