

and the filing of such answer or answers shall in no case affect the validity of any commission previously issued to take testimony, or of the proceedings, or any of them, under such commission, or of any testimony previously taken and returned under any such commission.

SEC. 4. *And be it enacted*, That whenever, after the filing of any bill in the chancery court, or in any county court exercising chancery powers, either or any of the parties shall die or shall have died, it shall not be necessary to file a bill of revivor for or against the legal representative or representatives of such party or parties, in order to make them parties to such bill; but such representative or representatives may come in by solicitor or in person and suggest the death of his, her or their testator, intestate, deviser or ancestor, as the case may be, and pray to be made party or parties instead of the deceased, whereupon the court, on being satisfied that such testator, intestate, deviser or ancestor, is dead, and that such applicant or applicants are his or her legal representative or representatives, by descent, devise, or otherwise, shall be and hereby is authorized and required to admit such applicant or applicants as party or parties to the suit, in place of the deceased, and to proceed in the cause in all respects as if such new party or parties had been made, on bill of revivor and answer, such reasonable notice of such admission as the court shall direct being first given to the opposite party or parties, if residing or found within the state, by serving it personally, or leaving it at his, her, or their usual place of abode, and if residing elsewhere, by publication as in the case of absent defendants.

After filing bill if either of the parties should die, not necessary to file a bill of revivor, &c.

SEC. 5. *And be it enacted*, That whenever, after the filing of any bill in the chancery court, or any county court exercising chancery powers, any of the parties shall die or shall have died, and the legal representative or representatives of such party shall fail or neglect to appear, and cause him, her or themselves, to be made party or parties instead of such deceased party, within the four first days of the term next after such death, the opposite party or parties, or any of them, may file a suggestion of such death, setting forth when it took place, and whether the said deceased party left a will or died intestate, and who are his or her executors, administrators, devisees or heirs, as the case may be, whereupon it shall be the duty of the court, and it is hereby authorized, to issue a summons to the executors, administrators, heirs and devisees, of the said deceased party, or either or any of them, as the case may be, commanding him, her or them, to appear at such time as the court in its discretion shall direct, and be made parties to the said suit, instead of the said deceased party; which summons, in case the party or parties to whom it is directed shall reside within this state,

Representative of party dying and failing to appear, opposite party may file a suggestion of death, &c.