

does not pay the sum due upon the mortgage by the time limited in the decree for paying the same, to order and direct that the mortgaged premises, or so much thereof as may be necessary to discharge the money due and costs, be sold for ready money, (unless the plaintiff shall consent to a sale on credit,) by a proper person to be appointed by the chancellor, and to order that the money raised by such sale be brought into court to be paid to the plaintiff; and the person empowered to make such sale shall give bond, with good security, to be approved by the chancellor, for the faithful execution of the trust, and full compliance with the order of the chancellor, and upon failure to execute such trust, the party grieved shall have a right to bring suit on such bond, or a copy thereof, against principal and security or securities, and shall recover the money for which the mortgaged premises shall have sold, and the plea of *non est factum* shall not be received, unless verified as aforesaid; and the chancellor may also issue attachment of contempt against the person empowered to sell as aforesaid, and his security or securities, and may thereupon commit both principal and securities until his order shall be fully complied with, and contempts cleared.

By 1794, ch. 60, when a mortgagor has removed, and his situation cannot be ascertained, or that of his representatives, the chancellor, on evidence thereof, may decree a foreclosure or sale, on giving such public notice as he shall deem necessary.

4. AND BE IT ENACTED, That if any person hath died, or shall die, leaving real or personal estate to be sold for the payment of debts, or other purposes, and shall not, by will or other instrument in writing, appoint a person or persons to sell or convey the same property, or if the person or persons appointed for the purpose aforesaid shall neglect or refuse to execute such trust, or if such person or persons, or any of them, shall die before the execution of such trust, so that the sale cannot be made for the purposes intended, in every such case the chancellor shall have full power and authority, upon application or petition from any person or persons interested in the sale of such property, to appoint such trustee or trustees for the purpose of selling and conveying such property, and applying the money arising from the sale to the purposes intended, as the chancellor shall, in his discretion, think proper.

And appoint a trustee to sell, &c.

5. AND BE IT ENACTED, That if any person hath died, or shall hereafter die, without leaving personal estate sufficient to discharge the debts by him or her due, and shall leave real estate which descends to a minor, or person being idiot, lunatic, or *non compos mentis*, or who shall afterwards become *non compos mentis*, or shall devise real estate to a minor, or person being idiot, lunatic, or *non compos mentis*, or who shall afterwards become *non compos mentis*, the chancellor shall have full power and authority, upon application of any creditor of such deceased person, after summoning such minor, and his appearance by guardian, to be appointed as aforesaid, (a) and hearing as aforesaid, or after summoning the person

Chancellor in certain cases, may order a sale of real estate, &c.

(a) By 1789, ch. 46, the chancellor shall have the same power to direct the sale of lands in this state belonging to minors, residents of any other state. Such notice to be given as the chancellor may direct. And by 1790, ch. 38, the chancellor may direct the sale of all lands and real property in this state, or any remainder or reversion thereon dependent belonging to minors, residents out of the state and the United States, for payment of debts due from the person from whom they derive such remainder, reversion or real estate; such notice to be given as the chancellor shall think proper.