

third day of the second term of the said court after such service, in person or by attorney, and defend such action, the said court, on motion, shall order and direct a judgment to be entered for the plaintiff in such action, by default "nisi," the third day of the succeeding term of said court; and if the said heir, executor, or other proper person, shall appear on or before the third day of said succeeding term, in person or by attorney, upon application to the said court, the said judgment shall be stricken out, and the said heir, executor, or other proper person as the case may be, shall be permitted to appear and defend such action.

9. No case pending in the Court of Appeals shall abate by the death of either of the parties to such appeal or writ of error, if the heir, executor, or other proper person to be made a party shall, at the first or second term succeeding the death of such party, make the necessary suggestion, and appear to such appeal or writ of error for the purpose of prosecuting or defending the same.

10. When the plaintiff in an appeal or writ of error dies before the term to which such appeal or writ of error is returnable, the heir, executor, or other proper person to be made a party, may appear in the Court of Appeals and suggest the death of the plaintiff, and appear to such appeal or writ of error for the purpose of prosecuting the same.

11. When a case is under rule argument in the Court of Appeals, and a party shall die, having an attorney in court, the Court of Appeals shall give judgment to have the same effect as if the party were alive; *Provided*, the heir, executor, or other proper person, may, if he thinks proper, suggest the death and become a party in the place of the person so dying.

12. No action in any of the courts of this State, either original or upon appeal, shall abate by reason of the marriage of any of the parties, but on application of any of the parties, the court may, upon such terms and notice as to it shall seem proper, allow and order any amendment of the pleadings and the making of any new and additional parties that such marriage may render proper.