

or Attachment, cause an Appearance to be entred in such Court where such Writ of *Pone* or Attachment shall be returnable, then, in Default of such Appearance, the Demandant having entred his Declaration, the Court may proceed to examine the Demandant's Title, and Quantity of his Part and Purpart, and accordingly, as they shall find his Right, Part and Purpart to be, they shall, for so much give Judgment by Default, and award a Writ to make Partition, whereby such Proportion, Part, and Purpart may be set out severally; which being executed after Eight Days' Notice given to the Occupier, or Tenant or Tenants of the Premisses, and returned, and thereupon final Judgment entred, the same shall be good, and conclude all Persons whatsoever, after Notice as aforesaid, whatever Right or Title they have or may at any time claim to have in any of the Manors, Messuages, Lands, Tenements, and Hereditaments, mentioned in the said Judgment and Writ of Partition, although all Persons concerned are not named in any of the Proceedings, nor the Title of the Tenants truly set forth.

II. Provided always, That if such Tenant or Person concerned, or either of them, against whom, or their Right or Title, such Judgment by Default is given, shall, within the space of One Year after the first Judgment entred, or in case of Infancy, Coverture, *Non sana memoria*, or Absence out of the Kingdom, within One Year after his, her, or their Return, or the Determination of such Inability, apply themselves to the Court by Motion where such Judgment is entred, and shew a good and probable Matter in bar of such Partition, or that the Demandant hath not Title to so much as he hath recovered, then in such Case the Court may suspend or set aside such Judgment, and admit the Tenant and Tenants to appear and plead, and the Cause shall proceed according to due Course of Law, as if no such Judgment had been given: And if the Court, upon hearing thereof, shall adjudge for the first Demandant, then the said first Judgment shall stand confirmed, and be good against all Persons whatsoever, except such other Persons as shall be absent or disabled as aforesaid; and the Person or Persons so appealing shall be awarded thereupon to pay Costs, or if within such Time or Times aforesaid, the Tenants or Persons concerned, admitting the Demandant's Title, Parts, and Purparts, shall shew to the Court any Inequality *in the Partition **613** the Court may award a new Partition to be made, in presence (54)