

Proviso.

providing, that such official shall not use such moneys so deposited with him for his own benefit or profit while in his care.

Repealer.

40. SEC. 3. That all acts and parts of acts inconsistent with this act shall be and are hereby repealed, and that this act shall take effect immediately.

An act for the purchase and preservation of the public newspapers printed in the several counties of this state.

P. L. 1848, p. 221.

Clerks, when authorized to subscribe for newspapers to be filed.

Approved March 9, 1848.

41. SEC. 1. That the clerks of the several counties of this state be, and they are hereby authorized and required to subscribe for such newspapers, at least one, and not exceeding two, printed and published in each of the counties in which they officiate, as the boards of chosen freeholders in said counties may determine, and file the same in their respective offices, causing them to be bound from time to time in a substantial manner, in volumes of convenient size for the use of the inhabitants of the county, who shall have access to them, free from all charge or expense, during office hours.

42. SEC. 2. That such papers, and the binding thereof, shall be paid for by the respective boards of chosen freeholders out of the county treasury, upon the order of the clerk of the county; and the said boards of chosen freeholders are hereby authorized and required to pay all orders drawn as aforesaid by the said clerks for the papers, and binding thereof, aforesaid.

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Papers and binding thereof to be paid for by board of chosen freeholders.

Collusive Judgments, &c.

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| 1. Reversioner may defend against tenant for life or years. | 7. What alienations, &c., of dower void. |
| 2. Not prejudiced by default of tenant. | 8. What, if made with subsequent husband. |
| 3. Right of entry after disseizor's death. | 9. Of recovery with assent of heir, &c. |
| 4. Widow's right, when not barred. | 10. Alienation by tenant by the curtesy. |
| 5. When <i>feme covert</i> may defend alone. | 11. When nonage not to delay suit. |
| 6. Wife not prejudiced by husband's conveyance. | 12. Writ of error, restitution, &c. |

An act granting relief, in certain cases, against collusive judgments and wrongful alienations of lands.

R. S. 631.

Passed March 2, 1798.

Reversioner may defend against tenant for life or years.

1. That if tenant in dower, tenant by the curtesy, or other tenant for term of life or lives, is or shall be impleaded, the person to whom the reversion or remainder belongs may come into court at any time before judgment, and be admitted to defend his or her right.

Reversioner not to be prejudiced by certain acts of tenant.

2. That if tenant in dower, tenant by the curtesy, or other tenant for term of life or lives, shall, when impleaded, make default or give up the tenements demanded, or if judgment be given on such default or surrender, then the person to whom the reversion or remainder belongs, after the death of such tenant, shall in no wise be prejudiced or injured by such default, surrender or judgment.

The dying seized of the disseizor shall not take away the right of entry, unless he has had peaceable possession for five years.

3. That the dying seized of any disseizor of or in any lands, tenements or hereditaments, having no right or title therein, shall not be such descent in law to the heir of the disseizor as to take away the entry of the person who, at the time of such descent, had lawful title of entry, except such disseizor hath had peaceable possession for the space of five years next after the disseizin committed, without entry by or continual claim of such as have lawful title.

Widow not barred of her right of entry into her land lost by default of her husband.

4. And whereas, when a husband doth lose the lands of his wife by default, it is unreasonable that the wife, after the death of her husband, should have no recovery but by writ of right; *be it therefore enacted*, that a woman, after the death of her husband, shall not be injured by such default; but shall, notwithstanding, retain her right of entry, and prosecute the same by writ of entry, or any other action, real or mixed, that may be adapted to the case; and if in such action the tenant object to her claim or demand, that he entered into the land by judgment, and it be

found that such entry was by judgment upon default of her husband, then, if required, he shall answer thereto, and in such answer show his right to the said land in the same manner as in the writ which he first took out against the husband and wife, and if he verify such right, then she shall gain nothing by her writ, otherwise she shall recover.

5. That if in any suit against the husband and wife, for lands of the wife, the husband absent himself, or will not defend his wife's right, or against the wife's consent will render the said lands, then the wife may come at any time before judgment and defend her right, without her husband.

Feme covert may defend her right without her husband.

6. That no feoffment, fine, or other act or acts, which shall be made, suffered or done by the husband only, of any lands, tenements or hereditaments, being the inheritance or freehold of his wife, during the coverture between them, shall work any discontinuance thereof, or prejudice or affect the said wife or her heirs, or such as shall, by her death, have right, title or interest to the same; but the said wife, or her heirs, or such other person to whom such right shall appertain after her decease, may, after the death of the said husband, lawfully enter into such lands, tenements and hereditaments, and hold and enjoy the same according to his, her or their rights and titles therein, any such feoffment, fine or other act or acts to the contrary notwithstanding.

Conveyance by a husband alone, of his wife's lands, not to prejudice her or her heirs.

7. That if any woman, who hath or shall have an estate in dower, or for term of life, jointly with her husband, or only to herself, or to her use, in lands, tenements or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for term of life by any ancestor of the husband, or by any other person, seized to the use of the husband or of his ancestors, shall, when sole, discontinue or alien the same, with or without warranty, or shall suffer any recovery thereof by covin against her, them or any of them, or any other seized to their use, or to the use of any of them as aforesaid, then all such discontinuances, alienations and recoveries shall be utterly void and of no effect; and it shall be lawful for the person to whom, after the decease of such women, the interest, title or inheritance of the said lands, tenements or hereditaments, do or shall belong, immediately after such discontinuance, alienation or recovery, to enter upon, possess and enjoy the said lands, tenements or hereditaments, according to such title and interest, as the said person should have had in the same if such woman had been dead, and no discontinuance, alienation or recovery had been made or suffered.

Alienations by a woman, when sole, of her dower or estate for life in lands of her husband, and recoveries of the same by covin, to be void.

8. That if any woman, who hath or shall have an estate in dower, or for term of life jointly with her husband, or only to herself, or to her use, in lands, tenements or hereditaments, of the inheritance or purchase of her husband, or given to the husband and wife for life by any ancestor of the husband, or by any other person, seized to the use of the husband or of his ancestors, shall, with any after-taken husband, make or suffer any such discontinuance, alienation or recovery as is mentioned in the preceding section, then it shall be lawful for the person to whom, after the decease of the said woman, the said lands, tenements or hereditaments do or shall belong, to enter immediately after such discontinuance, alienation or recovery, into the said lands, tenements or hereditaments, and them to possess and enjoy during the life of such husband, according to such title and interest as the said person should have had in the same if such woman had been dead, and no discontinuance, alienation or recovery had been made or suffered; but in such case the said woman may, if she survive such after-taken husband, enter into, possess and enjoy the said lands, tenements or hereditaments, according to her first estate in the same.

If a woman with any subsequent husband make such alienation or recovery, then the person to whom the inheritance belongs may immediately enter.

9. *Provided, always,* that this act shall not extend to any recovery or discontinuance which shall be suffered or made with the heirs next inheritable to the said woman, or where the person or persons who next after her death should have an estate of inheritance in the said lands, tenements or hereditaments, shall assent or agree to the said recovery, if such assent or agreement be of record; *and provided, also,* that it shall be lawful for every such woman, being sole or married, after the death of her first hus-

But the woman, if she survive, may re-enter.

This act not to extend to any recovery with the assent of the heir or reversioner.

Conveyances made by such woman for the term of her life, good.

Alienation by tenant by the curtesy not to bar the issue of the inheritance of their mother.

In such case non-age not to delay suits brought by the woman or her heirs.

The reversioner or remainderman may have writ of error on judgment against tenant for life in dower or by curtesy.

But if the first judgment was by covin, restitution shall be made to the plaintiff in error.

band, to give, sell or make discontinuance of such lands, tenements or hereditaments, for term of her life only, after the course of the common law.

10. That if a man shall alien any lands or tenements which he may hold by the curtesy, neither his children nor the issue of his children shall be barred, by his deed, from recovering the same of the seizin of their mother, although in such deed of their father there be a clause that he and his heirs are bound to warranty; and in like manner the heirs of the wife shall not, after the death of their father and mother, be barred, by the deed of their father, from recovering the inheritance of their mother, which he aliened in her lifetime.

11. That the suit of the woman, or his heirs, after the death of her husband, for lands or tenements aliened by the husband, shall not be delayed by the nonage of the heir or heirs, who ought to warrant.

12. That if tenant for term of life, or in dower, or by the curtesy, be impleaded, and judgment given against him or her for the lands or tenements, then the person or persons to whom the reversion or remainder of the same belongs at the time of such judgment, his, her or their heirs or successors, may have writ of error, if error be found in the record of such judgment, as well in the lifetime of the said tenant as after his or her death; and if such judgment be reversed, the tenant, if living, shall be restored to his or her possession of the said lands or tenements, and the party prosecuting such writ of error to the arrearages of rent for the same; and if such tenant be dead at the time of the judgment given on such writ of error, then restitution of the said lands or tenements shall be made to the party prosecuting the said writ, together with the arrearages of rent; *provided, always,* that if the party prosecuting the said writ of error allege that the judgment first obtained against such tenant was by covin or assent, then restitution shall be made to the party prosecuting the said writ, with arrearages, although the said tenant be living; but in such case the said tenant may have a scire facias against the party plaintiff in error, if he will deny and traverse the covin or assent aforesaid, and not otherwise.

Constables.

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| 1. Bond to be given. Form of. Condition. | 11. Vacancy in office of constable, how filled. |
| 2. Clerk to give certified copy of to applicant. | 12. Election of constables in certain cities. |
| 3. Where bond prosecuted. Damages assessed. | 13. Repealer. |
| 4. When by jury. | 14. Term of office. |
| 5. Proceedings in suit on bond. | 15. Vacancies, how filled. |
| 6. Prosecutor to give bond, if required. | 16. Bonds to be renewed annually. |
| 7. Relief of surety when constable absconds, &c. | 17. Term of office in certain municipalities. |
| 8. Court authorizing suits brought—how to be proceeded in. | 18. Repealer. |
| 9. On death of constables, how business settled. | 19. Number of constables in certain townships. |
| 10. Moneys received, how applied. | 20. Term of office. |

Rev. 644, 656.

P. L. 1840, p. 33.
" 1844, p. 252.

R. S. 850.

Bond to be given.

An act respecting constables.

Approved April 16, 1846.

1. That every person who shall be elected or appointed to the office of constable, in any of the townships of this state, shall, before he enters upon the execution of his office, repair to the township committee, and thereupon enter into a bond to the inhabitants of the township, in their corporate name and capacity, with one or more sureties, to be approved of by the said committee (a) in such sum as the said committee shall direct, conditioned for the true and faithful performance of all the duties of his said office as constable, in the following or like form:

Know all men by these presents, that we, A. B., C. D. and E. F., all of the township of _____, in the county of _____, in the state of New Jersey, are held and firmly bound unto the inhabitants of the township of

Form.

(a) A *mandamus* will not lie commanding the township committee to accept a bond otherwise valid, when there is a doubt

as to the legal election of the constable. *Prickett's Case, Spen.* 134.