

C H A P.  
LXXII.

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.

Mortgager of  
real property,  
&c. may file  
his bill, &c.

XXXII. And be it enacted, That if any mortgager of real property within this state to a citizen of this state, or any person claiming under such mortgager, 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 newspapers 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.

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

XXXIII. 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.

Chancellor  
may appoint  
a messenger,  
&c.

XXXIV. 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 and decrees, thereof, as the chancellor may direct, and the parties require to be directed or delivered to such messenger, to be by him served, executed, or carried into effect; and the said messenger so nominated and appointed is hereby, upon his being qualified according to law and taking an oath well and truly to observe, perform and fulfil the office of messenger to the chancery court, according to law, and the best of his understanding, fully authorized, empowered and commanded, to serve, execute, obey, and carry into effect, all and every the process, orders and decrees, of the chancery court, of every nature and kind, and in every and any part of the state which may be, by the order of the chancellor, and the request of the parties, directed or delivered to the said messenger, to be by him served, executed, or carried into effect, and to make true and faithful returns of such process and orders, according to the tenor and import of the same, hereby giving also to the said messenger full power and authority to summon and call in aid, if need be, the power of the county, for the purpose of serving, executing, obeying, and carrying into effect, the process and orders of the said court; and the chancellor may at any time discharge the said messenger from his office aforesaid, or upon his death, or refusal to act, another in his stead nominate and appoint; who shall have the same power