

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 and may 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 ten pounds 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shall have full power and authority, upon just cause being shewn, to suffer any pleas put in by the deceased to be withdrawn and other pleas to be put in, and shall have full power and authority to make, and cause to be executed, such rules and orders in the case, and to direct such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 to appear 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; 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, devisee, executor or administrator, 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, devisee, executor or administrator, as the case may require, 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, devisee, executor or administrator of the deceased, as the case may require, or other proper person to prosecute such suit, directed, 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, and have every legal consequence, to all intents, purposes and effects, as if the same had been entered against the original plaintiff in the case; and the court may fine such person for not appearing a sum not exceeding ten pounds current money; and if the person or persons so summoned to prosecute the action aforesaid shall appear to such action at any time before judgment of nonsuit 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 as may by the court be judged necessary and proper to bring the cause fairly to trial; and the court shall have full power and authority, upon just cause being shewn, to suffer any proceeding by the plaintiff or the defendant to be corrected or altered, and also shall have full power and 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 necessary and proper to bring the merits of the question between the parties fairly to trial; and in all such cases such judgment shall be given as if the action had been originally brought by the plaintiff or plaintiffs so 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; and if the person appearing as aforesaid shall die before trial and judgment had in the case, the heir, devisee, executor or administrator, of the person so appearing as aforesaid, or the executor or administrator of the deceased, as the case may require, or other proper person to prosecute such suit, may appear or be compelled to appear as aforesaid, and there shall be such proceeding, judgment and costs taxed as aforesaid, and so *toties quoties* until there be a trial and judgment had in the case; and in all cases of death of the plaintiff, after the appearance of the defendant's heir, devisee, executor or administrator, or other proper person to defend as aforesaid, and all cases of death of the defendant after appearance of the plaintiff's heir, devisee, executor, administrator, or other proper person to prosecute such suit, shall be taken and considered as within the meaning and provision of this act; and in case there be no appearance or proceeding by either party in any case