

C H A P.
CXIV.

for the defendant's appearance in court, either in person or by solicitor; and on the defendant's failing to appear, and on satisfactory proof of the notice published, the chancellor, on motion, may proceed in the same manner as is prescribed by law in the case of a bill filed against a nonresident; provided, that the said defendant have the same privilege as is herein before given to an absent heir, to appear, either before or after a decree; and every part of the provision herein contained, respecting the proceedings on appearance of such heir, shall be construed to extend to such evading defendant.

Certain causes
shall not abate,
&c.

IV. AND BE IT ENACTED, That in case any cause hath been or shall be set down regularly for hearing, or submitted to the chancellor by both parties, as ready for his decision, and one of the parties hath died, or shall die, after such setting down or submission, and before a decree passed, having a solicitor in court, the said cause shall not abate, and the chancellor may decree as if such deceased party were alive, and the decree shall have the same effect as if it had been passed against the deceased, except that it shall not entitle the complainant to a preference in the distribution of assets, either real or personal.

Chancellor may
direct a com-
mission to issue,
&c.

V. AND, whereas it is doubtful whether or not there is any method of proceeding, whereby a person, holding land jointly or in common with an infant residing out of the state, may obtain partition of the said land, BE IT ENACTED, That on a bill filed, for the purpose of obtaining partition of land held jointly or in common with an infant residing out of the state, the chancellor, on the complainant's motion, may direct a commission to issue unto three persons, such as he shall approve, authorising them, or any two of them, to go to the infant, and appoint a guardian for the purpose of answering and defending the suit, and authorising them likewise to take the answer and return it to the court; and in receiving such answer, there may be the same proceedings as if the defendant had been regularly summoned, and had been heard by a guardian appointed by the court.

How sales are
to be made, &c.

VI. AND BE IT ENACTED, That all sales by the act to direct descents directed to be made of lands which will not admit of division amongst the heirs, shall be made agreeably to the order of the court from which the commissions issued, and shall not be valid until ratified by the said court; and the commissioners for valuing such lands as in their judgment will not admit of a division, shall take into consideration any incumbrance on the lands, and report the value of the land, subject to the incumbrance; and the election of any of the heirs to take the lands, and pay the others their proportions, shall be made in the said court, before the expiration of the term next succeeding the term on which the return of the commissioners shall have been confirmed.

Persons insane
may be con-
fined, &c.

VII. AND, whereas there is no proper receptacle or hospital within this state for the confinement and care of persons insane, whose going at large is dangerous or improper, BE IT ENACTED, That the chancellor shall have full power, on the application of any trustee of a lunatic, idiot, or person insane, and receiving proof to his satisfaction, that it is necessary or proper to confine such lunatic, idiot, or person insane, to direct the said trustee to send the person under his charge to some hospital or receptacle in Philadelphia, provided he can be there received, to remain until further order of the court; and the chancellor shall have power, at any time, to direct the said person to be brought back, and to enforce his order as in other cases.

Costs may be
awarded, &c.

VIII. AND BE IT ENACTED, That the chancellor shall have full power, as in the court of chancery, at his discretion, to award costs to the party prevailing on the decision of any caveat at the land-office.

No caveat to
be entered, &c.

IX. AND BE IT ENACTED, That no caveat shall hereafter be entered in either of the said offices where composition money is due on a certificate, unless the party requiring the same to be entered shall first make oath, or affirmation, that he conceives he has good cause for entering the same, and has pretensions to the land, or a part thereof, containing in the certificate he is desirous of caveating, and that the same is not entered for the purpose of favouring the party, by enabling him to prolong the time for payment of the composition money on the said certificate, or made at his request, or at the request of another person, but for the purpose only of prosecuting by claim.

Or remain in
force, &c.

X. AND BE IT ENACTED, That no caveat hereafter entered, in either of the land-offices of this state, shall remain in force and operation longer than twelve months from the entering thereof, unless under special circumstances, the chancellor, or judge of the land-office on the eastern shore, as the case may be, shall so order and direct.

XI. AND