

moned as aforesaid shall refuse or neglect to appear to such action by the fourth day of the court next after the court to which he may be summoned to appear, then the court may cause his appearance to be entered and there shall be the same proceedings therein as if he had voluntarily appeared, and all the proceedings had before the death of the party shall be considered as proceedings in the action and such further proceedings shall be had to bring the cause fairly to trial as the court may deem proper.

1904, art. 75, sec. 28. 1888, art. 75, sec. 27. 1860, art. 2, sec. 3. 1785, ch. 80.

28. If the plaintiff in any action mentioned herein shall die before judgment is given, the heir, executor or other proper person to prosecute such action may appear and prosecute the same, but if such person does not appear to prosecute such action at the court at which the death is suggested, then the defendant may issue a summons returnable to the next court, directed to the proper person to prosecute such action, and if such person upon being summoned shall fail to appear the court, upon being satisfied that the person so summoned is the proper person to prosecute such action, shall issue an attachment of contempt to compel the appearance of such person, and if the person so summoned do not appear to prosecute such action by the fourth day of the court next after the court to which such summons may be returned served, judgment of non-suit shall be entered and such judgment shall be as valid and have the same legal consequences and effect as if the same had been entered against the original plaintiff in the action; and if the person so summoned to prosecute shall appear to such action at any time before judgment of non-suit shall be entered as aforesaid, all proceedings in the action had before the death shall be considered as proceedings in the cause and such other proceedings shall be had to bring the cause fairly to trial as the court may deem proper.

Where executors appear under this section, the proper time for the filing of a plea of "*ne unques* executor". is at the term at which the executors ask leave to appear. *Barton Coal Co. v. Cox*, 39 Md. 19.

Ibid. sec. 29. 1888, art. 75, sec. 28. 1860, art. 2, sec. 4. 1785, ch. 80.

29. In all cases where a new party has been made to any action under the provisions of the three preceding sections and the new party so made, or any other party, shall die before judgment, the proper person to prosecute or defend such action in the place of a party so dying shall be made a party to such action and the same proceedings shall be had to compel the appearance of the proper person to prosecute or defend as provided for by said sections to compel the appearance of the proper party on the death of the original plaintiff or defendant.

Ibid. sec. 30. 1888, art. 75, sec. 29. 1860, art. 2, sec. 5. 1785, ch. 80.

30. Any new party to any action may use and rely upon any pleadings put in by his predecessor in such action or shall have the same right to amend the pleadings or proceedings in such action as if he had been an original party thereto.