

favour, partiality or prejudice, which oath shall be returned with such commission; and each commissioner shall be allowed fifteen shillings current money per day for every day's actual service upon such commission, to be paid by the party against whom the complaint for committing waste is made, in case it is found by the commissioners as aforesaid that any waste or destruction shall have been committed; and if no waste or destruction shall be found to have been committed, then to be paid by the party making complaint, and payment of the said allowance to the commissioners as aforesaid may be compelled by order of the chancellor, and process for disobedience to such order as in other cases.

29. AND BE IT ENACTED, That in case any mortgage hath been made, and the person making the same, or his heir, devisee or alienee, shall be a British subject, and the person having a right to the mortgaged premises as security for money, tobacco, or any other valuable thing, is a citizen of this, or any of the United States, and the day of payment is elapsed, it shall and may be lawful for such person claiming the mortgaged premises aforesaid to file his bill for foreclosure of such mortgage, and to serve the attorney-general with notice of such bill, who shall thereupon appear, plead, or answer and defend, on behalf of this state, and there shall be the same proceedings and decree as in other cases of bills for foreclosing mortgages.

On mortgage, &c.
bill may be filed.
&c.

30. AND BE IT ENACTED, That if any mortgagor of real property within this state to a citizen of this state, or any person claiming under such mortgagor, shall reside out of this state and within any other of the United States, the complainant may file his bill for foreclosing such mortgage in the high court of chancery, and upon service of notice thereof on the defendant, or inserting the same in the public news-papers of the state where such defendant resides, after such bill is filed, for twelve weeks successively, and making proof before some judge or justice of the general or supreme court of such state that such notice has been given personally, or by advertisement as aforesaid, and the same proof being properly certified, and the defendant fails to appear and answer to such bill within nine months after such notice proved and certified as aforesaid, or such longer time as the chancellor shall grant, such bill shall be taken *pro confesso*, and thereupon such proceeding and decree shall be had and made as the chancellor shall judge proper; and if the defendant be an infant, idiot, lunatic, or *non compos mentis*, the chancellor shall have full power and authority to proceed as by this act is directed in the case of residents of this state.

Mortgagor, &c.
may file his bill,
&c.

31. AND BE IT ENACTED, That if any person shall file a bill against any defendant or defendants residing within this state, in which it shall be proper and necessary to join other defendant or defendants residing out of this state, whether in the United States or any other country, upon notice given and proved as aforesaid, and upon failure to appear and answer as aforesaid, the bill shall be taken *pro confesso* against the defendant or defendants failing to appear and answer, and decree shall be given as aforesaid.

Bill being filed,
&c. may be taken
pro confesso, &c.

32. AND BE IT ENACTED, That the chancellor shall and may nominate and appoint a messenger to attend the chancery court, and to serve, execute and carry into effect, such process, orders

Chancellor may
appoint a messenger,
&c.