

Id s 8
1815, c 149, s 4
How, heir, etc,
resident out of
State, sum-
moned
1 Bl 113.

39. If any defendant in any action shall die pending such action, and the heir or executor of such defendant, or other proper person necessary to be made party to such suit or action, resides out of this State, the court in which such action is pending shall, on motion, order and direct a subpoena to be issued, directed to such heir, executor, or other proper person, commanding him to be and appear before such court on or before the first day of its next session thereafter, to answer unto the plaintiff in such action in the plea therein, if to him it shall seem meet, which subpoena the plaintiff in the said action may serve, or procure to be served, upon such heir, executor, or other proper person, and upon proving to the satisfaction of the court to which such subpoena shall be made returnable that the same has been duly served, and the heir, executor, or other proper person so served with the said subpoena shall not appear on or before the third day of the second term of the said court after such service, in person or by attorney, and defend such action, the said court, on motion, shall order and direct a judgment to be entered for the plaintiff in such action, by default "nisi," the third day of the succeeding term of said court; and if the said heir, executor, or other proper person, shall appear on or before the third day of said succeeding term, in person or by attorney, upon application to the said court, the said judgment shall be stricken out, and the said heir, executor or other proper person, as the case may be, shall be permitted to appear and defend such action.

Proceedings

Art 2 s 12
1843, c 40
Marriage of
parties

40. No action in any of the courts of this State, either original or upon appeal, shall abate by reason of the marriage of any of the parties; but, on application of any of the parties, the court may, upon such terms and notice as to it shall seem proper, allow and order any amendment of the pleadings and the making of any new and additional parties that such marriage may render proper.

Art 9, s 1
1829, c 51, 1830,
c 165, s 1.

Assignee of
choses in action,
or of distribu-
tive share or
legacy, may sue
in his own
name
26 Md 233, 446,
28 Md 408, 30
Md 316, 32 Md
94, 35 Md 485,
40 Md. 439

ASSIGNMENT OF CHOSSES IN ACTION.

41. The assignee of any judgment, bond, specialty, or other chose in action for the payment of money, or any legacy or distributive share of the estate of a deceased person *bonâ fide* entitled thereto, by assignment in writing signed by the person authorized to make the same, may, by virtue of such assignment, maintain an action or issue an execution in his own name against the debtor therein named, in the same manner as the assignor might have done before the assignment

Id s 2
1830, c 165, s 2
Equitable
assignee of
judgment may
issue *scire facias*
28 Md 408,
40 Md 439

42. The equitable assignee of a judgment may issue *scire facias* in his own name, to revive the same without administration upon the estate of the legal plaintiff.

Id s 3
1829, c. 51,
1830, c 165, s. 3
Defendant to
have same de-
fence as against
assignor.
6 Md 274, 28 Md 408, 35 Md 485, 40 Md 439

43. Any defendant may make the same legal or equitable defence as might or could have been had and maintained against the assignor at the time of such assignment and before notice thereof, and to the same extent.