

CHAP. 161.

dants, or any of them, and shall pray a discovery on oath as to such matter or thing, and an interlocutory decree as provided for in the said section shall have been entered, and the complainant or complainants, or any of them, 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 or defendants, or some of them, and that there is reasonable ground for believing *prima facie* that such matter or thing does exist, the said court shall be and hereby is authorised 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.

Defendant may file his answer on oath, &c

3. *Provided always, And be it enacted,* That any defendant against whom an interlocutory decree shall be entered under the provisions of this act, and also any defendant against whom an order to take a bill as to any matter or thing *pro confesso*, may appear at any time before final decree, and file his, her or their 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 shewn by affidavit, shall order and appoint; and on such answer or answers being filed, such proceedings shall be had as would or might have been had in case such answer or answers had been filed before the passage of such interlocutory decree, but the court shall be and hereby is authorised and required, to impose such terms on the defendant or defendants, as the condition of permitting such answer or answers to be filed, as such court may in its discretion, under all the circumstances of the case, judge reasonable and proper for avoiding delay or expense, and for the attainment of justice; 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.

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

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, devisor 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, devisor 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 authorised 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