

Rule nisi—how returnable.

22. The rule nisi for new trial in such cases shall be returnable before the Judge in Equity, and shall be heard either before him alone or with the associated Judges, and if deemed expedient by the Court may be argued at the hearing, when a hearing is required.

Addition to rules.

23. After rule eight, in section eighteen, there shall be added the rules following, and be it enacted as follows, viz. :

#### PARTIES.

Who to be made parties to foreclosure suits.

When no Executor or Administrator, cause may be commenced by petition.

RULE 9.—In foreclosure suits, except when otherwise ordered, it shall not be necessary to make the heirs at law, or devisees, or widow of a deceased mortgagor parties, but the executor or administrator may be proceeded against, and if there be no executor or administrator within the jurisdiction, the cause may be commenced by petition, setting forth the facts of the case, and praying foreclosure and sale, and the Court may appoint a party to defend, and may direct such proceedings as may be necessary for promoting the just claims of the plaintiff, and protecting the rights of any parties who may be interested in the mortgaged premises or proceeds thereof, nor shall it be necessary to make *cestui que* trusts, or subsequent incumbrancers parties, but the Court may direct by rule or order in the cause such proceedings as may be deemed necessary to protect their rights.

Proceedings when deceased person interested in suit has no personal legal representatives.

RULE 10.—If in any suit, or other proceedings before the Court, it shall appear to the Court that any deceased person who was interested in the matters in question has no legal personal representatives, it shall be lawful for the Court either to proceed in the absence of any person representing the estate of such deceased person, or to appoint some person to represent such estate for all the purposes of the suit, or other proceedings, on such notice to such person or persons, if any, as the Court shall think fit, either specially or generally, by public advertisements. And the order so made by the Court, or any orders consequent thereon, shall bind the estate of such deceased person in the same manner in every respect as if there had been a duly constituted legal personal representative of such deceased person, and such representative had been a party to the proceedings or suit, and had appeared and submitted his rights and interests to the Court.

24. And it is enacted further as follows :

Sale by subsequent incumbrancer not allowed without consent of previous ones.

If, in any foreclosure suit, the sale of the mortgaged property shall be sought by a subsequent mortgagee or incumbrancer, or by the mortgagor, or by any persons claiming under them respectively, the Court shall not direct any such sale without the consent of the first mortgagee, or the persons claiming under him, except upon such terms as the Court may think fit and proper, and which terms may include the deposit of money in Court.

Proviso.