

A B A T E M E N T.

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1. **N**O action brought or to be brought, in any court of law in this state, shall abate by the death of either of the parties to such action, but upon the death of any defendant, in a case where the action by such death would have abated before this act, the action shall be continued, and the heir, devisee, executor or administrator, of the defendant, as the case may require, or other person interested on the part of the defendant, may appear to such action; and in case the action be brought to recover possession of any lands, tenements or hereditaments, and the proper person to defend doth not appear at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the heir or devisee of the deceased, or tenant in possession, or other proper person to defend in such action, - as the case may require, or in case the action be brought to recover personal chattels, debt or damages, and the executor, administrator, or other proper person to defend, doth not appear to such action, at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the executor or administrator of the deceased, or other proper person, to defend such action, to appear—1785, c. 80, §. 1;

2. And upon any summon, issued as aforesaid, being served, the person or persons summoned shall appear to such action, either in proper person, or by attorney, and if it shall appear to the court that a summon to appear and defend, taken out as aforesaid, hath been served upon the proper person or persons to defend such suit, and that such person or persons neglect or refuse to appear, the court may and shall issue an attachment of contempt against such person or persons, and compel him, her or them, to appear to such suit; and if any person, being summoned as aforesaid, shall refuse or neglect to enter an appearance to such suit by the fourth day of the court next after the court to which such defendant may be summoned to appear, then the court shall cause the appearance of such person to be entered to such action, and there shall therein be the same proceedings as if such person or persons had voluntarily appeared, and the court may also fine such person for not appearing, a sum not exceeding 10l. current money; and in all cases aforesaid, all proceedings had before the death of the party, shall be considered as proceedings in the action, and such further proceedings shall be had as may by the court be judged necessary and proper to bring the cause fairly to trial; and the court shall have authority, upon just cause being shewn, to suffer any pleas put in by the deceased to be withdrawn, and other
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