

for the taking of testimony in support of the allegations of the bill; upon the return of which, the court may proceed to a final decree. But that, when the bill shall charge any matter as being within the private knowledge of the defendant, and the plaintiff shall satisfy the court, by affidavit in open court, that such matter does rest in the private knowledge of the defendant, the bill as to such matter may be taken *pro confesso*, and a final decree made, as if such matter had been proved or admitted. (x)

But there being a great variety of instances in which it was important that some means should be given for obtaining relief in equity against persons who were competent to answer, (y) but were not within the jurisdiction of the state, all such cases have been provided for by several general, and apparently comprehensive legislative enactments; (z) which appear to have virtually modified, or repealed several then existing provisions in relation to the same matter; (a) and to have more particularly specified what should be deemed sufficient notice as spoken of in some other laws. (b)

It has been declared, that, *in all cases whatever*, where a bill shall be filed against a person not residing within the state, the Chancellor may direct such notice of the bill, and the object thereof by advertisement in newspapers, or otherwise, warning the defendant to appear on or before some day to be fixed, *not less than four months from the time of the first advertisement*, to shew cause why a decree should not be passed as prayed; and, in case, the defendant shall not appear, the bill shall be taken *pro confesso*, or a commission shall, on application of the plaintiff, be issued to take depositions on his part; and on the return thereof, the Chancellor may proceed to decree according to the facts proved; provided, that if the defendant shall appear before the decree, there shall be the same proceedings as if he had appeared on the return of a *subpœna*; and provided also, that if any person against whom a decree shall be made shall appear within eighteen months after the date of the decree, and require a review of it upon bill filed, the Chancellor shall proceed to an examination of the matters in dispute, and decree as if such person had originally appeared. (c)

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(x) 1820, ch. 161, s. 1, 2.—(y) *Carew v. Johnston*, 2 Scho. & Lefr. 292; *Knight v. Young*, 2 Ves. & B. 185.—(z) *Smith v. The Hibernian Mine Company*, 1 Scho. & Lefr. 238.—(a) 1773, ch. 7, s. 3, 4; 1785, ch. 72, s. 30, 31; 1787, ch. 30, s. 2.—(b) 1791, ch. 79; 1792, ch. 41; 1794, ch. 60.—(c) 1795, ch. 88, s. 1; 1820, ch. 161, s. 4, 5; 1831, ch. 311, s. 13; 1832, ch. 302, s. 3; *Knight v. Young*, 2 Ves. & B. 185.