

APPENDIX.—CHANCERY LAWS.

CHAP. 60

Purchasers to hold the same rights, &c.

Chancellor may order a partition, &c.

7. AND BE IT ENACTED, That where any sale or sales of such equitable titles have been made by virtue of any writ of *fieri facias*, or decree of the chancellor of this state, the purchaser or purchasers thereof, his, her or their heirs or assigns, shall hold and have the same right and title thereto as if the said purchase had been made under and in virtue of the provisions of this act.

8. 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 the appearance of the infant, by guardian to be appointed by the chancellor for that purpose, and for the purpose of answering and defending on the part of such infant, and upon the appearance of such idiot, or person *non compos mentis*, by the trustee, or trustees or committee, of such idiot, or person *non compos mentis*, to be appointed by the chancellor, on behalf of such person for the purposes aforesaid, and upon hearing and examining all circumstances, that it will be for the interest and advantage of all parties concerned to make partition of such lands, tenements or hereditaments, or any part thereof, the chancellor may order and decree partition to be made of such lands, tenements or hereditaments, or any part thereof, in the same manner, and under the same regulations, as if all parties were of full age, or of sound mind and discretion; and all acts and deeds of conveyance done and executed by such guardian, trustee or committee, in pursuance of the order or decree of the chancellor, shall be good and effectual, and they are hereby severally authorised and empowered to do and execute, on behalf of such infant, idiot, or person *non compos mentis*, all acts and deeds whatever that may be adjudged necessary by the chancellor to render effectual and complete the partition aforesaid, as fully as if all the parties were of full age, or of sound mind and discretion.

By 1797, ch. 114, s. 5, on bill filed for the purpose of obtaining partition of land held jointly or in common with an infant residing out of the state, commission may issue to three persons, authorising them to go to the infant and appoint a guardian for the purpose of answering and defending the suit, and to take the answer, &c. And by 1818, ch. 93, s. 11, the provisions of the 5th section of 1797, ch. 114, concerning partition, is extended to cases where all the persons reside out of the state.

May decree a foreclosure, &c.

9. AND BE IT ENACTED, That in all cases where any mortgagor or mortgagors of any lands or tenements within this state, shall have removed to places unknown out of this state, and cannot be ascertained whether such mortgagor or mortgagors is or are dead or alive, and if dead, who are the legal representatives of such person or persons, or whether they have left any, it shall and may be lawful for the chancellor in such cases, upon satisfactory testimony thereof by affidavit of the complainant, and other evidence, to decree, upon giving such public notice as he shall deem necessary, a foreclosure of such mortgage, or sale of the mortgaged premises, and conveyance thereof, as in other cases where the party appears, and such decree passes in the said court.

By 1795, ch. 88, s. 2, the chancellor may decree the sale of any equitable title or claim to land in any case in which he might on application decree the sale of a legal complete title, &c.