

pleas to be put in, and shall have authority to make and cause to be executed, such rules and orders in the case, and to direct such proceedings therein, as may be judged proper and necessary to bring the merits of the question between the parties fairly to trial; and in all such cases the same judgment shall be given as if the action had been originally commenced against the person or persons appearing or summoned to appear as aforesaid, and the costs accruing before the death, shall be taxed as part of the costs in the action; provided, that no person so summoned shall be burthened with debt, damages or costs, further than property or assets have descended or come to his, her or their hands, from the deceased: and if the person or persons so summoned shall die before a trial and judgment had in the case, then there may be similar proceedings to bring the cause to trial, and judgment against the person or persons claiming or in possession of the property, for which the action is or may be brought, or representing the first deceased, and judgment shall be given and costs taxed as aforesaid, and so toties quoties until a trial and judgment shall be had.—*Ibid.*

3. And in case the plaintiff or plaintiffs, in any action aforesaid, shall die before the same may be tried and judgment given, and such death would abate the action before this act, the appearance of the heir, &c. as the case may require, or other proper person to prosecute such suits, shall be admitted to be entered to the same; and if the heir, &c. or other proper person to prosecute such action, do not appear at the court at which the death shall be suggested, then the defendant or defendants may issue summon, returnable to the next court, to the heir, &c. and upon such summon being served, the person or persons upon whom served shall appear according to such summon, and the court shall and may, upon its being made appear to their satisfaction that such summon was duly served, and that the person or persons so summoned are the proper person or persons to prosecute such suit, issue attachment of contempt to compel an appearance of such person or persons to prosecute such action; and if the person or persons so summoned do not appear to prosecute such action, either in proper person or by attorney, by the fourth day of the court next after the court to which such summon may be returned served, judgment of nonsuit shall be entered, and such judgment, when entered, shall be of the same validity, as if entered against the original plaintiff in the case, and the court may fine such person for not appearing, a sum not exceeding 10l. current money.—*Ibid.*

4. And if the person or persons so summoned to prosecute, shall appear to such action at any time before judgment of nonsuit entered, all proceedings in the action had before the death, shall be considered as proceedings in the cause, and such other proceedings shall be had as may by the court be judged necessary to bring the cause fairly to trial; and the court shall, upon just cause being shewn, suffer any proceedings by the plaintiff or the defendant to be corrected or altered, and also shall
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