

**457** such \*non-residence, and that its process cannot be served on him, may order such notice to be given by advertisement in the public newspapers, or otherwise, as it may deem reasonable, warning such non-resident to appear by a certain appointed day, at least three months thereafter; whereupon the Court shall hold jurisdiction of the case and determine the same as if such non-resident had appeared thereto. 1818, ch. 133, s. 1.

And, finally, as to cases in Chancery, in general, it has been declared, that in case any defendant shall appear agreeably to an order limiting a day, or voluntarily, he shall put in a good and sufficient answer, plea or demurrer, on or before the fourth day of the term succeeding such appearance, or be liable to be proceeded against, if a resident of the State, as if he had been summoned and appeared; and if he be a non-resident, either the bill shall be taken *pro confesso*, or a commission may issue to take depositions *ex parte*, and a decree thereon made. 1799, ch. 79, s. 9; *Clapham v. Clapham*, 1 *Bland*, 126, *note*. That in cases where a defendant may be ordered to produce books in his possession, on his failing to do so, or to shew sufficient cause at the term appointed therefor, the Chancellor may take the allegations of the bill *pro confesso*, and decree *ex parte* in such manner as shall appear just. 1798, ch. 84; 1807, ch. 140. And that in all cases whatever, it shall be at the discretion of the Chancellor, where he is authorized to decree without the appearance of the defendant, either to take the bill *pro confesso*, or direct a commission for taking depositions *ex parte*, as by law is directed, in certain cases where the defendants are non-residents. 1799, ch. 79, s. 5; *Johnson v. Desmoneere*, 1 *Vern.* 223; *Dominicetti v. Latti*, 2 *Dick.* 588. But, as in all cases where the bill is to be taken *pro confesso*, the Court hears the pleadings, and itself pronounces the decree, as seems to be expressly required by legislative enactment in some cases; 1820, ch. 161, s. 1; and it does not permit the party to draw up his own decree; and so take such a one as he himself conceives he can abide by, as in cases of default by the defendant at the hearing; *Geary v. Sheridan*, 8 *Ves.* 192; it follows, that if it should appear, upon the face of the bill, as thus taken *pro confesso*, as when taken for true upon demurrer, that the Court has no jurisdiction, or that the plaintiff has no equitable claim to relief, the bill must be dismissed with costs. *Molesworth v. Verney*, 2 *Dick.* 667; *Iglehart v. Armiger*, 1 *Bland*, 528.

In the ordinary course of the Court, according to the existing \*practice, a bill may be taken *pro confesso*, upon a demurrer **458** in bar being overruled, or on a plea being found false. *Davis v. Davis*, 2 *Atk.* 24; *Wood v. Strickland*, 2 *Ves. & Bea.* 158; *Trim v. Baker*, 1 *Cond. Cha. Rep.* 240; *Rowley v. Eccles*, 1 *Cond. Cha. Rep.* 260. And if a defendant attempts to protect himself from answering by a demurrer or plea, and fails, so that the bill may be taken *pro confesso*, he may without being allowed or ordered, to answer