

C H A P.  
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under his hand and seal of office, paying ten shillings for the same, upon which copy and certificate an action may be maintained, in the name of the state, for the use of the party interested and apprehending himself aggrieved; and judgment may be by such party recovered upon such action for the damages by him actually sustained, and the plea of *non est factum* shall not be received to any such action, unless the same is verified by the affidavit of the defendant or defendants tendering the same.

Chancellor may  
direct the  
terms, &c.

IX. AND BE IT ENACTED, That all sales by the direction of the chancellor under the authority of this act, except in the case where a sale is directed to be made for ready money as aforesaid, shall be made upon such terms and conditions as the chancellor shall determine; and in case any sale shall be made on credit, the chancellor may, upon application of the mortgagee or creditor, direct any bond taken in consequence of such sale to be assigned to such mortgagee or creditor; and the assignee or assignees respectively may sue and maintain actions in their names against the obligor or obligors in such bonds.

Trustees to give  
bond, &c.

X. AND BE IT ENACTED, That in all cases where there hath been, or may hereafter be, an appointment of a trustee or trustees by last will and testament, to execute any trust, and any person interested in the execution of such trust shall make appear to the chancellor, that it is necessary, for the safety of those interested in the execution of such trust, that the trustee or trustees should give bond and security for the due execution of the trust, it shall and may be lawful for the chancellor to order and direct that such bond be given by the trustee or trustees, on or before a day by the chancellor to be appointed; and if bond, with such security as may be approved by the chancellor, shall not be given by such trustee or 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 trust; 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.

XI. 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, (a) 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) 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 in-  
terests in lands,  
&c. such lands  
may be sold, &c.

XII. 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 advantage both of the infant, idiot, or person *non compos mentis*, and of the other person or persons concerned, to sell such lands, tenements or hereditaments, or any part thereof, the chancellor may order and direct such lands, tenements or hereditaments, or any part thereof, to be sold, upon such terms as the chancellor shall direct, always taking care that a just proportion