

CHAP. 72.

trustees agreeably to such order, then the chancellor may displace such trustee or trustees, and appoint one or more trustee or trustees in his or their stead, who shall give bond and security, to be approved by the chancellor, for the due execution of the trusts; and all bonds taken in virtue of this power shall be made payable to the state, and shall be filed and kept by the register in chancery, and also by him recorded, and upon any breach of the condition, suit may be brought by any person interested, either upon the original bond or a copy of the record, and the plea of *non est factum* shall not be received in such suit, unless it be verified by affidavit of the defendant or defendants.

Chancellor may order deeds to be recorded, &c

11. (a) **AND BE IT ENACTED,** That in case any deed hath been or shall hereafter be executed, to the validity of which recording is necessary by law, and such deed hath not been, or shall not be, recorded agreeably to law, without any fraudulent design or intention of the party claiming under such deed, that the chancellor shall have full power and authority, upon application of the party claiming under such deed, and summoning and hearing the party making such deed, his heir, devisee, executor or administrator, as the case may require (b), and being satisfied that the party claiming under such deed has a fair and equitable claim to the premises therein mentioned, to order and decree that such deed shall be recorded; and when such deed is recorded, it shall, in pursuance of such decree, be taken and considered in all courts of law and equity against the party making such deed, his heirs, devisees, executors and administrators, in the same state, and to have the same effects and consequences, to all intents and purposes, as if such deed had been recorded within the time prescribed by law, but such deed shall not destroy, or in any manner affect, the title of any purchaser of the same thing or premises in case of a purchase made after the date of the deed aforesaid, and without notice of such deed by the person making such after purchase, whether such purchase be by contract or by deed recorded agreeably to law, nor shall such deed, though recorded as aforesaid, in any manner affect the creditors of the party making such deed, who may trust such party after the date of the said deed.

(a) In the acts published by the printer at the close of this session, a mistake occurred by this section being numbered 12, which occasioned the references to the 12th section in the acts of November session 1791, ch. 79, s. 2, and November session 1792, ch. 41, s. 3, instead of the 11th section.

(b) By 1791, ch. 79, a similar power is given to the chancellor, where the person executing such deed, his devisee or representatives, may be nonresidents of this state, without the appearance or hearing of the defendant, on notice being given as the chancellor may direct.

By 1792, ch. 41, the chancellor may decree the recording of such deed, without the appearance or hearing of the defendant, on such notice being given as he may direct. A provision is also made for a rehearing.

Infants, &c. having joint interests in lands, &c. such lands may be sold, &c

12. **AND BE IT ENACTED,** That in case any infant, idiot, or person *non compos mentis*, hath, or shall hereafter have, a joint interest, or interest in common with any other person or persons, in equal or unequal proportions, in any lands, tenements or hereditaments, and it shall appear to the chancellor, upon application of any of the parties concerned, and upon appearance of the infant, idiot, or person *non compos mentis*, as aforesaid, and hearing and examination of all the circumstances, that it will be for the interest and