

shall be served personally on him, her or them, or left at his, her, or their usual place of abode, so long before the time therein fixed for appearance, as the court in its discretion shall direct; and in case they or any of them shall reside out of this state, shall be published, as to such absentee or absentees, in the manner prescribed by law for publication against absent defendants in suits in the chancery court.

On return of summons and party failing to appear, court may enter them, as parties, &c.

SEC. 6. *And be it enacted,* That on the return of such summons, and due proof of its service or publication, the parties named therein, and summoned to appear and become parties to the suit, failing to do so, according to the exigency of the said summons, within the first four days of the term at which he, she or they, shall have been required by the said summons to appear, the court shall have power, and is hereby required, to cause the said party or parties to be entered as party or parties to the said suit, in the place of the said deceased party, and to proceed in the said suit in all respects as if the said party or parties had appeared and entered as aforesaid, or had originally been party or parties to the said suit.

In cases where new parties are made, they may deny matters alleged, &c.

SEC. 7. *And be it enacted,* That in all cases where any new party or parties shall have been made to a suit, according to the provisions of this act, at the instance and on the application of the opposite party, such new party or parties may, on appearance, and by suggestion, on oath, deny all or any of the matters alleged and set forth in such application; which matters so denied shall then be proved in the progress of the cause, in the same manner as allegations in a bill which are denied or not admitted; and where any person or persons shall, on his, her, or their own application, be admitted as party or parties to any suit in the place of a party or parties alleged to be dead, the opposite party may in like manner, by suggestion on oath, deny all or any of the matters alleged in the said last mentioned application, whereupon the matters so denied shall, in the progress of the cause, be proved in the same manner as allegations in a bill which are denied or not admitted, and in both the said cases the court shall make such final decree as to right shall appertain.

In deciding on exceptions court may award costs, &c.

SEC. 8. *And be it enacted,* That in deciding on exceptions to answers in the chancery court, or in the county courts as courts of equity, the said courts respectively may award the costs of the exceptions, and the order thereon, to the party prevailing, including a fee to the solicitor or attorney equal in amount to the solicitor's or attorney's fee in the suit.