

of other counties—penalty on neglect to execute.

process, to the sheriff, surveyor or other officer, of the county from which such action hath been or may be removed, or to the sheriff or other officer of any other county; and the sheriff, surveyor or other officer, to whom any such warrant of resurvey, order or other process, may be directed and delivered, shall be bound to execute and obey the same in like manner as if such warrant of resurvey, order or other process, had issued from the county court of the county from which such action was removed, or of the county court of the county in which such sheriff, surveyor or other officer may reside, and upon the neglect of such sheriff, surveyor or other officer, to execute and obey such warrant of resurvey, order or other process, the county court to which any such action shall or may be removed, and to which such warrant of resurvey, order or other process, may be returnable, shall, on motion, and upon proof of the delivery of any such warrant of resurvey, order or other process, amerce such sheriff, surveyor or other officer, and enter up judgment in the manner provided and directed by the first section of this act.

See the act of 1817, ch. 139, providing for the conveyance and return of process issued from the court of one county to the officers of another.

Suits which are not to abate by the death of either party, further proceedings may be had, &c.

SEC. 3. *And be it enacted*, That if any suit or action brought or to be brought in any court of law in this state, which by law is not to abate by the death of either of the parties thereto, and a declaration hath been or may be filed before the death of the plaintiff therein, further proceedings may be had upon the declaration so filed, but the executor or administrator, as the case may require, or other proper person interested on the part of the deceased, may at any time after appearance, have liberty to amend such declaration, in the same manner as it might have been done by the original plaintiff if living.

Persons absent becoming parties—subpœnas may be issued.

SEC. 4. *And be it enacted*, That if the defendant in any suit or action hath died, or hereafter shall die, whilst such suit or action shall be depending, and the heir, devisee, executor or administrator, of such defendant, as the case may require, or other proper person, necessary to be made party to such suit or action, resides out of this state, the court in which such suit or action is or may be depending, shall on motion order and direct a subpœna to be issued, directed to such heir, devisee, executor, administrator or other proper person, as the case may require, commanding him, her or them, to be and appear before such court on or before the first day of its next session thereafter, to answer unto the plaintiff in such suit or action, in the plea therein, if to him, her or them, it shall seem meet, which subpœna the plaintiff in the said suit or action may serve, or procure to be served, upon such heir, devisee, executor, administrator or other proper person; and upon proving to the satisfac-