

SEC. 8. Directory as to appeals to be prosecuted from the judgments entered in the late general court.

SEC. 9. *And be it enacted*, That the county courts shall have, use and exercise, in their respective counties, all and singular the powers, authorities and jurisdictions, which the general court, at the time of the abolition thereof, might or could have used and exercised in cases of writs of mandamus; and where any record shall have been, or may hereafter be, transmitted from any county court in this state to an adjoining county court, by virtue of the second section of an act to provide for the trial of facts in the several counties of this state, passed at November session, eighteen hundred and four,* it shall and may be lawful for such county court, on suggestion of diminution in the record transmitted being made to such court, and the said court being satisfied of the truth of such suggestion of diminution, to such county court from which the said record was transmitted, as fully in every respect as records were heretofore transmitted from the late general court to the several county courts in this state.

County courts may order writs of mandamus, and where records are transmitted from an adjoining county court, may, on suggestion, issue writs of diminution.

* Chap. 55.

SEC. 10. Directory as to cases transmitted from the late general court.

SEC. 11. *And be it enacted*, That in case any cause in the court of appeals of either shore shall be under rule argument, and one of the parties shall die after such cause shall be put under rule argument, having an attorney in court, the said cause shall not abate, nor shall his, her or their death be suggested on the record, and that the court of appeals may give judgment as if such deceased party were alive, and the judgment shall have the same effect as if it had been rendered or given in favour of or against the deceased; *Provided nevertheless*, that the heir, executor or administrator, as the case may be, of such deceased party, may, if he thinks proper, appear to, and become a party in, the said cause, in the place and stead of the deceased party, whose death, in such case, shall be suggested; and the bond which any appellant, who may die pending any appeal or writ of error, standing under rule argument, shall have executed for the prosecuting an appeal, or suing forth a writ of error, and the securities therein, shall be liable and answerable to the appellee, his executors, administrators or assigns, for the due prosecution of the said appeal or writ of error, agreeably to the condition of the said bond, in the same manner as if the appellant were alive at the time of rendering any such judgment.

Causes under rule argument in the court of appeals, not to abate by the death of either party—the heir, &c. may appear, &c.—the appeal bond answerable, &c.

By 1815, ch. 149, if the appellant or plaintiff in error shall die before the term to which the appeal, &c. is returnable, the heir, executor, &c. may appear. Nor shall any appeal or writ of error abate by the death of either party, if the heir, &c. of the deceased party, shall at the first or second term succeeding the death, make the necessary suggestion, and appear, &c.