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*;(*b*) 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 And not being repugnant to, nor having superseded any other mode of proceeding; nor authorized or contemplated the revival of a suit in any case where it was before deemed illegal or unnecessary to have it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;(*c*) nor can it apply to any case, except that of a *devisee*, where, because of the new party's

(*b*) 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. Pro. lib. W. K. No.* 1, *page* 31—*a similar entry* 1762, *Chan. Pro. lib. D. D. No. J. page* 57.) But this practice was altered.

July term, 1806.—KILTY, *Chancellor*.—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

(*c*) 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 the suit may have been actually abated by the marriage of a female plaintiff, yet that it may, as therein prescribed, be revived.

MANNING *v.* MILLS, 1722.—Bill abated, with costs, by reason of the complainant's intermarriage with one Combs.—*Chancery Records, lib. P. L.* 785.

TAYLOR *v.* GORDON, 1728.—Service of subpœna *being proved*, Ordered, attachment to issue unless appearance July court next. Petition for *dedimus* to take answer. *Dedimus* issued. Ruled attachment to issue for answer, and contempt to be paid and further process unless answer within ten days of this court. Attachment. The defendant being lately married to Nicholas Ridgely, ordered, that he be made party, and that attachment of contempt issue against him and defendant, Ann, his wife. After which, Nicholas came in accordingly with his wife, and answered.—*Chancery Records, lib. P. L.* 1001—1088.