

and these provisions are to apply to any series of deaths which may occur to representatives who are parties, or who are made parties in the progress of the suit.

An. Code, 1924, sec. 6. 1912, sec. 6. 1904, sec. 6. 1888, sec. 6. 1797, ch. 114, sec. 4.

6. If any party shall die after a cause has been set down for hearing, or submitted by both parties as ready for decision, the decree may be passed as if such party were alive, he having a solicitor in court; and such decree shall have the same effect as if no death had occurred, except that it shall not be entitled to a preference in the distribution of assets, either real or personal.

A decree can only be passed under this section when it is capable of being made effectual, or where nothing is to be done by deceased. *Brogden v. Walker*, 2 H. & J. 289.

An. Code, 1924, sec. 7. 1912, sec. 7. 1904, sec. 7. 1888, sec. 7. 1841, ch. 22, sec. 1. 1842, ch. 229, sec. 1.

7. If any defendant shall die after a decree for an account, sale or partition, or after such other proceedings have been had after appearance as would have warranted the passing of such decree, or if such deceased defendant shall have answered, confessing the facts stated in the bill, or shall have set up no defence to the relief therein prayed, the court may in its discretion order the case to be proceeded in as if no death had occurred, or may order a bill of revivor or a supplemental bill to be filed, and the proper representative of such deceased defendant to be a party, as may seem best calculated to advance the purposes of justice; provided, that the heir or other proper representative of such deceased defendant, at any time before final decree, may appear and be made a party on such reasonable terms as the court may direct, and such new party may file an answer to the original bill, subject to such terms as the court may impose, in which he may insist on such defences, and none other, as might have been made if a bill of revivor, or supplemental bill in nature of a bill of revivor, had been filed against him.

The court should be informed of the death of any of the parties, so that such proceedings as may be necessary may be taken thereon; if upon suggestion, no action is taken, it will be presumed that none was considered necessary. Sale set aside for failure to suggest death of party. *Appold v. Prospect Assn.*, 37 Md. 466; *Glenn v. Clapp*, 11 G. & J. 1. *Cf. Schley v. Baltimore*, 29 Md. 43.

Purpose, effect and construction of this section. This section applies to defendants only. *Franklin v. Franklin*, 1 Md. Ch. 344.

See notes to sec. 8.

An. Code, 1924, sec. 8. 1912, sec. 8. 1904, sec. 8. 1888, sec. 8. 1841, ch. 22, sec. 2. 1842, ch. 229, sec. 2.

8. If any of the parties to a suit die after final decree, the court may order execution of such decree as if no death had occurred, or the court may order a subpoena *scire facias* to be issued, or a bill of revivor to be filed against the proper representatives of such deceased party, or pass such other order or direct such other proceedings as may seem best calculated to advance the purposes of justice; provided, that the heir or other proper representative may appear, at any time before execution of said decree, and be admitted a party to the suit, on such reasonable terms as the court may prescribe, and such further proceedings may be had as may be necessary to a decision of said cause on its merits.

There being no final decree, this section held not in terms to apply, though the court might under its general equity power have directed sale to be postponed on application. *Appold v. Prospect Bldg. Assn.*, 37 Md. 457, distinguished. *Spedden v. Balto. Refrigerating, etc., Co.*, 117 Md. 452.