

465. Where an action is brought to recover, or a defendant in his statement of defence seeks by way of a counter claim to recover specific property other than land, and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same, but claims to retain the property by virtue of a lien or otherwise as security for any sum of money, the Court or a Judge may, at any time after such last-mentioned claim appears from the statement of defence, or, if there be no statement of defence by affidavit or otherwise to the satisfaction of such Court or Judge, order that the party claiming to recover the property be at liberty to pay into Court, to abide the event of the action, the amount of money in respect of which the lien or security is claimed, and such further sum (if any) for interest and costs as such Court or Judge may direct, and that, upon such payment into Court being made, the property claimed be given up to the party claiming it.

SCIRE FACIAS.

466. Any relief which might heretofore have been obtained by means of a writ of *scire facias* may be claimed in an ordinary action, either alone or together with other relief, and the said writ shall no longer be issued.

INTERPLEADER.

467. When two or more persons claim the same chattels, or the performance of the same duty, from another person who has no interest in the chattels claimed, or is willing to perform the duty claimed, to whichever claimant is by law entitled to such performance, such other person, whether either claimant has commenced an action against him or not, may issue a summons to such adverse claimants to appear before a Judge in chambers, and, upon the hearing of such summons, the Judge hearing the same may:—

- (1.) Stay proceedings in any action commenced by either claimant.
- (2.) If either claimant does not appear, make an order barring his claim.
- (3.) Adjudicate on such adverse claims summarily, if from the smallness of the amount in dispute, or the unimportant nature of the duty, or the preponderating weight of evidence in favour of either claimant, it shall appear to the Judge desirable so to do.
- (4.) If the facts are not in dispute, and the question involved appears to be one of law only, the Judge may decide the matter summarily, or order a special case for the opinion of the Court to be prepared by the parties.
- (5.) Order that one of the claimants do commence an action against the other to try the question involved, or, if an action has been commenced by one claimant, order that the other claimant do make himself defendant to the action.
- (6.) Order issues to be prepared by the parties to try the question involved, and set down for trial, at such time and place as the Judge when ordering or settling the issues or at any other time may direct.

468. If either claimant have commenced an action, any application under the last preceding rule must be made before a statement of defence has been filed.

469. The power given by Rule 467 may be exercised, though the titles of the claimants have not a common origin, but are adverse and independent of each other.

470. Any order of the Court or of a Judge, or the judgment in any action, or the judgment on the finding of a jury on any issues, shall be final and conclusive against the parties before the Court, and all persons claiming by, from, or under them.

471. When any chattels seized under a writ of sale are claimed by any person, not being the party against whom the writ of sale has been issued, the officer executing the writ shall deliver possession of the chattels so seized to the person claiming the same, upon such person paying into Court the amount of the sum to be levied under the writ and the fees and expenses of execution, or giving security to the satisfaction of the officer executing the writ for such amount; and the amount so paid or secured shall be subject to the decision of the Court on the claim of such person: Provided that, if the value of the chattels seized is less than the amount of the sum to be levied under the writ, and the fees and expenses of execution, the person claiming such chattels may obtain the delivery thereof on paying into Court or securing as aforesaid the value of such chattels, such value in case of dispute to be settled by the appraisement of some indifferent person to be appointed by a Judge; or the person so claiming any chattels as aforesaid may pay to the proper officer the amount of the fees he is entitled to charge for keeping possession of the chattels seized until a decision of the Court as to the claim of such person can be obtained, and such officer shall thereupon keep possession of such chattels until such decision shall be obtained.

472. When any chattels seized under a writ of sale are claimed by some third person, the officer executing the writ of sale may, before or after the return of the writ, and whether an action has been commenced against him for such seizure or not, issue a summons to the party issuing such writ of sale, the party against whom it is issued, and the person making such claim; and on the hearing of such summons the Judge may, for the adjustment of such claim and the relief of such officer, exercise all or any of the powers conferred by Rule 467, and may make such orders as to any moneys paid into Court or secured, or any chattels retained by an officer of the Court, under the last preceding rule and otherwise, as shall appear just according to the circumstances of the case.

473. When chattels have been seized under a writ of sale, and some third person claims under a bill of sale or otherwise to be entitled to such chattels by way of security for a debt, the Court or a Judge may order a sale of the whole or part of such chattels, upon such terms as to payment of the whole or part of such secured debt or otherwise as they or he shall think fit, and may direct the application of the proceeds of such sale in such manner and upon such terms as to the Court or Judge may seem just.

474. The affidavit in support of an application under Rule 467 shall state that the person issuing the summons,—

- (1.) Does not claim any interest in the chattels, or is willing to perform the duty claimed to whichever of the claimants may be entitled thereto.