

PROCESS.

115. Whenever a subpoena shall issue from a court of equity on a bill filed in said court, and such subpoena hath been returned summoned as to any of the defendants therein named, and the defendants, or any of them, so returned summoned shall fail to appear according to the exigency of the said writ, or having so appeared shall fail to put in a sufficient answer to the said bill within the time which may be prescribed by the court from which the said writ issued for answering such bill, the said court is authorized and required, on the application of the complainant, to enter an interlocutory decree in such cause, and to issue a commission ex parte to one or more persons for the taking of testimony to support the allegations in the said bill, which commission shall be issued, proceeded in and returned in the same manner, and the testimony taken and returned under the same shall have the same effect as if issued and returned in the usual way, on answer, general replication and issue, and the court shall proceed to a final decree in the cause in the same manner as if the defendant had appeared and put in his answer.

116. Whenever any such bill as is mentioned in the preceding section shall charge any matter or thing as being within the private knowledge of the defendant and shall pray a discovery, on oath, as to such matter or thing, and an interlocutory decree, as provided for in the last preceding section, shall have been entered, and the complainant shall satisfy the court, by affidavit to be taken in open court and filed in the cause, that such matter or thing does rest in the private knowledge of the defendant, and that there is reasonable ground for believing, *prima facie*, that such matter or thing does exist, the said court is authorized and required to order the bill as to such matter or thing, the same being sufficiently alleged and charged, to be taken *pro confesso*, and to proceed to make a final decree in the case, in the same manner as if such matter or thing had been proved on a commission or admitted by answer.

117. Any defendant against whom an interlocutory decree shall be entered under the preceding sections, and also any defendant against whom an order to take a bill as to any matter or thing, *pro confesso*, may be passed, may appear at any time before final decree and file his answer, on oath, to the bill, which shall be filed forthwith, or within such reasonable time as the court in its discretion, and on special cause shown by affidavit,