

But, where the proceeding is against the heir at common law, with publication against the other heirs under the act to direct descents, such appointed day must *not be less than four months subsequent to the publication*; (d) and as against a non-resident defendant to a bill of interpleader, the day appointed for his appearance, must be *not less than six months from the time of the publication of the order*. (e)

And it has been further declared, that if a bill be filed against any person, to compel a specific performance of a contract, who is not a resident of the state, or to be found therein, and it cannot be ascertained whether he be living or not; or if dead, whether he left any legal representatives, or who they are, the Chancellor may, without the appearance of the absent party, either take the bill *pro confesso*, or issue a commission for taking depositions *ex parte*, and on taking the bill *pro confesso*, or the return of the commission, decree as justice and equity may require: Provided, that the plaintiff shall give *at least six months' notice of his application*, in such newspaper as the Chancellor shall direct; and provided, that if the defendant shall appear at any time, not exceeding eighteen calendar months after such decree, and request a review of it upon bill filed, the Chancellor shall proceed to an examination of the matter, and to a final decree in the same manner as if such defendant had originally appeared; and provided also, that such defendant may, at any time before a decree, appear and be admitted to defend on filing a good and sufficient answer, plea, or demurrer. (f) That in case a defendant resides out of the state, and a summons has been served upon him, (g) the Chancellor may, by order, limit a day on or before which he shall appear, and put in a good and sufficient answer, plea, or demurrer; and if a copy of the said order be served upon him, or inserted in some convenient newspaper *at least three months before such day*, and he shall not appear and answer, the bill may be taken *pro confesso*, and a decree passed accordingly; 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. (h) And that if, on the death of a plaintiff, a bill of revivor shall be filed and the defendant shall have removed out of the

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(d) 1797, ch. 114; 1831, ch. 311, s. 10.—(e) 1826, ch. 199.—(f) 1804, ch. 107; 1787, ch. 30; 1792, ch. 41; 1795, ch. 88, s. 1.—(g) *Scott v. Hough*, 4 Bro. C. C. 213.—(h) 1799, ch. 79, s. 1, 2.