

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. CHAP. 161.

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 authorised, 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, 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.

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

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.

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

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

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