

thereon as may be deemed just; or the Chancellor may order a commission to issue, or examine the plaintiff on interrogatories, and thereupon decree as he may think just. (s) That if an attachment for want of appearance or answer, shall be returned served or attached, and the defendant shall not appear at the day of the return, the Chancellor may by order, limit a certain day, in the following term, on or before which the defendant shall appear, and put in a good and sufficient answer, plea, or demurrer, otherwise, the bill may be taken *pro confesso*, and a decree thereon; provided, that if such defendant shall, before a decree, appear, and immediately put in such answer, there shall be the same proceedings as if he had regularly appeared and answered. (t)

And further, that in case a *subpœna* shall be returned *non est* by the sheriff of the county where the defendant shall be known, or generally supposed to reside; and on affidavit of some indifferent person, of the said known or supposed residence, and of the defendant's having avoided, or kept out of the way of the sheriff, or evaded the service of the *subpœna*, (u) the Chancellor may, on motion, direct publication to be given in some newspaper, convenient to the known or supposed residence of the defendant, at least three weeks successively, of the filing, subject and object of the bill, and of the day fixed, *not less than four months subsequent to the publication*, for the defendant's appearance; and on his failing to appear, to proceed as against a non-resident; provided, that if such defendant shall appear, at any time before a decree, and shall, on or before the fourth day of the subsequent term, put in a good and sufficient answer, or a good plea or demurrer, the proceedings thereafter, shall be the same as if he had appeared to the summons; and, if, within nine months after a decree, such defendant shall appear, file a petition, praying to set aside the decree; and likewise, answer, plead or demur, the Chancellor shall annul the decree as to such defendant, and there shall be the same proceedings, as if he had appeared to the summons. (w) And that where a *subpœna* has been returned summoned, and the defendant neglects to appear, or appearing, fails to put in a good and sufficient answer within the time prescribed by the rules of the court, an interlocutory decree may be entered, and a commission issued *ex parte*

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(s) 1785, ch. 72, s. 20; 1 Harri. Pra. Cha. 278; 1 Newl. Pra. Cha. 125.—(t) 1799, ch. 79, s. 2.—(u) *Davis v. Davis*, 2 Atk. 22; 1823, ch. 184.—(w) 1797, ch. 114, s. 2, 3; 1773, ch. 7, s. 3, 4; 1532, ch. 302, s. 3.