

istration shall not be granted if it shall be proved to the court, by affidavit or certificate under the seal of office, or if they shall have reason to believe that such letters testamentary have been granted in a county proper for granting them.

Georgetown College v. Browne, 34 Md. 450.

P. G. L., (1860.) art. 93, sec. 44. 1798, ch. 101, sub-ch. 3, sec. 4.

44. In case the said executor shall not have been present at the authentication or probate, but shall have been within this State, a summons may issue against him, either at the instance of a person interested, or *ex officio* by the orphans' court, or in their recess by the register of wills of the county wherein the will was authenticated or proved, returnable not less than twenty nor more than sixty days from date; and if the summons shall be returned "summoned," and the executor shall not appear accordingly, or appearing, shall not within twenty days thereafter file a bond as aforesaid, or if two such summonses shall be returned "*non est*," and the party shall not appear according to the tenor of the second summons, or appearing, shall not within twenty days thereafter file a bond as aforesaid, letters of administration may be granted as aforesaid; provided, nevertheless, that in case of sickness of, or accident to such executor, or reasonable excuse made in his behalf, the court may at discretion allow a further time, not exceeding forty days after such return or appearance, for filing such bond.

Ibid.

Ibid. sec. 45. 1798, ch. 101, sub-ch. 3, sec. 5.

45. If the sole executor be out of the State at the time of authentication or probate, and shall not within six months thereafter return and file a bond as aforesaid, letters of administration may be granted as aforesaid; but in case the said executor be out of the State, and shall return at any time before the expiration of the said six months, there may be a summons and the same proceedings thereon as if he had been in the State at the time of the authentication or probate; and upon the said proceedings letters of administration may be granted before the expiration of six months. But it shall not be held necessary to proceed by summons as aforesaid, in case the party be as aforesaid out of the State at the time of the authentication or probate,