

on a summary application made on affidavit, and notice to the parties interested in the mortgage, grant further time for paying the money, in such cases and on such terms as the Court of Chancery grants further time after the Master has made his Report fixing the time of payment.

#### EFFECT OF DEFAULT.

- 5 **24.** In case of default in making payment pursuant to the notice, or pursuant to an order of the Judge granting further time for paying, or to the last order for that purpose where more than one has been granted, the party or each party guilty of the default shall, from the time of his default, stand, *ipso facto*, foreclosed of all interest and equity of redemption, of, in, or to the mortgaged premises, as if a final order had been made to that effect in a suit for foreclosure between the parties to the notice. But in case the estate or interest of any one served is paramount to the mortgage of the party giving the notice, such person shall not stand foreclosed, notwithstanding the default.

Default of payment, &c. to operate foreclosure.

Exception as to titles paramount to the mortgage.

#### EVIDENCE OF THE FORECLOSURE.

- 15 **25.** In case the holder of the mortgage desires to preserve evidence of the foreclosure, he may apply for a certificate thereof to any Judge of the Court of Chancery, or to a Judge of the County Court of any County in which the Mortgage and Assignments [if any] are registered.
- 20 **26.** This application shall be supported by affidavits or depositions to satisfy the Judge ;
1. That the Mortgage and Assignments were registered before the date of the notice ;
  2. That the notice of foreclosure was duly served according to the requirements of this Act, on the party against whom the certificate of foreclosure is desired ;
  - 25 3. As to whether the time for payment was enlarged by one or more orders of a Judge or by consent ; and if so, that the time last granted has expired ;
  - 30 4. That the mortgage money was not paid by or on behalf of the party referred to ; and was not tendered at the place designated in the notice for payment within the time specified by the notice in that behalf, and that the party applying is entitled to the certificate of foreclosure.

Certificate of foreclosure and registration thereof.

Application for certificate. Conditions.

- 35 **27.** The application for this certificate shall be made, and the certificate granted, *ex parte*, unless the Judge sees special reason in the case before him, for requiring notice to be given to any party concerned in the equity of redemption, before granting the certificate, and in such case the certificate shall not be granted till the notice is given.

May be *ex parte*. Exception.

- 40 **28.** The Judge's certificate shall be annexed to the affidavits, depositions, and other proceedings had before him in the matter, and may be in the following form :—

Form of certificate.

- I hereby certify that [*naming the holder of the mortgage*] has shewn to my satisfaction that [*stating seriatim the several matters mentioned in the 26th section of this Act,*] and I do therefore further certify and
- 45 declare that the said doth now stand absolutely barred and foreclosed of, and from all equity of redemption of, in, and to the mortgaged premises, under the "Act to provide for the foreclosure of Mortgages in certain cases without suit."