

435. The time to be allowed for persons to come in and prove their claims (as creditors, next of kin, &c.) shall be fixed by the Court or a Judge, and shall never be less than one clear calendar month after the date of the first publication of the advertisement to come in and prove. And so much longer time shall be allowed as may appear reasonable, in case there be reason to believe that the creditors, next of kin, &c., are resident out of the judicial district in which the action is pending.

436. Every person coming in to claim as creditor or next of kin shall file a written statement of his claim and of the facts on which it is based, verified by affidavit; and, in the case of a creditor, such affidavit must state that the debt remains due.

437. When any person shall be appointed a receiver in an action, such person shall, before acting as receiver, give security to the satisfaction of the proper officer, duly and annually to account before such officer for what he shall so receive, and to pay the balance which shall be found due from him into Court, or as the Court or a Judge thereof may direct. The account shall be in the form of debtor and creditor, and shall be verified by affidavit.

438. Whenever the rights or circumstances of the parties at the time judgment is given are not such as to enable the Court to order absolutely that payment be made to the persons entitled thereto, and the Court has ordered the share of any party that has not become absolute to be carried over on trust in the cause to a separate account, such party on becoming entitled may by petition apply for payment of his share, notice being given to the other persons interested in the separate account, whereupon payment to the party so entitled may be ordered.

PART VI.—SPECIAL PROCEDURE.

CHAPTER I.

CHANGE OF PARTIES BY DEATH.

439. An action shall not become abated by reason of the marriage, death, or bankruptcy of any of the parties if the cause of action survive or continue, and shall not become defective by the assignment, creation, or devolution of any estate or title *pendente lite*.

440. In case of the marriage, death, or bankruptcy, or devolution of estate by operation of law, of any party to an action, the Court or a Judge, if it be deemed necessary for the complete settlement of all the questions involved in the action, shall order that the husband, personal representative, trustee, or other successor in the interest (if any) of such party be made a party to the action, or be served with notice thereof, in such manner and form as is hereinafter prescribed, and on such terms as the Court or a Judge shall think just, and shall make such order for the disposal of the action as may be just.

441. In case of an assignment, creation, or devolution of any estate or title *pendente lite*, the action may be continued by or against the person to or upon whom such estate or title has come or devolved.

442. Where by reason of marriage, death, or bankruptcy, or any other event occurring after the commencement of an action, and causing a change or transmission of interest or liability, or, by reason of any person interested coming into existence after the commencement of the action, it becomes necessary or desirable that any person not already a party to the action should be made a party thereto in another capacity, an order that the proceedings in the action shall be carried on between the continuing parties to the action, and such new party or parties, may be obtained *ex parte* on application to the Court or a Judge upon an allegation of such change or transmission of interest or liability, or of such person interested having come into existence.

443. An order so obtained shall, unless the Court or Judge shall otherwise direct, be served upon the continuing party or parties to the action or their solicitors, and also upon each such new party, unless the person making the application be himself the only new party; and the order shall from the time of such service, subject nevertheless to the next two following rules, be binding on the person served therewith; and every person served therewith who is not already a party to the action shall be bound to file a statement of defence within the same time and in the same manner as if he had been served with a writ of summons.

444. Where any person who is under no disability, or under no disability other than coverture, or being under any disability other than coverture but having a guardian *ad litem* in the action, shall be served with such order, such person may apply to a Court or a Judge to discharge or vary such order at any time within twelve days from the service thereof.

445. Where any person being under any disability other than coverture, and not having had a guardian *ad litem* appointed in the action, is served with any such order, such person may apply to the Court or a Judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party, and, until such period of twelve days shall have expired, such order shall have no force or effect as against such last mentioned person.

CHAPTER II.

EXTRAORDINARY REMEDIES.

446. When the assistance of the Court is sought to compel any officer or person to perform any duty incumbent upon him, other than the payment of a sum of money for the non-payment of which a writ of sale may be issued, or the performance of any act for the non-performance of which he is liable to attachment, the Court may issue a writ of mandamus to such person or officer ordering him to perform such duty.

447. When the assistance of the Court is sought to restrain any officer or person from breach of any duty incumbent upon him which he has threatened or has already commenced to commit, the