BLAND, C., 30th October, 1826.—It is perfectly obvious, that the fourth, fifth, sixth, and seventh sections of the Act of 1820, ch. 161, have done nothing more than to authorize a party to pursue the course therein prescribed in place of a bill of revivor. It is declared, that if a party shall die, "it shall not be necessary to file a bill of revivor," but that this new method may be taken for renovating the suit. The Act has neither expressly nor impliedly abrogated the mode of reviving a suit by bill of revivor; but has only given this new method of proceeding as an additional mode of attaining that object, which before could only be effected by a bill of revivor. But it is a new course of proceeding, which can only be used in place of a mere naked bill of revivor, by which the person in whom the title is vested, is the sole fact to be ascertained, and nothing more. It can be resorted to in no case, except that of a devisee, where a proper bill of revivor will not lie; nor can it be used in any case for the purpose of performing the office of a mere bill of revivor, but where an abatement has happened by death;(*d*) for, it is expressly confined to the case of a bill in Chancery, where "either or any of the parties shall die or shall have died." And not being repugnant to, nor having superseded any other mode of proceeding; nor authorized or contemplated the revival of a suit in any case where it was before deemed illegal or unnecessary to have it revived; it follows, that it can apply to no case like the present, where the suit has been abated by the marriage of a female plaintiff; nor can it authorize or require a revival on the marriage of a female defendant, which, not operating as an abatement, did not call for a revival;(*e*) nor can it apply to any case, except that of a devisee, where, because of the new party's * not claiming by operation of law only, a mere bill of revivor will not lie; nor can it be resorted to by a

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(*d*) It seems to have been the ancient practice of this Court, in such cases of abatement, to enter upon the docket a suggestion of the death of the party; and then, as a matter of course, to add, "Leave given to file a bill of revivor;" in all such cases as might be revived, (*Wilmot* v. *Taylor*, 1771, *Chan. Proc. lib. W. K. No.* 1, *page* 31—a similar entry 1762, *Chan. Proc. lib. D. D. No. J*, 132, *page* 57.) But this practice was altered.

KILTY, C., July Term, 1806.—Ordered, that where an entry has been made on the docket of "Leave to file a Bill of Revivor," in any case which ought to abate by the death of a party, the said entry be stricken out, and the suit entered "abated." And that such suit be not brought forward or continued on the docket until a bill of revivor shall be filed;—and that in future cases the entries be made according to this order. The Chancellor considering, that the provision in the Act of 1785, ch. 80, on this subject, extends only to suits at law.

(*e*) The Act of 1831, ch. 311, s. 14, declares, "that no suit in equity shall abate by the marriage of any of the parties," &c., which, it is presumed, must be construed to mean any of the parties, plaintiffs; and that, although