

mons 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 shall, upon being satisfied that the person so summoned is the proper person to prosecute such action, issue an attachment of contempt to compel an 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 nonsuit 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 nonsuit 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.

35. In all cases where a new party has been made to any action under the provisions of this article, relating to abatement, 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 this article to compel the appearance of the proper party on the death of the original plaintiff or defendant.

36. 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.

37. In all cases where a new party is made to an action, the costs which accrued before such new party was made shall be taxed as part of the costs in such action, and the judgment rendered shall be the same as if the action had been originally commenced between the persons who are the parties to such action; *provided*, that no defendant who is made a new party to such action shall be burdened with debts, damages, or costs, further than property or assets have descended or come to his hands from the deceased.

38. If any heir, executor, or other proper person to be made a party, shall reside in a different county than that in which such action is pending, and it may be necessary to make such heir, executor, or other person, a party to such action, a summons may be issued for such heir, executor, or other proper person, directed to the sheriff of the county where such heir, executor, or other proper person resides, returnable to the court from which the same issued, and the same proceedings shall be had as if such heir, executor, or other proper person lived in the county where the action was pending.

Proceedings

Id s 4
1785, c 80, s 1
Death of new party, or any other party.

Proceedings

Id s 5
1785, c 80, s 1.
New party may use old pleadings
Amendment

Id s 6
1785, c 80, s 1
Costs and judgment

When new defendant not to pay debts or costs

Id s 7
1812, c 145, s 4
How heir, etc, resident in a different county summoned.
3 Bl 664.

Proceedings.