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R. S. 635, 639, 648,
650, 655, 671, 854.

P. L. 1848, p. 9.
 " 1849, p. 238.
 " 1850, p. 16,
 32, 273.
 " 1851, p. 282.
 " 1852, p. 404.
 " 1853, p. 398.
 " 1854, p. 457.
 " 1858, p. 31,
 264.
 " 1859, p. 45.
 " 1861, p. 112.
 " 1862, p. 17.
 " 1863, p. 72,
 169, 283.
 " 1864, p. 732.
 " 1866, p. 343.
 " 1867, p. 87,
 420.
 " 1868, p. 158.
 " 1869, p. 816,
 859.
 " 1870, p. 11, 39.
 " 1871, p. 33.
 " 1872, p. 93,
 98, 96.

Books of record
for ancient deeds
to be provided.

P. L. 1871, p. 33.

Affidavits of
claimants to be
made.

Originals to be
filed and num-
bered.

Clerk's compen-
sation.

Deeds recorded
for thirty years,
followed by use,
may be read in
evidence, though
acknowledgment
irregular.

P. L. 1863, p. 72.

An act respecting conveyances.

Revision—Approved March 27, 1874.

I. Ancient conveyances.

WHEREAS, many ancient deeds for lands in this state are not, and owing to the death or other disability of the grantors and subscribing witnesses, cannot be acknowledged or proved under existing laws, and those deriving title from or under them may desire for their security to place them upon the records and files of the county in which such lands are situate; therefore,

1. BE IT ENACTED by the Senate and General Assembly of the State of New Jersey, That the clerk of the court of common pleas of each county shall record in well-bound books, to be provided for that purpose, backed "Ancient Deeds," separate and apart from the books of deed record authorized or directed by law before the passage of this act, all deeds which shall be delivered to him for that purpose by any person accompanied by an affidavit of such person, that the lands described in said deed, or some part thereof, are situate in the county in which the said deed is to be recorded; that affiant claims title to said lands, or some part thereof, and that affiant verily believes that quiet, continuous, adverse and undisputed possession of said lands has been enjoyed by virtue of said deed for forty years and upwards; and the clerk or officer recording such deeds shall file the originals with the affidavits accompanying the same, in his office (numbering them according to their dates of filing, from one up, to correspond with similar numbers in the record of the same), and there carefully keep the same in the same manner as he is hereinafter directed to keep deeds which shall not have been recorded within ten years after the date thereof; and such record shall be deemed to be notice to subsequent purchasers; but from the time of filing, said originals shall be considered, to all intents and purposes, in the possession of the person or persons in possession of the premises described therein, or claiming title from or under them.

2. That the several clerks shall be entitled to receive the same fees for recording, filing, and indexing such ancient deeds as they will be entitled to receive for like services done under this act.

3. That where a deed of lands, tenements, or hereditaments shall, for a period of thirty years or more, have stood on record in any of the lawful books of records of deeds in this state, the record of such deed, or a duly certified copy thereof, shall, if corroborated, before or after the same shall have been read in evidence, by evidence of ancient or modern corresponding enjoyment, or other equivalent or explanatory proof, be as good evidence, and have the same force and effect as if the original deed were produced notwithstanding any informality or defect in the proof or acknowledgment of such deed. (a)

(a) A recital in an ancient deed or will, of any antecedent deed or document, consistent with itself, is presumptive proof of the former existence of such deed or document, *Fuller v. Saxton*, *Spen.* 61. An ancient deed, fifty years old, is proof of a boundary, *Townsend v. Johnson*, *Pen.* 706. But not unless delivered, *Den v. Wright*, 2 *Hal.* 175. Where the deed is so old that no witness can be produced to prove the genuineness of the handwriting, an expert may be called to prove it by comparison, *West v. The State*, 2 *Zab.* 213. The

presumption from antiquity does not arise in the case of ancient deeds that have been executed by public officers under a statute, which do not show on their face a strict compliance with all the requirements of the statute, *Osborne v. Tunis*, 1 *Dutch.* 635. Approved in *State*, *Baxter v. The Mayor, &c., of Jersey City*, 7 *Vr.* 195. A deed recorded before 1799 and certified, may be read, *Hoboken Land Co. v. Kerrigan*, 2 *Vr.* 13.

II. Acknowledgments and proofs taken within this state.

4. That if any deed or conveyance^(a) of lands, tenements, or hereditaments lying and being in this state, heretofore made and executed, and not already acknowledged or proved according to law, or hereafter to be made and executed, shall be acknowledged by the party or parties who shall have executed it, the officer having first made known the contents thereof to the person making such acknowledgment,^(b) and being also satisfied that such person is the grantor mentioned in said deed, of all which the said officer shall make his certificate; or if it be proved, by one or more of the subscribing witnesses to it,^(c) that such party or parties signed, sealed, and delivered the same as his, her, or their voluntary act and deed, before the chancellor of this state, or one of the commissioners of deeds, or one of the justices of the supreme court of this state, or one of the masters in chancery, or one of the judges of any of the courts of common pleas of this state, and if a certificate of such acknowledgment or proof shall be written upon or under the said deed or conveyance, and be signed by the person before whom it was made, then every such deed or conveyance, so acknowledged or proved and certified, shall be received in evidence in any court of this state, as if the same were then and there produced and proved.

Conveyance how acknowledged or proved.
R. S. 639.

Who may take acknowledgment or proof.

Shall be received in evidence.

5. That such acknowledgment or proof of any such deed or conveyance made or to be made before a judge of any court of common pleas, in any county of this state, whether the lands, tenements, or hereditaments therein expressed, be situate in said county or elsewhere in this state, shall have the same construction and effect, and be as good and available in law as if such acknowledgment or proof had been made before one of the justices of the supreme court of this state, or one of the judges of the court of common pleas of the county in which the said lands, tenements, or hereditaments are situate.

Judges of pleas may take acknowledgment in any county.

6. That if the grantor of any deed or conveyance of lands, tenements, or hereditaments, lying or being in this state, heretofore made and executed, and not already acknowledged or proved according to law, or hereafter to be made and executed, and which shall not be acknowledged or proved according to law, and the subscribing witnesses thereto be dead, or of unsound mind, or resident without the United States of America,^(d) it shall be lawful to prove such deed or conveyance before the circuit court of the county in which such lands, tenements, or hereditaments or some part of the same are situate, by proving the handwriting of such witnesses to the full satisfaction of said court, which proof shall be certified on or under such deed or conveyance in open court, by the judge holding the same; and such deed or conveyance, so proved and certified, shall be recorded by the clerk of the court of common pleas of the county in which such proof shall be made; and the said deed or conveyance, and the record thereof, shall be received in evidence, and shall have the same force and effect, but none other, as other deeds or conveyances, and the records thereof, when acknowledged or proved by the grantors or witnesses; *provided*, that before any deed or conveyance shall be proved as aforesaid, notice of the application to the said circuit court for that purpose, describing the same, and describing the lands, tenements, or hereditaments contained therein, and the time and place of such application, shall be given by advertisements, signed by the person or persons making such application, and set up in five, at

If witness be dead, insane, or resident out of United States, proof may be before Circuit Court.
P. L. 1850, p. 273.

Amended.

Notice of application to be given.

(a) An instrument by which the transfer of property is effected, although in the nature of a deed of trust or power of appointment, may be acknowledged as a conveyance of lands, *Wells v. Wright*, 7 Hal. 131. A mortgage is included. *Den v. Wade*, *Spen*, 291. An assignment for the benefit of creditors, need not be acknowledged, *Scully v. Reeves*, 2 Gr. Ch. 84.

(b) If the grantor cannot read, the burden of proof would ordinarily be upon the grantee, but an acknowledgment according to the statute is equivalent to proof that the contents were made known to the grantor, if so certified by the officer taking the acknowledgment, *Hyer v. Little*, 5 C. E. Gr. 443. But not where the dispute is whether the instrument certified was actually or correctly read, *Suffern v. Butler*, 4 C. E. Gr. 202, 3, C. E. Gr. 220. The directions of the act are compulsory, and all the requirements must appear by the certificate to have been complied with, before the deed can be given in evidence, *Pinckney v. Burrage*, 2 Vr. 21. A substantial compliance was held

sufficient in *Den v. Geiger*, 4 Hal. 225, and *Sharp v. Hamilton*, 7 Hal. 109. See *Osborne v. Tunis*, 1 Dutch. 659. *Thayer v. Torrey*, 8 Vr. 339. It is no substantial objection to a deed that the acknowledgment bears date before the deed itself. The true date may always be shown. *Gest v. Flock*, 1 Gr. Ch. 108. The certificate is only *prima facie* evidence and may be disproved, *Lambert v. Lambert*, Hal. Dig. 16, § 5.

(c) It ought to appear upon the face of the deed or under the oath of the witness in the certificate of the officer before whom the deed is proved, that the person called to prove the deed is a subscribing witness. The mere statement in the certificate by the officer, is not sufficient, *Harker v. Gustin*, 7 Hal. 42. See *post* § 6, note (d).

(d) A deed was admitted in evidence on proof of the handwriting of the grantor and of the subscribing witnesses, one of them being dead, and the other residing in the state of New York, *Van Doren v. Van Doren*, Pen. *1022. *Servis v. Nelson*, 1 McCart. 94.

least, of the most public places in said county, one of which shall be set up in the city or township in which such lands, tenements, or hereditaments are situate, at least three calendar months before making such application, and also, by a publication, for at least six weeks successively, in some newspaper printed in said county, if any be printed therein, and if not, then in some newspaper circulating therein, and printed in an adjacent county, and due proof of such notice shall be made to the said court, and certified by said judge, in the aforesaid certificate of proof; *and provided, also*, that all deeds, proved according to this section, shall, when recorded, be filed and kept as deeds which are recorded ten years after the date thereof are in this act directed to be kept; and a copy of such deed, so filed, duly certified with copies of the certificates of proof or acknowledgment by the clerk in whose office it is filed, under his hand and seal, may be recorded in any other proper office in this state, in the same manner as the original deed might have been; and the record of such copy shall be available and sufficient for notice only.

Deed to be put on file.

P. L. 1852, p. 401.

Copies may be recorded in other counties.

III. Acknowledgments and proofs taken out of the state, and in some other state or territory.

Deeds may be acknowledged or proved in other states where the grantor or witnesses reside or happen to be.

Before what officers.

P. L. 1870, p. 11.

7. That if the party who shall execute any deed or conveyance of lands, tenements, or hereditaments, lying and being in this state, or the witnesses thereto, whether such party or witnesses reside in this state or not, happen to be in some other state in the Union, or territory thereof, or in the District of Columbia, then the said acknowledgment or proof made before, and certified by the chief justice of the United States, or an associate justice of the supreme court of the United States, or a circuit or district judge of the same, or any judge or justice of the supreme or superior court, or the chancellor of any state in the Union, or territory thereof, or in the District of Columbia, or before any foreign commissioner of deeds for New Jersey, or master in chancery of this state, or before any mayor or other chief magistrate of any city in such state, district, or territory, duly certified, under the seal of such city, or before a judge of any court of common pleas^(a) of the state, district or territory in which such party or witnesses may be, shall be as good and effectual as if such proof or acknowledgment had been made within this state before the chancellor thereof, and had been certified by him; *provided*, that where the said acknowledgment or proof is made before a judge of a court of common pleas, in such state, district or territory, a certificate, under the great seal of the state, or under the seal of the county court in which it is made, that he is such officer, shall be deemed sufficient evidence of his authority for that purpose, and be annexed to and recorded with such deed, acknowledgment, or proof.

IV. Acknowledgments taken out of the United States.

Deeds may be acknowledged or proved out of the United States.

P. L. 1853, p. 398.

" 1861, p. 112.

" 1864, p. 169.

Before what officers.

Amended.

8. That if the party who shall execute any deed or conveyance of lands, tenements, or hereditaments, lying and being in this state, or the witnesses thereto, whether such party or witnesses reside in this state or not, happen to be in a foreign kingdom, state, nation, or colony, then the said acknowledgment or proof made before any public minister, consul, vice consul, charge d'affairs, or other representative of the United States, for the time being, at any foreign court or government, or before any court of law, or mayor, or other chief magistrate of any city, borough or corporation of the said foreign kingdom, state, nation, or colony, in which the said party or witnesses happen to be, certified by said officers in the manner such acts are usually authenticated by them, shall be as good and effectual, as if it had been made in this state before and certified by one of the justices of the supreme court of this state.

V. Acknowledgments by married women.

Acknowledgment by feme covert.

R. S. 639.

9. That no estate of a *feme covert* in any lands, tenements, or hereditaments, lying and being in this state, shall hereafter pass by her deed or conveyance, without a previous acknowledgment made by her, on a private examination, apart from her husband, before one of the officers aforesaid,

^(a) An acknowledgment before a justice of the peace in another state, is bad, *Chandler v. Herrick*, 3 Stock. 498. *Earle v. Earle*, 1 Harr. 274.

that she signed, sealed, and delivered the same as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband, and a certificate thereof written on or under the said deed or conveyance, and signed by the officer before whom it was made; (a) and further, that every deed or conveyance, so executed and acknowledged by a *feme covert*, and certified as aforesaid, shall release and bar her right of dower, and be good and effectual to convey the lands, tenements, or hereditaments thereby intended to be conveyed; *provided*, that this clause shall not be construed to enable any *feme covert*, under the age of twenty-one years, to convey lands, tenements, or hereditaments, or any right of dower, interest, or estate therein. (b)

10. That the several sections and provisions of this act which relate to the taking of acknowledgments of deeds and conveyances by any court or officer whatsoever, in this or other states, or in foreign countries, shall be construed to extend to and embrace acknowledgments of deeds or conveyances made, or to be made by *femes covert*; *provided*, such acknowledgments shall, in other respects, be in conformity to the provisions of this act relating to acknowledgments made by *femes covert*.

General provisions of act extended to acknowledgments of *feme covert*.

11. That any conveyance hereafter made by virtue of and in pursuance of any letter of attorney for the sale, conveyance, assurance, acquittance or release of any lands, tenements, or hereditaments, executed by any married woman who joins with her husband in executing such letter of attorney, shall be as good and effectual to pass the estate of the said married woman as if she were a *feme sole* and unmarried; (c) *provided*, a full and particular description of the lands, tenements or hereditaments authorized to be conveyed, shall be contained and set forth in such letter of attorney, and the same shall be acknowledged, and such acknowledgment certified, in the manner in this act prescribed for the acknowledgment of deeds of conveyance by a married woman.

Feme covert may convey by letter of attorney.

P. L. 1872, p. 98.

12. That the provisions of the sixteenth and seventeenth sections of this act shall extend to and be applicable to the letters of attorney mentioned in the preceding section.

VI. What instruments may be recorded; mode of recording and effect.

13. That no deed or conveyance of lands, tenements, or hereditaments, lying and being in this state, which has been made and executed, and not already acknowledged or proved according to law, or which shall be made and executed, shall be recorded in the office of the clerk of the court of common pleas of the county in which the said lands, tenements, or hereditaments are situate, unless the execution of the same shall have been first acknowledged, or proved and certified, in the manner herein directed, or shall otherwise conform to the provisions herein contained. (d)

To be recorded, must be acknowledged or proved.

R. S. 639.

14. That every deed or conveyance of or for any lands, tenements, or hereditaments, to any purchaser of the same, which shall have been made and executed since the first day of January, in the year of our Lord one thousand eight hundred and twenty-one, or which shall hereafter be made and executed, shall be void and of no effect against a subsequent judgment creditor or *bona fide* purchaser or mortgagee for a valuable consideration, not having notice thereof, unless such deed or conveyance shall be

To be lodged for record within fifteen days.

Ib.

(a) The wife is not barred of her dower by joining with her husband in a conveyance of the estate, unless she acknowledged the deed pursuant to the act, *Tuthill v. Townley*, *Coxe* 242. *Sheppard v. Wardell*, *Coxe* 452. *Van Dorn v. Van Dorn*, *Pen.* 697. A substantial compliance with the requirements of the act, as to a private examination, &c., is sufficient. See *ante* § 4, note (b). The deed must be executed jointly with the husband, and cannot be executed without his consent, *Den, Camp v. Quinby*, *Pen.* *985. *Rake v. Laushe*, 4 *Zab.* 613, 2 *Dutch.* 574. *Perrine v. Perrine*, 3 *Stock.* 143. *Dodge v. Ayerrigg*, 1 *Beas.* 82. Where the title of the property is in the *feme covert*, and she and her husband are living separate, and the mortgage executed by her alone is to secure money advanced for her benefit, it may be enforced in equity, *Wilson v. Brown*, 2 *Beas.* 277. *Harrison v. Stewart*, 3 *C. E. Gr.* 451. *Culler v. Tuttle*, 4 *C. E. Gr.* 560. *Perkins v. Elliott*, 7 *C. E. Gr.* 127. See *Peniz v. Simonson*, 2 *Beas.* 232. *Pierson v. Lum*, 10 *C. E. Gr.* 390. But the husband must be separated by judicial decree, or insane, or in state prison. *Armstrong v. Ross*, 5 *C. E. Gr.* 109.

(b) An acknowledgment by a married infant is void, *Porch v. Fries*, 3 *C. E. Gr.* 204. *Ross v. Adams*, 4 *Dutch.* 161, 1 *Vr.* 506. But may be confirmed by such infant after

maturity, *Williams v. Mabee*, 3 *Hal. Ch.* 500. *Owens v. Owens*, 8 *C. E. Gr.* 60. See *Furley v. Woodburn*, 2 *Stock.* 96. *Van Doren v. Everitt*, 2 *South.* *462 (b). Where the certificate is silent as to the age of the *feme covert*, the presumption is that she was of full age, until the contrary is shown by proof, *Battin v. Bigelow*, *Pet. C. C.* 452.

(c) A married woman can only convey lands or release her dower by power of attorney, by virtue of this act. See *Earle v. Earle*, 1 *Harr.* 274, *S. C. Spen.* 348. *Kearney v. Macomb*, 1 *C. E. Gr.* 189.

(d) A mortgage given by a husband and wife on lands of the wife, to secure part of the purchase money, was recorded, although the wife had not been examined privately. The recording was proper to give the debt priority on the estate which might vest in the husband at the wife's death, and such record *might* be constructive notice to a subsequent mortgagee. *Armstrong v. Ross*, 5 *C. E. Gr.* 110. Where the deed of a vendor is not recorded, the record of a mortgage given by his vendee for the purchase money will not be notice to a subsequent purchaser, *Losey v. Simpson*, 3 *Stock.* 246. A defect in the registry of a deed or mortgage will not affect the notice, *Den, Walling v. Roberts*, 1 *South.* *316 (a).

acknowledged or proved and recorded, or lodged for that purpose, with the clerk of the court of common pleas of the county in which such lands, tenements and hereditaments are situated, within fifteen days after the time of signing, sealing, and delivering the same; (a) *provided, nevertheless*, that such deed or conveyance shall, as between the parties and their heirs, be valid and operative. (b)

Record of deeds not recorded in ten years from date shall not be evidence.

P. L. 1852, p. 404.

Deed to be filed.

May be recorded in other counties.

P. L. 1854, p. 457.

Letters of attorney for sale of lands shall be evidence.

P. L. 1849, p. 238.

15. That when any deed or conveyance, hereafter recorded in any office in this state, shall not be recorded within ten years after the date thereof, such record, or any copy thereof, shall not be evidence in any court or proceeding, but shall have the effect of giving notice of the contents thereof to all subsequent purchasers, in the same manner, and no other as before the passage of this act; and the clerk or officer recording such deed, left for that purpose, more than ten years after its date, shall file the original thereof in his office, and there carefully keep the same, and not suffer the same to go out of his office or possession, on any pretext whatever, except as hereinafter provided, and except when the same may be required to be produced by process out of some competent court, in which case it shall be taken only by such clerk or his deputy, and by him returned to said office; *provided*, that no such deed shall be recorded unless first properly proved or acknowledged; and a copy of such deed so filed when the same embraces lands in more than one county, duly certified, with copies of the certificates of proof or acknowledgment by the clerk in whose office it is filed, under his hand and seal, may be recorded in any other proper office in this state, in the same manner as the original deed might have been; *and provided further*, that if the grantee in said deed, or other person interested therein, shall request the same to be sent into any other county in which the lands lie, it shall be the duty of the said clerk to transmit said original deed to the clerk of said other county where the lands, or some part thereof, are situated; and which said deed, after being duly recorded, shall be filed and kept in the manner aforesaid, in the office of the clerk to whom it is last sent; and said several records shall be available for notice only.

16. That if the execution of any letter of attorney, for the sale, conveyance, assurance, acquittance or release of any lands, tenements or hereditaments, heretofore made and executed, or hereafter to be made and executed, shall have been or shall be acknowledged or proved, and such acknowledgment or proof certified in the manner prescribed for the acknowledgment and proof of deeds of conveyances of lands, tenements or hereditaments, then that every such power of attorney shall be received in evidence in any court of this state, as if the same were then and there produced and proved.

(a) Where, by reason of a deed not being recorded within fifteen days from the time it is delivered, a third party acquires title to the premises by deed, mortgage or judgment, the documentary evidence will entitle the party to recover the premises, unless the party claiming under the first deed, can show that the other party had notice of his deed. The burden of proof is upon the party claiming under the first deed. *Coleman v. Barklew*, 3 *Dutch* 357. *Lewis v. Hall*, 3 *Hal. Ch.* 107. *Freeman v. Elmendorf*, 3 *Hal. Ch.* 475. *Blair v. Ward*, 2 *Stock* 119. *Holmes v. Stout*, 2 *Stock* 419. *Vreeland v. Clafin*, 9 *C. E. Gr.* 313. *Buchanan v. Rowland*, 2 *South* *732. If the party relies on possession of the premises as notice, it must be an actual and notorious possession, *Diehl v. Page*, 2 *Gr. Ch.* 143. *Holmes v. Stout*, 3 *Gr. Ch.* 493; as living upon and cultivating a farm, *Lewis v. Hall*, 3 *Hal. Ch.* 107; or possession by an agent or manager, *Den. Roberts v. Moore*, 3 *Wall. Jr.* 292. But having enclosed and occupied only a small part of the tract claimed, will not constitute such possession, *Den. Saxon v. Hunt, Spen.* 487; nor paying taxes for and surveying the land, *Cornelius v. Giberon*, 1 *Dutch* 1; nor pasturing cattle upon the land, *Coleman v. Barklew*, 3 *Dutch* 357; nor cutting wood therefrom, *Holmes v. Stout*, 2 *Stock* 419. Possession is notice only of the interest which the party in possession claims in the land, and only charges the party to be affected, with the knowledge of such facts as he might have learned by inquiry of the party in possession. It does not impose upon him the duty of searching the records in the name of such party, *Losey v. Simpson*, 3 *Stock* 246. Whatever puts a party upon inquiry, amounts to notice, *Lee v. Woodworth*, 2 *Gr. Ch.* 37. *Smallwood v. Lewin*, 2 *McCart.* 60. *Hoy v. Bramhall*, 4 *C. E. Gr.* 564. A purchaser has notice of all the facts disclosed in his deeds, *Smith v. Vreeland*, 1 *C. E. Gr.* 199. A trust deed on record is notice of the trust, *Nichols v. Peak*, 1 *Beas.* 70. *Wells v. Wright*, 7 *Hal.* 131. Notice of an equitable lien will charge the estate in the hands of the purchaser, *Shinn v. Budd*, 1 *McCart.* 235. See *Shannon v. Marselis, Sac.* 426. Where a mortgage is recorded in full, and provides for the payment of interest during ten years, at the end of which

time the principal is to be paid, without saying how often during such time, a purchaser of the mortgaged premises has notice from the record that some periodical payments were intended, and the fact that these payments were to be made yearly, may be proved so as to bind him, *Ackens v. Winston*, 7 *C. E. Gr.* 444. See *Bell v. Fleming*, 1 *Beas.* 13. But it could not be reformed to the prejudice of a subsequent judgment creditor *Rutgers v. Kingsland*, 3 *Hal. Ch.* 658. See *Wheeler v. Kirtland*, 8 *C. E. Gr.* 14, 9 *C. E. Gr.* 552. But a mere personal covenant contained in the deed will not be enforced against a purchaser, unless he has actual notice, *Van Doren v. Robinson*, 1 *C. E. Gr.* 256. A purchaser need not notice a deed on record made by a grantor whose own deed is not recorded, *Losey v. Simpson*, 3 *Stock* 246. Recording a deed to defraud creditors, *semble*, is not such notice as will prevent a creditor from setting it aside as to the grantee, *Mellon v. Mulvey*, 8 *C. E. Gr.* 198. *Annin v. Annin*, 9 *C. E. Gr.* 185. Where there are two deeds, if the one first given be recorded within the fifteen days, it will have priority over the second, although the second was recorded first, *Den v. Richman*, 1 *Gr.* 43. Affirmed in error, *Hal. Dig.* 352, § 37. See *National Bank of the Metropolis v. Sprague*, 6 *C. E. Gr.* 530. A purchaser from one who has notice is equally bound, *Den v. McKnight*, 6 *Hal.* 386. *Nichols v. Peak*, 1 *Beas.* 70. But a purchaser with notice from a former purchaser without notice, is not bound, *Rutgers v. Kingsland*, 3 *Hal. Ch.* 178. Affirmed on appeal, 3 *Hal. Ch.* 658. *Holmes v. Stout*, 3 *Gr. Ch.* 492, 2 *Stock* 419. A deed not recorded, is valid against an attaching creditor having notice thereof, before judgment, *Garwood v. Garwood*, 4 *Hal.* 193. The claim of a wife and her trustee under a marriage settlement, having no notice of the husband's liabilities, although such marriage settlement was not recorded, is superior to that of a creditor of the husband by judgment confessed after the execution of the settlement, *Magniac v. Thompson, Bald.* C. C. 344.

(b) *Den v. Richman*, 1 *Gr.* 43, affirmed in error, *Hal. Dig.* 352, § 37.

17. That all such powers of attorney, being so acknowledged or proved and certified, shall and may be recorded in the same manner as is herein prescribed for recording deeds of conveyance of lands; and that the record of any such letter of attorney, heretofore made and executed, and acknowledged or proved, and certified and recorded as aforesaid, or hereafter to be made and executed and acknowledged, or proved and certified and recorded as aforesaid, and the transcript thereof, duly certified by the proper officer, shall be received in evidence in any court of this state, and have the same effect as if the original letter of attorney were then and there produced and proved.

May be recorded
Ib.

18. That if the execution of any lease or deed of conveyance of any railroad or canal located and constructed in more than one county, made or to be made, shall have been, or shall be acknowledged or proved, and such acknowledgment or proof certified in the manner prescribed for the acknowledgment and proof of deeds of conveyances of real estate, according to law, then that every such lease or deed of conveyance shall be received in evidence in any court of this state, as if the same were then and there produced and proved; and every such lease and deed of conveyance being so acknowledged, or proved and certified, shall and may be recorded in the office of the secretary of state of this state, in a book by him to be provided for that purpose; and that the record of any such lease or deed of conveyance heretofore made, or hereafter to be made and acknowledged, or proved and certified, and recorded as aforesaid, or a transcript thereof, duly certified by the secretary of this state, under the seal of his office, shall be received in evidence in any court of this state, and have the same effect as if the original lease or deed were then and there produced and proved.

A conveyance or lease of railroad or canal constructed in more than one county, if acknowledged, may be recorded in Secretary of State's office.

P. L. 1870, p. 39.

Copy, evidence.

19. That all leases for estates in lands and tenements for life or for a term not less than two years, being duly signed, sealed and acknowledged or proved, in the manner herein prescribed for the acknowledgment or proof of deeds of conveyance, may be recorded in the same manner as such deeds may be recorded; and such record shall be notice to subsequent judgment creditors, purchasers, lessees and mortgagees.

Certain leases may be recorded.

P. L. 1872, p. 93.

20. That the estate of any such lessee in the demised premises, the lease whereof shall have been recorded in manner aforesaid, shall be liable to sale under a judgment or decree, in like manner, only as estates of freehold are now liable to be sold thereunder.

How sold under judgment.

21. That any assignment of such lease so recorded, such assignment being signed, sealed, acknowledged or proved in manner aforesaid, may be recorded in like manner; and the record thereof shall have the same force and effect as the record of the original lease.

Assignment of lease may be recorded.

22. That the assignment of such leases and leasehold interest by way of mortgage and as security for moneys loaned, shall be valid, and the same being duly signed, sealed and acknowledged in manner aforesaid, may be recorded or registered in like manner as mortgages of the freehold now are, and the record or registry thereof shall have the same force and effect.

Assigned by way of mortgage.

23. That agreements for the sale and conveyance of lands or tenements or any interest therein, being signed, sealed and acknowledged or proved in manner aforesaid, may be recorded as aforesaid; and the record of such agreement shall be notice to all persons of such agreement from the time of so recording the same.

Agreements for sale of land may be recorded.

24. That the clerks and registers of deeds of the several counties of this state, shall be entitled to receive the same fees for services in recording leases, assignments and agreements as aforesaid, and in making searches therefor as are provided by law for recording, registering or searching for mortgages.

Fees of clerks.

25. That the clerk of the court of common pleas of the county shall record, in large, well-bound books of good paper, to be provided for that purpose, and carefully preserved, all deeds and conveyances of lands, tenements and hereditaments, lying and being in the said county acknowledged or proved, and certified to have been acknowledged or proved in manner aforesaid, which shall be delivered to him to be recorded; and, also, all other instruments which are, by this act directed therein to be recorded; to which books every person shall have access at proper seasons, and be entitled to transcripts from the same, on paying the fees allowed by law. (a)

Clerk to provide books.

R. S. 639.

Altered.

(a) The clerks are entitled to charge all persons making searches "the fees allowed by law." The fees are allowed for searches as well as for transcripts, *Fleming v. The Clerk of Hudson county*, 1 Vr. 280.

- To record deeds.
Ib. 26. That it shall be the duty of the said clerk to record in the said book without delay, every such deed or conveyance or other instrument, with the acknowledgments, proofs and certificates, written on or under the same, and the plats, surveys, schedules and other papers therein referred to and thereto annexed, by entering them word for word, in a fair hand, noting at the foot of each record, all the interlineations and words visibly written on erasures, omitting, however, to enter in the record the erasures and obliterations, and mentioning in the margin or at the foot of such record, the day of the month and the year when the said deed or conveyance was delivered to him or brought to his office to be recorded.
- Shall give receipt and certify on deed when received and where recorded. 27. That the said clerk shall give a receipt to the person who shall bring any such deed or conveyance, or other instrument, mentioning therein the time when it was delivered to him or brought to his office to be recorded, its date, the names of the parties to it, and the place where the lands, tenements, or hereditaments therein specified are situate; that the said clerk shall certify on or under such deed or conveyance or other instrument the day of the month and year when he received it, and the name or number of the book, and page or pages in which it is recorded, and shall, when recorded, deliver it to the party entitled to it, or his order.
- Penalty for neglect.
Ib. 28. That if any clerk shall neglect or refuse to perform any service or duty required of him by this act, he shall, for every neglect or refusal, forfeit and pay two hundred dollars, to be recovered, with costs, by action of debt by the county collector, and paid to the treasurer of this state for the use of the state; and shall also be liable for all damages which the party aggrieved may have sustained by reason of the non-performance of such service or duty.
- Record and transcript, evidence.
Ib. 29. That the record aforesaid of such deed or conveyance, lease or other instrument, and the transcript of such record, certified to be a true transcript by the said clerk in whose office the record is kept, shall, unless herein otherwise specially provided, be received in evidence in any court of this state, and be as good, effectual, and available in law as if the original deed or conveyance, lease or other instrument were then and there produced and proved; and the record and transcript of the record of such deeds and conveyances as have heretofore been recorded in the office of the secretary of state, made by him, shall, in like manner, be received in evidence, and be as effectual and available as if the original were produced and proved.^(a)
- Record not to be removed from county. 30. That no record shall be removed, by writ of subpœna or otherwise, before any court out of the county in which such record is kept, where a transcript thereof may be given in evidence.
- Original deed must be produced at trial on notice.
P. L. 1850, p. 273. 31. That it shall be lawful for either party, in any cause pending in any court of law or equity in this state, to give the opposite party, his, her, or their attorney or solicitor, notice in writing, at least ten days before the time appointed for the trial or hearing of said cause, that he, she, or they will be required at such trial or hearing to produce the original instead of the record of any deed or conveyance of any lands, tenements, or hereditaments, or other instrument by this act authorized to be recorded, which he, she, or they may think proper to offer or introduce in evidence; and in case of such notice, no record of such deed or conveyance or other instrument shall be received in evidence until satisfactory proof, by the oath or affirmation of the party offering said record in evidence, or other person or persons, shall be made to the court or officer before whom such record may be offered, that the original hath been lost, or unintentionally destroyed, or that, after having made diligent search and inquiry, such party hath been unable to find said original; and the court shall determine, according to the circumstances and situation of the parties, whether such diligent search and inquiry has been made.
- Or its destruction or loss shown.
P. L. 1852, p. 404. 32. That it shall be the duty of the clerks of the courts of common pleas in this state to register or record deeds and mortgages or conveyances in the nature thereof, and all other instruments, in the order they shall receive
- Deeds recorded in the order as received.
R. S. 639.

(a) If a deed be entered in the record without due proof or acknowledgment, the entry does not make it a record or evidence, *Fox v. Lambson*, 3 Hal. 275. *Harker v. Gustin*, 7 Hal. 43. See *Armstrong v. Ross*, 5 C. E. Gr. 110; cited ante, § 13(d). *New Jersey R. R. Co. v. Suydam*, 2 Harr. 60. *Doremus v. Smith*, 1 South. *142. The original deed may be read in evidence although not recorded within the fifteen days,

Den, Jouet v. Watkins, 1 Hal. 445. A copy of the record has the same effect as evidence as the production of the deed itself; and in the absence of the original it is not competent to show, in a trial at law, that such record is not a true copy of the deed, *Sisson v. Donnelly*, 7 Vr. 432. A mortgage cannot be proved by a copy of its registry, *Harker v. Gustin*, 7 Hal. 42.

them; but if two or more deeds, mortgages, or conveyances, of or for the same lands, tenements, or hereditaments, or other instruments, shall be offered to or come to the hands of the clerk, at one and the same time, to be recorded, then it shall be the duty of the said clerk to register or record the same according to the priority of their dates.(a)

If received together, according to dates.

33. That in case it is not already done, the clerks of the several counties in this state are hereby authorized and directed to provide, at the expense of their respective counties, a book or books, and to make and therein to enter an index, in alphabetical order, to all the books of record of deeds in their respective offices, distinguishing the book in which each deed is recorded, which index shall contain the names of the several grantors and grantees; and in case the deed be made by a sheriff, the name of such sheriff, and the name of the defendant or defendants mentioned in the execution, by virtue of which the sale was made; and if by executors or administrators, the name of each executor or administrator and the testator or intestate; and if by attorney or attorneys, the name of such attorney or attorneys and his or their constituents; and if by commissioners under a law of this state, or appointed by an order of any of the courts of this state, the name of such commissioner and the person or persons whose estate has been conveyed; for which service such clerk shall be allowed twenty-five cents for every hundred names so indexed, to be paid by the county collector upon performance of such services to the satisfaction of the board of chosen freeholders, certified by the director of such board.

General index to books of records to be made. Ib.

34. That the clerks of the several counties in this state shall make an index of all deeds hereafter recorded in their respective offices in the manner hereinbefore directed.

All future deeds to be indexed. Ib.

35. That in the recording of deeds, mortgages, wills, or other instruments of writing required or authorized by law to be recorded, the clerk, surrogate, or other officer whose duty it is to make the record, shall, if the same have affixed to them any stamp or stamps purporting to be in accordance with any law of the United States, make a scroll in the margin of the record in the place of the said stamp or stamps, and enter upon the record, within said scroll, the amount in value of the said stamp or stamps.

Revenue stamps to be denoted on record.

P. L. 1863, p. 283.

36. That the record so made, or a certified copy thereof, shall be *prima facie* evidence of the original stamp or stamps, and that the same had been affixed on the original deed, mortgage, will, or other instrument in writing, in the manner and to the purport indicated on the said record, or the certified copy thereof.

Record of stamps prima facie evidence. Ib.

VII. Commissioners for taking acknowledgments.

37. That there shall and may be appointed by the senate and general assembly, in joint meeting, proper and fit persons for each of the counties of this state, to be styled and denominated "commissioners of deeds;" which commissioners shall have authority to take the acknowledgment or proof of any deed or conveyance of lands, tenements, or hereditaments lying and being in this state, or of any mortgage, defeasible deed, or other conveyance in nature of a mortgage, or any other instrument of writing, executed under the hand and seal of the grantor of any lands, tenements, or hereditaments lying and being in this state, required by the laws of this state to be acknowledged or proved; and such acknowledgment or proof, taken or made in the manner directed by the laws of this state, and certified by the commissioner before whom the acknowledgment or proof shall be made, as by law required, shall have the same force and effect, and be as good and available in law, as if such acknowledgment or proof had been made before one of the justices of the supreme court of this state.

Commissioners of deeds to be appointed for the several counties.

R. S. 834.

Their powers.

38. That all acknowledgments or proofs of deeds or conveyances or of any instruments in writing, required by the laws of this state to be acknowledged or proved, and which have been or shall be acknowledged or proved before a commissioner of deeds for any county in this state, shall have the same construction and effect and be as good and available in law, whether the lands, tenements and hereditaments in said instruments

Effect of acknowledgments made before a commissioner of deeds.

P. L. 1873, p. 73.

(a) Where two mortgages are given at the same time, to the same person, covering the same premises, priority of registry will not give one a preference over the other. In the hands of assignees they are concurrent liens, payable ratably out of the proceeds of the mortgaged premises, *Gausen v. Tomlinson*, 8 C. E. Gr. 405.

- expressed be situate in said county or elsewhere in this state, as if such acknowledgments or proofs had been or shall be made before one of the justices of the supreme court of this state. (See *Sec. 60*).
- To hold office for five years.
R. S. 854.
39. That the commissioners appointed as aforesaid shall be commissioned by the governor, and hold their offices for five years; but in case any commissioner shall remove out of the township in which he shall reside at the time of his appointment, his commission shall thereupon become void; and further, all commissioners appointed as aforesaid may be removed from office by impeachment for malconduct during the time they shall hold the said office; and the said commissioners, and each and every of them, are hereby authorized to demand and receive the same fees as are or shall be allowed by law for like services to other persons for taking the acknowledgment or proof of deeds; and that it shall not be lawful to appoint, for any county in this state, a greater number of commissioners as aforesaid, than three for each township in said county, and a like number for each of the wards of the different incorporated cities, boroughs, and towns of this state; *provided*, that the whole number of commissioners shall not, at any time, exceed three for each ward.
- May take fees.
P. L. 1867, p. 420.
- Term of office when to begin.
P. L. 1869, p. 859.
- Official oath.
40. That all commissions hereafter issued to commissioners of deeds shall bear date on the day of their appointment by joint meeting, and the term of their office shall begin on the first day of April of the current year; and every such commissioner shall, within two months next after the beginning of his term, and before he shall proceed to perform any duty required of him by law, take and subscribe an oath or affirmation, before the clerk of the county for which he shall be appointed, well and faithfully to perform the duties required of him by law, as commissioner for taking the acknowledgment and proof of deeds.
- Appointment of foreign commissioners.
P. L. 1858, p. 264.
- Amended.
P. L. 1866, p. 345.
41. That the governor of this state, by and with the advice and consent of the senate, be, and he hereby is authorized to name, appoint, and commission such number of commissioners in each of the states and territories of the United States, and in the District of Columbia, as he may deem expedient, and where such appointment shall not be incompatible with the laws of such state, territory, or district where such commissioner shall reside; which commissioners shall be called and denominated "foreign commissioners of deeds for New Jersey," and each of them shall have authority to take the acknowledgment or proof of any deed or conveyance, mortgage, defeasible deed, or other conveyance in nature of mortgage, of any lands, tenements, or hereditaments lying and being in this state, or any other instrument of writing, under hand and seal required by the laws of this state to be acknowledged or proved; and such acknowledgment or proof taken or made in the manner directed by the laws of this state, and certified by the commissioner before whom the same shall be made, as by law required, shall have the same force and effect, and be as good and available in law, for all purposes, as if such acknowledgment or proof had been made in this state before one of the justices of the supreme court of this state. (See *Sec. 61, 62*).
- Term of office.
P. L. 1858, p. 264.
42. That every foreign commissioner appointed by virtue of this act, shall hold his office for the term of three years, but shall be removable from office at the pleasure of the governor, and in case he shall remove out of the state, territory, or district in which he shall reside at the time of his appointment, his commission shall thereupon become void; and that in case it shall be made to appear to the governor that any such commissioner shall charge more or greater fees than are allowed by law, it shall be his duty to remove such commissioner from office. (See *Sec. 58*).
- Fee for commission.
Ib.
43. That every person applying for the appointment of commissioner, shall enclose with his application the sum of five dollars, which sum, if a commission shall be granted, shall be paid over by the governor to the treasurer, and if such commission shall not be granted, then the same shall be returned to the person making such application.
- List of commissioners to be filed by county clerks.
Ib.
44. That it shall be the duty of the secretary of state, annually, within ten days after the adjournment of the legislature, to make out a list of all the commissioners for other states, duly appointed and sworn, together with such appointments made during the recess of the legislature, with the date of appointment and expiration of term, which list he shall cause

to be printed, and a copy thereof sent to the clerk of each county in this state; and it shall be the duty of every county clerk, whenever any instrument of writing is presented for record, purporting to be acknowledged before a commissioner residing in another state, to examine said list, and if the name of said person signing his name as a commissioner for New Jersey, does not appear thereon, he shall immediately inform the person presenting such paper thereof.

45. That the foreign commissioners of deeds for New Jersey shall attest their official acts, and each of them, by an official seal; an impression of such seal, in wax or other appropriate substance, shall be filed, with their official oaths, in the office of the secretary of state of New Jersey, and the official certificates of such commissioners may be endorsed upon or annexed to any instrument of writing, for use or record in this state, and, when thus certified, shall be entitled to full faith and credit; and the forms of such official certificates, to be made by such officers, shall be in conformity with the laws of this state.

Foreign commissioners to have official seal.

P. L. 1862, p. 17.

Impression thereof to be sent to secretary of state.

46. That the fees for each certificate of acknowledgment shall, in all cases, be one dollar, and no more; and for each oath administered, twenty-five cents; and when the execution of an instrument shall be proved by a subscribing witness, the same fees shall be paid as though the acknowledgment had been made in person, by the party or parties thereto.

Fees of foreign commissioners.

Ib.

47. That the secretary of state shall cause such parts of this act as relate to the duties of foreign commissioners of deeds for New Jersey, and also the forms of acknowledgment and proof of deeds, mortgages, and conveyances used in this state, to be printed, and shall enclose the same to every person who is now acting, or shall hereafter be appointed a foreign commissioner of deeds for New Jersey, together with his commission; and the secretary of state shall be entitled to one dollar, in each case, on the filing of the seals herein provided for.

Parts of this act to be sent to foreign commissioners.

P. L. 1862, p. 17.

Amended.

Fees of secretary of state.

48. That every foreign commissioner appointed under this act, before he shall proceed to perform any duty under and by virtue of this law, shall take and subscribe an oath or affirmation, before the mayor, or other chief magistrate of the city in which the said commissioner shall reside, or before a judge of the supreme or superior court of the state where the said commissioner shall be resident, well and faithfully to execute and perform all the duties of such commissioner, under and by virtue of the laws of the state of New Jersey; which said oath or affirmation shall be filed in the office of the secretary of this state.

Commissioner to take oath.

R. S. 854.

49. That every foreign commissioner heretofore appointed, or hereafter appointed by virtue of this act, shall have full power and authority to administer an oath or affirmation to any person who shall be willing and desirous to make such oath or affirmation before him, to hold to bail, or in or concerning any cause depending or to be brought in any of the courts of this state; and every affidavit or affirmation made before such commissioner shall be, and is hereby declared to be as good and effectual, to all intents and purposes, as if made before an officer resident in this state, and competent to take the same.

Commissioner may administer oaths and affidavits.

P. L. 1860, p. 419.

Amended.

VIII. Certain acknowledgments validated.

50. That all acknowledgments by any *feme covert*, or *feme sole*, or by any other person or persons, or by any corporation, of deeds, mortgages, or other conveyances heretofore made out of this state, before any commissioner appointed by the governor of this state, or before any other officer who was, in case the grantors resided in such state, district, territory, kingdom, or nation where the said acknowledgments were taken, authorized to take the acknowledgments of deeds, mortgages, or other conveyances, shall be and hereby are declared to be valid and effectual, and to have been valid and effectual, whether the grantors in said deeds, mortgages, or other conveyances were resident in the state, district, territory, kingdom, or nation, or in any other state, district, territory, kingdom, or nation, than that wherein such acknowledgment was taken, in the same manner as if the said grantors resided in the state, district, territory, kingdom, or nation where the said acknowledgment was taken, and shall so be construed in all courts and in all places; and that any deed, mortgage, or conveyance heretofore

Acknowledgments by non-residents in the district of officer taking same, made valid.

P. L. 1858, p. 31.

executed, and acknowledged by a *feme covert*, in the manner herein declared valid, shall be construed by all courts, and in all places, to be and to have been effectual to bar the right of dower, and to convey the estate of such *feme covert* in the lands, tenements, or hereditaments thereby intended to be conveyed, in the same manner as if the said *feme covert* then resided in this state, and such acknowledgment had been taken before one of the justices, for the time being, of the supreme court of this state; *provided*, the said acknowledgments are, in other respects than the residence of the grantor or grantors, and the authority of the officer, made and taken and certified according to the law for the time being.

Same as to proofs
of deeds.
Ib.

51. That all proofs of any deeds, mortgages, or any other conveyances, heretofore made out of this state, before any commissioner appointed by the governor of this state, or before any other officer, who was, in case the grantors, witness or witnesses, resided in such state, district, or territory, kingdom or nation, where the said proof was made, authorized to take such proof of said deeds, mortgages, or other conveyances, shall be and hereby are declared to be valid and effectual, whether the grantors, or any of them, witness or witnesses, or any of them, resided in the state, district, territory, kingdom or nation, or in any other state, district, territory, kingdom or nation than that where such proof was made, in the same manner as if the said grantors and witnesses, and all of them, resided in the state, district, territory, kingdom or nation where the said proof was made, and shall be so construed by all courts and in all places.

Registry of such
deeds made
valid.
Ib.

52. That any record or registry heretofore made of any such deed, mortgage, or other conveyance, which has been acknowledged or proved in the manner by the two preceding sections of this act made valid, and any record or registry which shall be hereafter made of any such deed, mortgage, or other conveyance, which has been heretofore acknowledged or proved in the manner aforesaid, shall be as valid and effectual to all intents and purposes, and shall operate, and be construed to have operated, as notice to all persons in the same manner as though the same had been acknowledged or proved in the manner heretofore required and authorized by law.

Record of such
deeds made
evidence.
Ib.

53. That the said record and registry of any such deed, mortgage, or other conveyance, so made or to be made, as provided in the next preceding section, or a certified copy thereof, may be used and given in evidence in any of the courts of law or equity in this state, in the same manner as if the said acknowledgment or proof thereof had been taken or made before a person authorized to take the same, at the time it was so made or taken, and in the manner heretofore required and authorized by law.

Acknowledg-
ments and proofs
heretofore taken
before officers
authorized by
other states to
take acknowl-
edgments, made
valid.

54. That all acknowledgments and proofs of any deed or deeds of or for lands or real estate in this state, by any corporation, or other grantor or grantors, temporarily absent from this state, or residing out of this state, heretofore made or taken by or before any officer at the time of such proof or acknowledgment authorized by the laws of the state or territory where such acknowledgment or proof was made or taken, to take acknowledgments or proofs of deeds for lands in and for such last mentioned state or territory, or for any county or sub-division thereof, although not authorized or empowered to take the acknowledgment of deeds for this state, shall be deemed and taken to be, to all intents and purposes, as good and valid and effectual in law, and the record thereof admissible in evidence as fully and completely, as if such acknowledgment had been made or taken by or before any person or officer by the laws of this state authorized to take the acknowledgment of such deeds; *provided*, that such proof or acknowledgment of any such deed is in other respects in conformity with the laws of this state, and that the certificate thereof shall have been or shall be accompanied by a certificate under the great seal of the state or territory, or under the seal of the circuit or other court of the county in which it was made or taken, or under the seal of the county, or the official seal of the clerk of the said county, signed by himself or his deputy, that the person before whom such acknowledgment or proof was made was such officer as in and by his certificate is claimed, and which said last named certificate shall have been or shall be recorded with such deed.

P. L. 1859, p. 15.

Amended.

Proviso.

P. L. 1867, p. 87.

55. That all acknowledgments and proofs of deeds for lands in this state, heretofore made or taken before any consul of the United States, shall, for all intents and purposes, be as valid and effectual as if the same had been taken by such officer under and by virtue of this act.

Same when taken before a consul of the United States. P. L. 1864, p. 732.

56. That all acknowledgments and proofs of deeds, mortgages, and other instruments of writing, heretofore taken before any commissioner duly appointed, who has taken and subscribed an oath or affirmation well and faithfully to perform the duties required of him by law as such commissioner, before any person duly authorized to administer an oath, other than the clerk of the county, shall be taken and deemed to be as valid and effectual in law as if said commissioner had taken and subscribed the same before the clerk of the county for which he was appointed.

Valid, though commissioner not sworn before clerk.

57. That all acknowledgments or proofs of deeds, heretofore made or taken, or hereafter to be made or taken, after the lapse of twenty years from the date of such acknowledgment or proof, notwithstanding any errors or imperfections in said acknowledgment or proofs, shall be taken and held to be good and sufficient in law; *provided however*, that all such deeds shall have been duly recorded.

Acknowledgments and proofs of deeds held to be good after lapse of twenty years.

Supplement.

Approved March 9, 1875.

P. L. 1875, p. 21.

58. SEC. 1. That it shall and may be lawful for any commissioner for the state of New Jersey, in and for the states of Pennsylvania and New York heretofore appointed, or who may hereafter be appointed, under and in pursuance of said act, and the several supplements thereto, to reside in the state of New Jersey; but nothing in this act shall be so construed as to empower such commissioner to exercise the duties of his office outside the states of Pennsylvania and New York; and the acts of any such commissioner who may have resided in the state of New Jersey during his term of office, or any part thereof, or who may hereafter reside in New Jersey, shall be as valid and effectual in law, as if he had during such time resided in the states of Pennsylvania and New York.

Foreign commissioners for Pennsylvania and New York may reside in this state.

Supplement.

Approved March 24, 1875.

P. L. 1875, p. 38.

59. SEC. 1. That all acknowledgments and proofs of any deed or deeds of or for lands or real estate in this state, by any grantor or grantors residing or being out of this state at the time of such acknowledgment or proof, heretofore made or taken or hereafter to be made or taken by or before any judge of any court of record or notary public at the time of such acknowledgment or proof, authorized by the laws of the state or territory, where such acknowledgment or proof is or may be made or taken, to take acknowledgments of deeds of land or real estate in and for such state or territory, although not authorized or empowered to take the acknowledgments of deeds for this state, shall be deemed and taken to be to all intents and purposes as good and effectual in law and the record thereof admissible in evidence as fully and completely as if made or taken in this state before an officer competent to take the same; *provided*, that such acknowledgment or proof of any such deed or conveyance shall be in all other respects in conformity with the laws of this state, and that the certificate thereof shall have been or be accompanied by a certificate under the great seal of the state or territory, or under the seal of the circuit or other court of the county in which it was or shall be made, that the person before whom such acknowledgment or proof was made was at the time authorized by the laws of such state or territory to take acknowledgments of deeds for lands or real estate in such state or territory, which said last named certificate shall have been or be recorded with such deed or conveyance.

Acknowledgments of grantors residing or being out of state may be taken by judge of any court of record, or notary public.

Proviso.

Supplement.

Approved April 9, 1875.

P. L. 1875, p. 84.

60. SEC. 1. That any acknowledgment or proof of any deed or other instrument which shall hereafter be taken by any commissioner of deeds, duly appointed and commissioned under the laws of this state, shall be good and available at law, for all purposes, notwithstanding such acknowl-

Acknowledgments may be taken by commissioner out of county for which appointed.

Proviso. edgment or proof may be taken by such commissioner out of the county for which he has been or shall be appointed; *provided*, that nothing in this act shall be held to apply to foreign commissioners of deeds, or to authorize any commissioner of deeds appointed for any county within this state to act as such commissioner outside of this state.

Supplement.

P. L. 1875, p. 93.

Approved April 9, 1875.

Foreign commis-
sioners how com-
missioned.

61. SEC. 1. That the persons designated in said act as "Foreign Commissioners of Deeds for New Jersey," may be commissioned by the governor in the same manner and form, as before the said revision, (approved March twenty-seventh, one thousand eight hundred and seventy-four), commissioners for taking the acknowledgment or proof of deeds for New Jersey in other states, territories and the District of Columbia were commissioned, without in terms mentioning them as "Foreign Commissioners of Deeds for New Jersey."

Commissions is-
sued without
designation "For-
eign, &c." and
official acts of
commissioners
holding such
commissions
made valid.

62. SEC. 2. That all commissions issued since said revision to commissioners in any other state, territory or the District of Columbia, without the designation of "Foreign Commissioners of Deeds for New Jersey," and all official acts heretofore performed by persons holding such commissions shall be and are hereby made valid and effectual, the same as if the words "Foreign Commissioners of Deeds for New Jersey" had been inserted in said commissions, and such persons holding said commissions had described themselves in any certificates by such designation.

Official certifi-
cates declared
valid.

63. SEC. 3. That all official certificates made since such revision, or that shall hereafter be made, shall be valid and effectual in law, whether the commissioner shall have described himself or shall describe himself as a commissioner for taking the acknowledgment or proof of deeds for New Jersey in any other state, territory or the District of Columbia, or as "Foreign Commissioner of Deeds for New Jersey," or in any manner that was legal immediately before said revision.

IX. Tenures, exemplifications of ancient records, transferring uses into possession and miscellaneous provisions.

An act for confirming of conveyances of lands made and to be made by wills and powers of attorney, and declaring what exemplifications of records and other things shall be holden and received for good evidence of estates of inheritance, and for transferring of uses into possession.

Passed March 17, 1714.

R. S. 635.

[For preamble and first four sections, see WILLS].

Deeds made by
letters of attor-
ney good.

64. SEC. 5. That all deeds, grants, sales, leases, assurances, or other conveyances whatsoever, heretofore made by virtue of letters of agency, powers of attorney, or other powers or authorities whatsoever, that have been entered on the public books of records of this province, or the public books of records of the eastern or western divisions thereof, whereby any lands, tenements or hereditaments whatsoever, within this province, have been granted, sold, conveyed, assured, released or transferred to any person or persons, pursuant to such powers and authorities whatsoever, shall be, and are hereby declared, as good, valid and sufficient title in the law, to all intents, constructions and purposes whatsoever, unto the said grantees, and to their heirs and assigns, as if the constituent or constituents had then and there sold and conveyed the land or lands, and had executed deeds (according to the true intent and meaning of such grants, deeds or conveyances), which said grants, deeds or conveyances shall be of force against, conclude and bind all and every the constituents, employers, grantors of such powers and authorities, and their and all and every of their heirs, and all and every other person or persons claiming or to claim estate from or under them, or any of them, severally and respectively; and all lands, tenements, or other hereditaments, that, for the time to come, shall be sold, conveyed or disposed of, by virtue of such powers or authorities as aforesaid, such powers shall be first proved and entered

*Lands sold by
letters of attor-
ney, such sales
good.

upon the public records, after which all grants and conveyances made pursuant to the powers thereby granted, shall be deemed, taken and esteemed as good, valid and sufficient titles against all and every the constituents, employers and grantors of such powers and authorities, against all claiming or to claim estate under them severally and respectively aforesaid, as if the constituent or constituents had then and there sold and conveyed the same land or lands.

65. SEC. 6. The exemplification of any deeds or writings relating to estates, real or personal, within this province, proved and certified under the city seal of London or Edinburgh, in the kingdom of Great Britain, or under the seal of the city of Dublin, in the kingdom of Ireland, or under the great seal of any of her majesty's colonies in America, and any of the public books of records or registers of this province, or of either of the divisions thereof, shall be received in evidence in any court of record within this province, and shall be esteemed as sufficient as if the originals were then and there produced and proved.

Exemplification of deeds from Great Britain, etc., and books of record of this province good evidence.

66. SEC. 7. All and every person or persons, to whom the use or uses of any tract or tracts of land within this province have been sold, given, limited, granted, released or conveyed by deed, grant, or any other legal conveyance whatsoever, or that shall hereafter be granted by any deed or conveyance whatsoever, such grantees, their heirs and assigns, shall be deemed, taken and esteemed, to be in as full and ample possession of such lands, tenements and hereditaments, to all intents, constructions and purposes, as if such grantees, their heirs and assigns, were possessed thereof by solemn livery of seizin and possession, any usage or custom to the contrary notwithstanding. (a)

Conveyance of the use of lands transfers possession.

67. SEC. 8. Nothing in this act shall be construed to extend to or make good, valid and effectual, any fraud or forgery, made or used in or about any powers of agency, or letters of attorney, or other deeds, writings, or records, last wills and testaments, or any bargain and sale, or other conveyances of any estate of inheritance, grounded upon such fraudulent or forged powers of agency, or letter of attorney, or other deeds, writings or records, and last wills and testaments.

This act not to make good or valid any fraud or forgery.

An act concerning tenures.

Passed February 18, 1795.

R. S. 671.

68. SEC. 1. It shall for ever hereafter be lawful for every freeholder to give, sell, or alien the lands or tenements whereof he or she is, or at any time hereafter shall be seized in fee simple, or any part thereof, at his or her pleasure, so always that the purchaser shall hold the lands or tenements, so given, sold, or aliened, of the chief lord, if there be any, of the same fee, by the same services and customs, by which the person or persons making such gift, sale, or alienation, before held the same lands or tenement; and if such freeholder give, sell, or alien a part only of such lands or tenements to any, the feoffee or alienee shall immediately hold such part of the chief lord, and shall be forthwith charged with the services for so much as pertains, or ought to pertain, to the said chief lord, for the same parcel, according to the quantity of the land or tenement so given, sold, or aliened; and so, in this case, the same part of the service shall remain to the lord to be taken by the hands of the feoffee or alienee, for which he or she ought to be attended and answerable to the same chief lord, according to the quantity of the land or tenement given, sold or aliened, for the parcel of the service so due.

Freeholders may alien their lands.

If a freeholder alien part only of his lands, the alienee shall hold such part of the chief lord of the fee.

69. SEC. 2. All wardships, liveries, primer seizins, and ousterlemains, values and forfeitures of marriage, by reason of any tenure by knight's service, and all mean rates, and all other gifts, grants, and charges incident or arising for or by reason of wardships, liveries, primer seizins, or ousterlemains, shall be, and hereby are declared to be taken away and discharged, from the twelfth day of March, in the year of our Lord one thousand six hundred and sixty-four; and that all fines for alienations, seizures, and pardons for alienations, tenure by homage, and all charges incident or arising for or by reason of wardship, livery, primer seizin, ousterlemain,

All wardships, liveries, etc., taken away and discharged.

(a) This statute does not affect the estate or interest conveyed, it only annexes the possession to the use, *Montgomery v. Bruere*, 1 South. *282. *Den v. Crawford*, 3 Hal. 107, 118. *Miller v. Halsey*, 2 Gr. 48. *Egbert ads. Chew*, 2 Gr. 447.

Fines for alienations, etc., taken away.

Tenures by knight's service abolished.

All tenures of any estate of inheritance, before July 4, 1776, turned into free and common socage.

Antecedent conveyances to operate in free and common socage.

This act not to take away rents certain or incident to common socage.

Tenure of lands which have been or shall be granted by this state, to be allodial and not feudal.

Grants, etc., good without attornment.

R. S. 639, § 15, 16, 17, 20.

What warranty void against reversioner, etc.

What warranty void against heirs.
Ib.

or tenure by knight's service, escuage, and also relief, and *aid pur file marrier*, and *pur fair fitz chivalier*, and all other charges incident thereunto, shall be, and hereby are likewise declared to be taken away and discharged, from the said twelfth day of March, in the year of our Lord one thousand six hundred and sixty-four; and that all tenures by knight's service and by knight's service *in capite*, and by socage *in capite*, and the fruits and consequents thereof happened, or which shall or may hereafter happen, or arise thereupon or thereby, shall be, and hereby are declared to be taken away, discharged and forever abolished.

70. SEC. 3. All tenures of any honors, manors, lands, tenements, or hereditaments, or of any estate of inheritance at the common law, held either of the king, or of any other person or persons, bodies politic or corporate, at any time before the fourth day of July, in the year of our Lord one thousand seven hundred and seventy-six, are hereby declared to be turned into free and common socage, to all intents and purposes, and shall be construed, adjudged, and deemed to be free and common socage from the time of the creation thereof, and forever thereafter; and that the same honors, manors, lands, tenements, and hereditaments, shall forever hereafter stand and be discharged of all tenure by homage, escuage, voyages royal, and charges for the same, wardship incident to tenure by knight's service, and values and forfeitures of marriage, and all other charges incident to tenure by knight's service, and of and from relief, *aid pur file marrier* and *aid pur fair fitz chivalier*.

71. SEC. 4. All conveyances and devises of any manors, lands, tenements, or hereditaments, at any time heretofore made, shall be expounded to be of such effect, as if the same manors, lands, tenements, or hereditaments had been then held and continued to be holden, in free and common socage only.

72. SEC. 5. *Provided*, this act, or any thing herein contained, shall not take away, nor be construed to take away or discharge, any rents certain, or other services incident or belonging to tenure in common socage, due, or to grow due to this state, or any mean lord, or other private person, or the fealty or distresses incident thereunto.

73. SEC. 6. The tenure upon all gifts, grants, or conveyances, heretofore made or hereafter to be made, of any manors, lands, tenements, or hereditaments, of any estate of inheritance, by any letters patent under the great seal of this state, or in any other manner by this state, or the legislature thereof, or by the commissioners or agents of forfeited estates, or other lawful and competent authority under this state, or the legislature thereof, shall be and remain allodial, and not feudal; and shall forever hereafter be taken and adjudged to be and continue in free and pure allodium only, and shall be forever discharged of all wardship, value and forfeiture of marriage, livery, primer seizin, ousterlemain, relief, *aid pur file marrier*, *aid pur fair fitz chivalier*, rents, renders, fealty, and all other services whatsoever.

74. Every grant or conveyance of messuages, lands, tenements and hereditaments, or of rent, or of the reversion or remainder of messuages, lands, tenements and hereditaments shall be good and effectual without attornment of the tenant; but no tenant, who, before notice of such grant or conveyance shall have paid the rent to the grantor, shall be prejudiced or suffer any damage by such payment.(a)

75. A warranty made by a tenant for life of lands, tenements or hereditaments, which shall descend or come to any person in reversion or remainder, shall be inoperative and void.(b)

76. A collateral warranty, which shall be made of lands, tenements or hereditaments, by an ancestor, who at the time of making it, hath no estate of inheritance in possession therein, shall be inoperative and void against his heirs.(c)

(a) After the landlord conveys his reversionary interest by an absolute deed, he cannot show by parol, to the prejudice of the tenant, that such conveyance was intended only as a mortgage, *Abbott v. Hanson*, 4 Zab. 496. A tenant under a lease made prior to the mortgage may be sued or distrained upon by the mortgagee for rent after notice not to pay it to the landlord, *Southern v. Vansickle*, 3 Hal. 313; reversed in error, *Hal. Dig.* 860, § 10. See *Sanderson v. Price*, 1 Zab. 646. Where the lease is made subsequent to the mortgage the

mortgagee is not entitled to the rents, *Price v. Smith*, 1 Gr. Ch. 516. While the assignment of rent is valid without the attornment of the tenant, it cannot be apportioned among different persons without his consent, *Ryerson v. Quackenbush*, 2 Dutch. 237. See *Farley v. Craig*, 6 Hal. 263.

(b) See *Den v. Robinson*, 2 South. *707.
(c) For effect of a collateral warranty, see *Den v. Crawford*, 3 Hal. 90.

77. Whenever lands, tenements or hereditaments, lying and being in this state, are or shall be sold and conveyed, and a mortgage is given by the purchaser or purchasers at the same time, on the land sold, to secure the payment of the purchase money or any part thereof, such mortgage shall be preferred to any previous judgment which may have been obtained against such purchaser or purchasers.(a)

Effect of mortgage to secure purchase money. *Ib.*

An act respecting joint tenants and tenants in common.

Passed February 4, 1812.

R. S. 650.

78. SEC. 1. No estate after the passing of this act, shall in this state be considered and adjudged to be an estate in joint tenancy, except it be expressly set forth in the grant or devise creating such estate, that it is the intention of the parties to create an estate in joint tenancy and not an estate of tenancy in common, any law, usage or decision heretofore made to the contrary notwithstanding.(b)

How joint tenancy created.

An act enabling grantees of reversions and lessees mutually to avail themselves of covenants and conditions.

Passed November 10, 1797.

R. S. 648.

79. SEC. 1. All persons, and bodies politic and corporate, being grantees or assignees of any lands, tenements or hereditaments, let to lease, or of the reversions thereof from any person or persons, and the heirs, executors, administrators, successors and assigns, of such grantees or assignees, shall have and enjoy the like advantages against the lessees, their executors, administrators and assigns, by entry for non-payment of rent, or for waste or other forfeitures; and also shall have and enjoy all the covenants, conditions and agreements, contained in the indentures of their said leases, demises or grants, against the said lessees, their executors, administrators and assigns, as the said lessors themselves, or their heirs, ought or might have had or enjoyed at any time or times.

Grantees of lands or of reversions to enjoy the same benefits as the original lessors.

80. SEC. 2. All lessees of any lands, tenements or hereditaments, for a term of years, life or lives, their executors, administrators and assigns, shall have the like action and advantage against all persons, and bodies politic and corporate, their heirs, successors and assigns, who have or shall have any gift or grant of the reversion of the said lands, tenements or hereditaments so let, or any part thereof, for any condition, covenant or agreement, contained in the indentures of their lease or leases, as the same lessees, or any of them, ought or might have had against the said lessors and their heirs, all benefit and advantage of recoveries in value, by reason of any warranty in deed or in law, only excepted.(c)

Lessees of lands to have the same advantages against the grantees of reversions as against the original lessors.

An act to abolish fines and common recoveries.

Passed June 12, 1799.

R. S. 999.

81. SEC. 1. No fine or common recovery, to be entered, made, had, or suffered in any court of record of this state, shall operate or be construed to be a conveyance or assurance of lands, tenements, or hereditaments, or in any way to bar the issue in tail, or the reversioner or remainderman of their lawful claims and entries, any usage or custom to the contrary in any wise notwithstanding.(d)

Fines and common recoveries abolished.

An act to authorize the transfer of estates in expectancy.

Approved March 14, 1851.

P. L. 1851, p. 282.

82. SEC. 1. From and after the passing of this act, any person may devise, or may convey, assign or charge, by any deed, any such contingent

Transfers of estates in expectancy authorized.

(a) A purchase money mortgage has preference over lien claims for work and materials put upon the property by contract with the purchaser between the time of sale and the conveyance, *Strong v. Van Deursen*, 8 C. E. Gr. 369; although such work be done and materials furnished before the mortgage is recorded, *Huber v. Diebold*, 10 C. E. Gr. 171; or the property be conveyed to a third person before the conveyance is executed to the first purchaser, *Macintosh v. Thurston*, 10 C. E. Gr. 242. A purchase money mortgage is entitled to priority over the widow's right of dower, *Griggs v. Smith*, 7 Hal. 22; but if given by one defendant in execution to his co-defendant it does not affect the title of the purchaser under the judgment against them, *Simmons v. Vandegrift*, Sax. 55.

(b) An estate of freehold in joint tenancy created before

the passage of this act, is not affected by it, *Den, Berdan v. Van Riper*, 1 Harr. 7. A conveyance to two persons without the words "to be held as joint tenants and not as tenants in common," creates a tenancy in common, *Boston Franklinite Co. v. Condit*, 4 C. E. Gr. 394. The right of survivorship to an estate conveyed to a husband and wife is not affected by this act. *Thomas v. DeBauw*, 1 McCurt. 37. *McDermott v. French*, 2 McCurt. 79. This act does not apply to trustees, see *post*, TRUSTEES, § 1.

(c) See 4 Grif. Reg. 1308, note, *Field v. Mills*, 4 Vr. 257, *et seq.* The assignee of a lease will not be aided in enforcing his performance where his assignor has failed to perform his part and the assignee has notice of such failure, *Suffern v. Butler*, 4 C. E. Gr. 202.

(d) See *Richman v. Lippincott*, 5 Dutch. 44.

Proviso.

or executory interest, right of entry for condition broken, or other future estate or interest in expectancy, as he may now or shall hereafter be entitled to, or presumptively entitled to, in any lands, tenements, or hereditaments, or any part of such right, estate, or interest, respectively, although the contingency on which such right, estate, or interest are to vest may not have happened; and every person to whom any such interest, right or estate shall be devised, conveyed, or assigned, his heirs and assigns, shall, on the happening of such contingency, be entitled to stand in the place of the person by whom the same shall be devised, conveyed, or assigned, his heirs or assigns, and to have the same interest, right, or estate, or such part thereof, as shall be devised, conveyed, or assigned to him, and the same actions, suits and remedies therefor as the person originally entitled thereto, or his heirs would then have been entitled to, if no conveyance, devise, assignment, or other disposition thereof had been made; *provided*, that no person shall be empowered by this act to dispose of any expectancy which he may have as heir of a living person, or any contingent estate or expectancy where the contingency is as to the person in whom, or in whose heirs, the same may vest, nor any estate, right, or interest to which he may become entitled under any deed to be thereafter executed, or under the will of any living person; *and provided also*, that no *chose in action* shall by this act be made assignable at law, and that nothing in this act contained shall render any contingent estate, or other estate or expectancy, therein mentioned, liable to be levied upon and sold by virtue of any execution.(a)

An act for the relief of persons who have lost their deeds and other instruments of writing containing the title of their lands.

R. S. 655.

Passed October 3, 1782.

Mode of application to the supreme court where conveyances have been lost.

83. SEC. 1. Every person who has lost, or may hereafter lose his deeds, or other instruments of writing, containing the title of his lands, by the devastation of the enemy, or other unavoidable accident, and shall be desirous of having the said land assured to him, in manner hereinafter directed in this act, shall make out, or cause to be made out, an exact survey of the lands or premises, the title deeds or conveyances for which may have been lost as aforesaid, containing the courses, distances and boundaries thereof, or an attested copy of the original survey and boundaries, extracted out of the public records, and shall produce the same to the supreme court of this state, having previously advertised the purport of his application, for at least three months(b) in one of the public newspapers of this state, and also, for the same time, in at least three of the most public places in the county where the lands or premises, the title or conveyance of which may have been lost as aforesaid, are situated, and shall, by evidence, prove to the satisfaction of the court, or in case of the death of the witnesses, or their having joined the enemy, and that no other evidence can be procured on oath or affirmation before the said court, declare, that he or his ancestors were possessed of a legal conveyance therefor duly executed, and that the same was lost or destroyed by the enemy, or by other unavoidable accident, together with the time and manner of the loss or destruction of the same, and that the evidences or witnesses to the said deeds or conveyances are dead, or have joined the enemy, or cannot be procured, to the best of his knowledge and belief; and shall also prove by the testimony of one or more credible witnesses, that he, the said applicant, had peaceable possession of the said lands and premises, previous to the time when the deeds or conveyances for the same, are alleged to have been lost or destroyed; *provided always*, that if, through the obstinacy of any person claiming or possessing lands adjoining to the premises of the persons claiming the benefit of this act, it shall be found impracticable to obtain an exact survey, containing the courses, boundaries and distances to be presented to the court as aforesaid, it shall be sufficient to produce the exact boundaries only, attested by proper evidence, or authenticated on the oath or affirmation of the applicant.

Proviso.

(a) Previous to the passage of this act a contingent estate or right of entry for condition broken was not devisable, *Southard v. Central R. R. Co.*, 2 *Dutch*. 13. The will must have been executed after the act went into effect, *Cornelius v. Ivins*, 2 *Dutch*. 376. Whether a deed of release will trans-

fer a mere contingent remainder, see *Ackerman v. Vreeland*, 1 *McCart*. 23.

(b) Means lunar months, *Ellis' Case*, 3 *Hal*. 232. See post, STATUTES, § 10.

84. SEC. 2. The said court shall, thereupon, cause proclamation to be made in open court, for two terms successively, of the purport of the application so made as aforesaid, that if any person or persons have any objection, or can show any cause why the said survey and testimony, produced as aforesaid, should not be recorded, or why the request of the said applicant should not be granted, such person or persons may appear and support the same, at least within the third term after application has been made as aforesaid.

Proclamation to be made for two terms of such application.

85. SEC. 3. The said court shall, and they are hereby authorized and required, if no sufficient objection appear, and if the survey so produced, and the evidence and testimony so given, shall, in the judgment of the said court, be sufficient to entitle the applicant to the relief intended to be given by this act, to give judgment accordingly, and thereupon to order the said survey and testimony to be filed and entered in the minutes of the said court, a copy of which minutes, signed by the clerk of the said court, and under the seal of the same, shall be good and available in law, to assure the lands and premises so surveyed and entered, and to vest the same in the said applicant, as fully, amply and effectually, to all intents and purposes whatsoever, as he was, or would have been vested with the same, in virtue of any conveyance, lost or destroyed in manner aforesaid, which said minutes may, at any time after the same is obtained by the applicant, be entered on the public records of this state.

Survey and testimony to be filed and entered, which shall have the effect of a deed.

86. SEC. 4. The chief justice, or either of the justices of the supreme court, shall be and hereby is authorized and required, on application to him made for that purpose, to issue a writ of subpœna, to compel the attendance of witnesses, to prove the facts set forth by any person applying for the relief intended by this act, in like manner as in other cases in the usual course of law.

Judges may issue writs of subpœna for witnesses.

Coroners.

1. Coroners elected.
2. Oath of office.
3. Power to take inquests.
4. When justice of the peace may act.
5. Duty when informed of death.
6. Coroner's certificate. To be filed.
7. Where murder, &c., suspected. Precept for jury.
8. Precept to be executed by constable.
9. Penalty on constable or juror.
10. Jury to be sworn. Form.
11. Charged to inquire, &c.
12. Process for witnesses. Oath.
13. Inquisitions returned.
14. Further duties of coroner. May issue warrant for arrest of criminal.
15. May direct post mortem examination.
16. Where bodies thrown upon shores from shipwreck.
17. Commissioner of wrecks may act in absence of coroner.
18. Fees to persons giving notice.
19. Grave clothes to be provided.
20. Clothing sold and residue of proceeds paid to state treasurer.
21. Relations may take body.
22. Penalty for neglect of duty.
23. Inquisitions need not be indented.
24. Single coroner may return writs.
25. Body found in one county brought into another.
26. Fees.
27. Bill of costs to be taxed by county clerk.
28. Bill of costs, how paid.
29. Justice of supreme court may authorize chemical analysis.

R. S. 845.

P. L. 1855, p. 286.
 " 1856, p. 228.
 " 1861, p. 226.
 " 1868, p. 488.
 " 1871, p. 32.
 " 1873, p. 27.

An act respecting coroners.

Revision—Approved March 27, 1874.

1. That there shall be elected annually, in every county in this state, three coroners, who shall be inhabitants and freeholders(1) of the said county.
2. That every person who shall be elected to the office of coroner, shall, before he enters upon the execution of his office, take the following oath or affirmation, to wit: I _____ one of the coroners of the county of _____ do solemnly swear (or affirm) that I will well and truly serve the state of New Jersey in the office of coroner of the said county; that I will, to the utmost of my power, faithfully and truly execute, or cause to be executed, all writs and precepts to me directed and which shall come

Coroners elected.

Oath of office.

(1) See act of Feb. 28, 1851, (P. L. 1851, p. 93).