

prescribing the mode of authenticating records and judicial proceedings from the other States of the Union. In answer to which it was urged that the answer was entirely sufficient, and that the latter objections could not now be made.

On the hearing of a motion to dissolve an injunction, objections of every kind to the answer may be made, and are then in order. Because, the motion itself, in its very nature, is founded upon the correctness, and sufficiency of the answer in every particular. Hence the plaintiff may, on the very day of hearing the motion, file exceptions to the answer, and have them then heard and decided upon. The defendant can have no cause to complain of surprise; because, by his motion he calls upon the plaintiff to show cause why, after having *well and sufficiently* answered the bill, the injunction should not be dissolved. And, having thus planted himself upon the *sufficiency* of his answer, at that time, and for that purpose, he stands pledged to sustain it in all respects; or he must fail in his motion.<sup>(a)</sup> All the objections that have been made are, therefore, now in season and must be decided upon.

The act, relied upon to show the insufficiency of the certificate, is one of those laws passed by Congress in pursuance of the power delegated to them, by the first section of the fourth article of the Constitution of the United States. That delegation of power enables Congress to prescribe the manner in which the public acts, the records and the judicial proceedings of every *other State* shall be proved, and the effect thereof, in *this State*. But, the affidavit, and certificate appended to this answer are not in any sense public acts, records, or judicial proceedings of Delaware. They are parts of a judicial proceeding of Maryland; such as have been called for, and authorized by the usage and law of Maryland, not of Delaware:

According to the long established practice of this court, in various cases, some of which have been recognised by legislative enactments,<sup>(b)</sup> it will act upon the evidence, derived from affidavits taken in a foreign country. Prior to the revolution a *dedimus* was always sent to obtain an answer from a defendant resident in any of the neighbouring colonies or in a foreign State,<sup>(c)</sup> and now commissions are often sent to other States of this Union,<sup>(d)</sup> and into

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(a) Eden, Inj. 78; Alexander v. Alexander, MS., 13th December, 1817.—(b) 1797, ch. 114, s. 5.—(c) Chan. Pro. lib. D. D. No. J. folio 6, 59, &c.—(d) Hunt v. Williams, Taylor's Rep. 318.