

This section applied in an action of trover against administrators for an alleged conversion by their intestate. *Brummett v. Golden*, 9 Gill, 97.

Upon the death of one caveator, the surviving caveators may prosecute the proceedings. *Diffenderfer v. Griffith*, 57 Md. 84. But see article 93, section 219.

The act of 1785, ch. 80. held to have no application to a petition for mandamus against an official who, pending the action, dies or retires from office. *United States v. Butterworth*, 169 U. S. 600.

If the defendant dies pending an action by the husband for an assault and battery on his wife, the action abates. *Ott v. Kaufman*, 68 Md. 57.

Generally.

This section applies only to actions at law strictly so called, and does not apply in the trial of issues from the orphans' court. (See article 93, section 219). *Diffenderfer v. Griffith*, 57 Md. 84.

The act of 1861, ch. 44 (amending article 93, section 104), although not expressly amending this section, by necessary implication does amend it. This section referred to in construing Article 93, section 104—see notes thereto. *Clark v. Carroll*, 59 Md. 183.

If the representative of the deceased defendant does not suggest his death and appear at the next term after such death, the plaintiff must do so not later than the second term after he learns of the defendant's death. *Shipley v. Johns*, 72 Md. 544.

Under the act of 1785, ch. 80, where an executor or an original administrator dies pending a suit against him, the administrator *de bonis non* may be made a party. *Gist v. Cockey*, 7 H. & J. 135. And see *Norfolk v. Gantt*, 2 H. & J. 435.

This section construed in connection with the act of 1785, ch. 80, section 2—see notes to section 64. *Tise v. Shaw*, 68 Md. 6.

This section applied in connection with section 63. *Young v. Citizens' Bank*, 31 Md. 70.

As to continuances, see sec. 58, *et seq.*

Where a party to a suit involving the title to land dies, leaving an infant a proper party to be substituted, see sec. 64.

The application for a writ of *habere* does not abate upon the death of the purchaser—see sec. 97.

As to abatement and revivor in equity, see art. 16, sec. 1, *et seq.* As to abatement in the court of appeals, see art. 5, sec. 75, *et seq.*

As to the death of one of two or more joint obligors against whom an action is brought, see art. 50, sec. 4, *et seq.*

As to the death of a party after issues from the orphans' court granted or applied for, see art. 93, sec. 219.

As to the revocation of the letters of a plaintiff or defendant executor or administrator pending a suit, see art. 93, sec. 251.

1904, art. 75, sec. 26. 1888, art. 75, sec. 25. 1888, ch. 262.

26. No action hereafter brought to recover damages for injuries to the person by negligence or default shall abate by reason of the death of the plaintiff, but the personal representatives of the deceased may be substituted as plaintiff and prosecute the suit to final judgment and satisfaction.

Upon the death of the plaintiff pending an appeal in an action for personal injuries caused by negligence, the suit may be prosecuted by his administrators under this section and article 5, section 75. *Stack v. Northern Central Ry. Co.*, 92 Md. 214.

See notes to sec. 25.

Ibid. sec. 27. 1888, art. 75, sec. 26. 1860, art. 2, sec. 2. 1785, ch. 80.

27. If the proper person to defend shall fail to appear upon being summoned, the court shall issue an attachment of contempt against him and compel him to appear to such action; and if any person being sum-