

“that all appeals from the *decisions, orders, and decrees* of the Chancery Court, in cases where appeals properly lie,” shall be made within nine months, &c.;(i) which declaration, it was afterwards enacted, should “be *confined* to decretal orders.”(j) Whence it may be fairly inferred, that although the range of the right of appeal might have been, under the previous laws, construed to be, at least, co-extensive with the right of appeal from the Court of Chancery of England, yet by this last law it was intended to reduce it within much narrower limits, by declaring, that it should “be *confined* to decretal orders.”

Consequently, although it may be questionable, in many cases, whether an appeal, which would be allowed in England, should be granted here, yet it would seem to be perfectly clear, that where an appeal will not lie from the English Court of Chancery, it cannot now be granted from this court.(k) Hence, as it is settled in England, that there can, in general, be no effectual appeal from a decree by default; or from a decree, to the passing of which the party has assented; or which, by his negligence or omission, he has permitted to go against him, it would seem necessarily to follow, that no appeal ought to be allowed to a party against whom any such decree had been passed by this court, either in the ordinary course, or according to the special provisions of the act of assembly, which authorizes the court to proceed *ex parte*;(l) or under any of the acts which authorize the court to take the bill, *pro confesso*, as against an absent, or a contumacious resident defendant; since the right of appeal has been reserved to such a party by no act of assembly, in any case whatever; and if he were, notwithstanding, to be suffered to appeal, such a decree would be thereby rendered, in a great measure, utterly futile; and he might thus be enabled to turn his own negligence to his particular benefit, by taking advantage of errors and omissions in the proceedings, which must have been waived, or might have been cured, or provided for, had he appeared and answered. But this is a matter which yet remains to be carefully considered and finally determined by the proper tribunal.

The act for regulating the granting of appeals from and to the courts of common law, declares, that the method and rule of the prosecution of appeals shall be in the manner and form as therein expressed, that is to say, the party appealing shall procure a tran-

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(i) 1785, ch. 72, s. 27.—(j) 1818, ch. 193, s. 1.—(k) But see 1830, ch. 185, and 8132, ch. 197.—(l) 1820, ch. 161, s. 1.