

newspaper, to appear and answer such bill or petition, and upon the failure of such non-resident to appear and answer the bill or petition, such decree may be passed as the circumstances of the case may require; provided, no decree shall pass unless the allegations in the bill or petition are fully proved, under a commission to be issued for that purpose, or before one of the examiners of the court; the court shall assign a solicitor for such non-resident defendant to cross-examine the witnesses, which solicitor shall be paid by the plaintiff, or out of the estate of the defendant, at the discretion of the court.

P. G. L., (1860,) art 16, sec 91. 1773, ch 7, sec. 4. 1787, ch 30, sec 3 1793, ch 41, sec. 5. 1795, ch, 88, sec 1. 1799, ch. 79, sec. 4

107. Where a decree has passed for the specific execution of any contract or agreement for the sale or conveyance of real or personal estate, or any interest therein against a non-resident defendant, without his having answered, such non-resident may file a bill of review at any time within twelve months after the date of the decree; and if such non-resident be an infant, he may file a bill of review at any time within twelve months after he arrives at age; or if such infant dies under age, his heir or other representative may file a bill of review at any time within twelve months after the death of such infant; and if such non-resident defendant be *non compos mentis*, he may file a bill of review at any time within twelve months after he becomes of sane mind, or his heir or other representative may do so at any time within twelve months after the death of such *non compos mentis*. But the provisions of this section are not to apply to any decree to foreclose a mortgage, or for sale of the mortgaged premises, or to a decree for the sale of real or personal property to pay debts or liens, or to a decree for the partition of any real or personal property, or to a decree for the sale of any real or personal property for the purposes of division.

Luckett v. White, 10 G. & J. 480. Pinkney v. Jay, 12 G & J. 69.

Ibid. sec. 92. 1797, ch 114, sec. 3. 1832, ch. 302, sec. 3. 1841, ch. 23, sec. 3. 1853, ch. 88.

108. In all cases where two successive subpoenas against a defendant have been returned *non est*, or upon the return of one subpoena *non est*, and proof by affidavit, that the defendant hath kept