

which the several townships were respectively entitled to elect, shall hereafter elect such number.

Term of office.

20. Sec. 2. That the constables in the townships herein embraced shall be elected at the regular annual township elections, and for terms of three years; that in townships entitled to two constables, one shall be elected in the year one thousand eight hundred and eighty-five and one in the year one thousand eight hundred and eighty-six; that in townships entitled to three constables, one shall be elected each year; that in townships entitled to four constables, two shall be elected in one thousand eight hundred and eighty-five, one in one thousand eight hundred and eighty-six, and one in one thousand eight hundred and eighty-seven; that in townships entitled to five constables, two shall be elected in one thousand eight hundred and eighty-five, two in one thousand eight hundred and eighty-six, and one in one thousand eight hundred and eighty-seven; that in townships entitled to six constables, two shall be elected each year; and that in each succeeding year as many constables shall be elected as there shall be constables in said township whose terms shall in that year expire.

## Conveyances.

### I. ANCIENT CONVEYANCES.

1. Books of record for ancient deeds to be provided. Affidavits of claimants to be made. Originals to be filed and numbered.
2. Clerk's compensation.
3. Deeds recorded for thirty years, followed by use, may be read in evidence though acknowledgment irregular.

### II. ACKNOWLEDGMENTS AND PROOFS TAKEN WITHIN THIS STATE.

4. Conveyance, how acknowledged or proved. Who may take acknowledgment or proof.
5. Judges of common pleas may take acknowledgment in any county.
6. Amended by section 100.

### III. ACKNOWLEDGMENTS AND PROOFS TAKEN OUT OF THE STATE, AND IN SOME OTHER STATE OR TERRITORY.

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

### IV. ACKNOWLEDGMENTS TAKEN OUT OF THE UNITED STATES.

8. Amended by section 88.

### V. ACKNOWLEDGMENTS BY MARRIED WOMEN.

9. Acknowledgment by *feme covert* on private examination.
10. General provisions of act extended to acknowledgments of *femes covert*.
11. *Feme covert* may convey by letter of attorney.
12. Provisions of sections 16 and 17 extended to letters of attorney mentioned in section 11.

### VI. WHAT INSTRUMENTS MAY BE RECORDED; MODE OF RECORDING AND EFFECT.

13. Deeds to be recorded must be acknowledged or proved.
14. Unless recorded, void against subsequent judgment creditors, purchasers, &c., not having notice thereof.
15. Record of deeds not recorded in ten years from date shall not be evidence. Deed to be filed.
16. Letters of attorney for sale of lands may be proved and acknowledged and shall be evidence.
17. Amended by section 98.
18. A conveyance or lease of railroad or canal constructed in more than one county, how acknowledged, where recorded.
19. Certain leases may be recorded.

20. How sold under judgment.
21. Assignment of lease may be recorded.
22. Assigned by way of mortgage.
23. Agreements for sale of lands may be recorded.
24. Fees of clerks.
25. Clerks to provide books.
26. Clerks to record deeds.
27. Shall give receipt and certify on deed when received and where recorded.
28. Penalty for neglect.
29. Record and transcript evidence.
30. Record not to be removed from county.
31. Original deed must be produced at trial on notice, or its loss or destruction shown.
32. Deeds recorded in order as received.
33. General index to books of records to be made.
34. All future deeds to be indexed.
35. Revenue stamps to be denoted on record.
36. Record of stamps *prima facie* evidence.

### VII. COMMISSIONERS FOR TAKING ACKNOWLEDGMENTS.

37. Commissioners of deeds to be appointed for the several counties.
38. Acknowledgments before commissioners to have same effect as if made before a justice of the supreme court.
39. Amended by sections 95 and 97.
40. Term, when to begin. Official oath.
41. Amended by section 83.
42. Term of office.
43. Fee for commission.
44. List of commissioners to be filed by county clerks.
45. Foreign commissioners to have official seal.
46. Fees of foreign commissioners.
47. Parts of this act to be sent to foreign commissioners.
48. Commissioners to take oath.
49. Commissioners may administer oaths and affidavits.

### VIII. CERTAIN ACKNOWLEDGMENTS VALIDATED.

50. Acknowledgments by non-residents in the district of officer taking same made valid.
51. Same as to proof of deeds.
52. Registry of such deeds made valid.
53. Record of such deeds made evidence.
54. Acknowledgments and proofs heretofore taken before officers authorized by other states to take acknowledgments made valid.
55. Acknowledgments heretofore taken before a consul of the United States made valid.
56. Valid, though commissioner not sworn before clerk of county.
57. Amended by sections 78 and 105.

IX. SUPPLEMENTS.

58. Foreign commissioners for Pennsylvania and New York may reside in this state.
59. Acknowledgments may be taken by commissioner out of county for which appointed.
60. Foreign commissioners, how commissioned.
61. Commissions issued without designation "foreign," and official acts of commissioners holding such commissions, made valid.
62. Official certificates made valid.
63. Before what officers in another state or territory acknowledgments and proofs may be made.
64. Repealer.
65. Releases of lands from liens of mortgages or judgments to be recorded.
66. To be indexed, and copies to be evidence.
67. Effect of not recording release.
68. Certain deeds executed with scroll of same force as if sealed with wax.
69. All such deeds held valid.
70. Conveyance of lands to be void against judgment creditors, &c., unless recorded within a certain time.
71. Effect of not recording within a certain time.
72. Certain informal writings declaring uses or trusts may be recorded.
73. Such writings to be acknowledged or proved.
74. What writings may be recorded though not acknowledged or proved.
75. Record and certified copies evidence.
76. Certain conveyances made under letter of attorney executed by married women, valid.
77. Provisions of act extended.
78. Amended by section 105.
79. Defective foreign acknowledgments validated.
80. Foreign commissioners of deeds may be of either sex.
81. Acknowledgments heretofore taken by commissioners whose term of office has expired, valid.
82. County clerk may take acknowledgments.
83. Foreign commissioners, how appointed.
84. Deed for land lying in more than one county, where recorded.
85. Acknowledgments taken by commissioners after removal from ward, valid.
86. Consular agents of the United States may take acknowledgments.
87. Surrogates may take acknowledgments.
88. Acknowledgment or proof of deeds by party residing or being in a foreign state or kingdom, when valid.
89. Register of deeds may take acknowledgments.
90. Deeds not recorded for ten years, copy shall be evidence.
91. Proof of acknowledgment of consent for sale by executors, &c., received in evidence.
92. Acknowledgment of deeds made out of state validated where certificate of officer defective.
93. Vacancies in office of commissioner of deeds filled by governor.
94. Repealer.
95. Amended by section 97.
96. Acknowledgment of deeds made out of state validated where certificate of officer defective.
97. Term of office of commissioners of deeds.
98. Powers of attorney may be recorded.
99. Master in chancery may take acknowledgment or proof of deeds in any foreign kingdom, state, &c.
100. If witness be dead, insane or resident out of United States, proof may be made before circuit court.
101. Acknowledgments and proofs of deeds made by foreign commissioners validated.
102. Exemplified copy of record of deed, &c., affecting title to land in this state, recorded for more than twenty years in another state, may be recorded.
103. Acknowledgment or proof thereof shall be held good and sufficient in law.
104. Deputy surrogate may take acknowledgments.
105. Acknowledgments and proofs of deeds held to be good after lapse of ten years.
106. Deputy county clerk may take acknowledgments.
107. Females may be appointed commissioners of deeds.
108. Acknowledgments heretofore taken out of the state irregularly, validated.

X. MISCELLANEOUS ACTS.

109. Grants or conveyances of lands, &c., good without attornment.
110. What warranty void against reversioner, &c.
111. What warranty void against heirs.
112. Effect of mortgage to secure purchase-money.
113. What a sufficient execution of will in time past.
114. What a sufficient execution of will in future.
115. Foreign wills, certified, evidence.
116. So, if made in colonies.
117. Deeds made by letters of attorney, good. Sales of land by letters of attorney, good.
118. Exemplification of deeds from Great Britain, &c., and books of record of this province good evidence.
119. Conveyance of the use of land transfers possession.
120. This act not to make good or valid any fraud or forgery.
121. Amended by section 125.
122. Amended by section 126.
123. Where conveyances have been lost, survey and testimony to be filed and entered, which shall have effect of a deed.
124. Judges may issue writs of subpoena for witnesses.
125. Mode of application to supreme court when conveyances have been lost.
126. Proclamation to be made of such application.
127. Repealer.
128. Freeholders may alien their lands.
129. All wardships, liveries, &c., taken away and discharged. Fines for alienation taken away. Tenures by knight service abolished.
130. All tenures of any estate of inheritance before July 4th, 1776, turned into free and common socage.
131. Antecedent conveyances and devises of land to operate in free and common socage.
132. This act not to take away rents certain or incident to common socage.
133. Tenure of lands which have been, or shall be, granted by this state to be allodial and not feudal.
134. How joint tenancy created.
135. Grantees of lands or reversions to enjoy the same benefits as the original lessors.
136. Lessees of lands to have the same advantages against the grantees of reversion as against the original lessors.
137. Fines and common recoveries abolished.
138. Transfers of estates in expectancy authorized.
139. Certain deeds of trust of personal property to be recorded.
140. Who may take acknowledgments of such deeds.
141. Record of such deeds evidence.
142. Fees for recording, &c.
143. Record of deed notice of execution, though not recorded within fifteen days.
144. Record of deed heretofore made notice of execution, though not recorded within fifteen days.
145. Deed void in certain cases until recorded.
146. Repealer.
147. Defective execution by attorney not to affect title.
148. Certain defective conveyances not void.
149. Defective acknowledgments in corporation deeds validated.
150. Analytical or combination index to be made of deeds, &c.
151. Fee for each name indexed.
152. Repealer.
153. Every instrument heretofore made with scroll affixed validated.
154. Scroll or device by way of seal authorized in all writings wherein a seal has been deemed necessary.
155. Repealer.
156. Appointment of commissioners of land records in certain counties.
157. To have access to records.
158. To cause map of county to be prepared.
159. Map to be divided into land sections.
160. Nominal indexes to be continued.
161. Amended by section 179.
162. Each block or parcel of land to be separately numbered with block number, &c.
163. How indexes made.
164. All instruments in writing affecting land to be indexed.
165. Register or clerk liable for damage for failure to index.
166. Instruments presented for record or registry to be indorsed, &c.
167. Instruments entered in local index to be indorsed, &c.

## CONVEYANCES.

168. How record noted for ready reference.  
 169. When new blocks created, to be numbered and map filed.  
 170. Commissioners shall establish sub-indexes.  
 171. How erroneous entry in index noted.  
 172. Fees for record or registry.  
 173. Commissioners to provide for preparation of maps and indexes.  
 174. How courts to construe act.  
 175. When maps and indexes to be completed.  
 176. Repealer.  
 177. Commissioners of land records may establish indexes.  
 178. No map to be filed unless block boundaries and designations are shown.  
 179. Commissioners to prepare indexes on system known as local indexing by blocks.  
 180. Impaired maps may be copied, &c.  
 181. Mutilated or worn-out records to be re-recorded, &c.  
 182. Alphabetical index to daily entry of deeds and mortgages to be kept.  
 183. Fee for keeping index.  
 184. Repealer.
185. Amended by section 191.  
 186. Contracts for conditional sale of goods to be recorded.  
 187. No contract to be recorded unless execution thereof acknowledged.  
 188. How such instruments to be recorded.  
 189. How indexed.  
 190. Contract recorded valid against creditors, &c.  
 191. Conditional contracts of sale, accompanied by delivery with reservation of ownership in vendor, void against judgment creditors unless recorded.  
 192. Conveyances of land heretofore made by virtue of powers of attorney, &c., validated.  
 193. Certain acknowledgments or proofs taken before foreign commissioners validated.  
 194. Recital in deed duly recorded, of letter of attorney, *prima facie* proof of existence thereof.  
 195. Number of commissioners of deeds in second-class cities.  
 196. Repealer.  
 197. Deeds not to be recorded unless duly certified, &c.  
 198. Repealer.

R. S. 635, 639, 643,  
650, 655, 671, 854.

P. L. 1843, 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, 253.  
 " 1864, p. 752.  
 " 1866, p. 343.  
 " 1867, p. 87,  
 420.  
 " 1868, p. 158.  
 " 1869, p. 816,  
 859.  
 " 1870, p. 11,  
 39.  
 " 1871, p. 33.  
 " 1872, p. 93,  
 96, 98.

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.

## I. Ancient conveyances.

## An act respecting conveyances.

Revision—Approved March 27, 1874.

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. 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 correspond-

ing 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)

**II. Acknowledgments and proofs taken within this state.**

4. That if any deed or conveyance (b) 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, (c) 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, (d) 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. [Amended by Sec. 100, *post.*]

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

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

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

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(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*, *Spn.* 81. An ancient deed, fifty years old, is proof of a boundary. *Thomson 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.* 655. 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.

(b) 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*, *Spn.* 291. An assignment for the benefit of creditors need not be acknowledged. *Scull v. Reeves*, 2 *Gr. Ch.* 84.

(c) 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 no 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. *Homeopathic Mutual Life Ins. Co. v. Marshall*, 5 *Stew.* 108.

(d) 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. The proof is to be made by one or more of the subscribing witnesses. *Coe v. New Jersey Midland Ry. Co.*, 4 *Stew.* 157. The deed of a corporation aggregate may be acknowledged by the representative of the corporation having authority to execute the deed on its behalf. *Hopper v. Lovejoy*, 2 *Dick.* 573.

Before what  
officers.  
P. L. 1870, p. 11.

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<sup>(a)</sup> 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. [See Sec. 63, *post*.]

#### IV. Acknowledgments taken out of the United States.

8. [Amended by Sec. 88, *post*.]

#### 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, 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; *(b)* 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. *(c)*

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.

<sup>(a)</sup> An acknowledgment before a justice of the peace in another state is bad. *Chandler v. Herrick*, 3 Stock. 498. *Earle v. Earle*, 1 Har. 274.

<sup>(b)</sup> 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*, Case 242. *Sheppard v. Wardell*, Case 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*, Sec 4, note *(c)*. The deed must be executed jointly with the husband, and cannot be executed without his consent. *Den, Camp v. Quinby*, Pen. \*985. *Bake v. Lawshe*, 4 Zab. 613, 2 Dutch. 574. *Perrine v. Perrine*, 3 Stock. 143. *Dodge v. Ayerliff*, 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. *Cutter v. Tuttle*, 4 C. E. Gr. 560. *Perkins v. Elliott*, 7 C. E. Gr. 127. See *Pentz v. Simonsen*, 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. An officer in taking the acknowledgment of a married woman to a deed or mortgage, acts judicially. *Homeopathic Mutual Life Ins. Co. v. Marshall*, 5 Stew. 103. In the absence of fraud or duress, the evidence of parties to the instrument is not admissible to contradict his official certificate and destroy the title of a bona fide grantee or mortgagee. *Ib*. Where a mortgage is given to secure the debt of a married woman, contracted for the benefit of her separate estate, it would, without any acknowledgment whatever, be held to be a charge thereon and enforceable in equity. *Ib*.

<sup>(c)</sup> An acknowledgment by a married infant is void. *Porch v. Fries*, 3 C. E. Gr. 204. *Ross v. Adams*, 4 Dutch. 161, 1 Vt. 508. But it 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. \*463 *(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.

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; (a) 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. (b)

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 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; (c) provided, nevertheless,

Unless recorded, void against subsequent judgment creditor, purchaser or mortgagee not having notice thereof.

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(a) 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 *Har.* 274. *S. C.*, *Spen.* 348. *Kearney v. Maccomb*, 1 *C. E. Gr.* 189.

(b) 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, Watling v. Roberts*, 1 *South.* \*316 (a).

(c) 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. Barkley*, 3 *Dutch.* 357. *Lewis v. Hall*, 3 *Hal. Ch.* 107. *Breeman v. Elmendorf*, 3 *Hal. Ch.* 475. *Blair v. Ward*, 2 *Stock.* 119. *Holmes v. Stout*, 2 *Stock.* 419. *Vyeeland v. Claiborn*, 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 inclosed and occupied only a small part of the tract claimed, will not constitute such possession. *Den, Saxton v. Hunt, Spen.* 487. Nor paying taxes for and surveying the land. *Cornelius v. Giberson*, 1 *Dutch.* 1. Nor pasturing cattle upon the land. *Coleman v. Barkley*, 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 posses-

sion. 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. *Nicholls 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. Marcellis*, *See.* 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. *Melton 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, § 57. 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.* 388. *Nicholls 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

that such deed or conveyance shall, as between the parties and their heirs, be valid and operative. (a) [See Secs. 143-146, *post.*]

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.

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.

**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 herein-after 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. [See Sec. 90, *post.*]

**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. [See Sec. 77, *post.*]

**17.** [Amended by Sec. 98, *post.*]

**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,

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.* A deed recorded after fifteen days is notice to purchasers, mortgagees and judgment creditors subsequent to such record. *Sawborn and Stryker v. Adair, 2 Stew. 338.* A deed not recorded in fifteen days is void as to a subsequent deed for a valuable consideration without notice, and cannot regain its priority by being placed on record before such subsequent deed is recorded. *Ib.* Such subsequent deed cannot lose its priority over the earlier deeds by not being put on record, but is, in its turn, if not recorded in fifteen days, subject to be postponed to a later deed taken without notice for valuable consideration. *Ib.* Without proof of notice, either actual or constructive, an unregistered title is void and of no effect against a subsequent judgment creditor of its grantor. *Hodge's Exrs. v. Amerman, 13 Stew. 99.* The burden of proving notice in such a case rests on the holder of the unregistered title. *Ib.* Constructive notice

of an unregistered title is just as effectual as actual notice. *Ib.* Deeds sent to a county clerk to be recorded, but which are not accompanied with his fees for recording them, are not, it seems, "lodged" with him, within the meaning of this section, so as to be notice to a subsequent *bona fide* creditor of the vendor. *Dickerson v. Bowers, 15 Stew. 295.* If a creditor's attorney have actual notice of a conveyance of his debtor's land, he is as much debarred from claiming relief as a *bona fide* creditor without notice thereof, as if he had had such actual notice himself, although he denies notice in his answer under oath. *Ib.* This section, requiring deeds or conveyances of lands to be recorded, does not apply to leases for years. *Hutchinson v. Bramhall, 15 Stew. 372, reversing Deane v. Hutchinson, 13 Stew. 83.* Provisions of section do not include resulting trusts or other purely equitable rights or liens. *Haring v. First National Bank, 7 Dick. 708.* The registry act does not apply to leases. The first in date stands first in right. *Hodge v. Giese, 15 Stew. 345.*

(a) *Den v. Ritchman, 1 Gr. 43; affirmed in error, Hal. Dig. 352, § 57.*

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.

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. (a)

Certain leases may be recorded. P. L. 1872, p. 93, § 1.

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. Ib., § 3, amended.

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. Ib., § 4, amended.

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. Ib., § 5.

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. Ib., § 6, amended.

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. Ib., § 7.

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; (b) 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. (c)

Clerk to provide books. R. S. 639.

Altered.

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.

To record deeds. Ib.

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 instru-

Shall give receipt and certify on deed when received and where recorded. Ib.

(a) See *Hutchinson v. Bramhall*, 15 *Stew.* 384, 385. *Hodge v. Giese*, 16 *Stew.* 348.

(b) As to the other instruments within the contemplation of the revisors, see *Hutchinson v. Bramhall*, 15 *Stew.* 386.

(c) 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 *Pr.* 280. County clerks are not entitled to demand fees for searches not made by them or their assistants. *Lum v. McCarty*, 10 *Pr.* 287.

ment 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 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. (b)

Deeds recorded in the order as received.  
R. S. 639.

If received together, according to dates.

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

**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

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

(b) 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. 406.

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.

**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. [See Sec. 93, *post.*]

Commissioners of deeds to be appointed for the several counties.  
R. S. 854.

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 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. 59, *post.*]

Effect of acknowledgments made before a commissioner of deeds.  
P. L. 1873, p. 73.

**39.** [Amended by Secs. 95 and 97, *post.*]

**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

Term of office, when to begin.  
P. L. 1869, p. 359.

- Official oath. 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.
- Term of office. **41.** [Amended by Sec. 83, *post.*]  
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, *post.*]
- Fee for commission. **43.** That every person applying for the appointment of commissioner, shall inclose 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.  
Ib.
- List of commissioners to be filed by county clerks. **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.  
Ib.
- Foreign commissioners to have official seal. **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 indorsed 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.  
P. L. 1862, p. 17.  
Impression thereof to be sent to secretary of state.
- Fees of foreign commissioners. **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.  
Ib.
- Parts of this act to be sent to foreign commissioners. **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 inclose 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.  
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.  
R. S. 854.
- Commissioner to take oath.

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 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.

Acknowledgments by non-residents in the district of officer taking same, made valid.  
P. L. 1858, p. 31.

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.

Same as to proofs of deeds.  
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.

Registry of such deeds made valid.  
Ib.

Record of such deeds made evidence.  
Ib.

Acknowledgments and proofs heretofore taken before officers authorized by other states to take acknowledgments, made valid.

P. L. 1859, p. 15.

Amended.

Proviso.

P. L. 1867, p. 87.

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

Valid, though commissioner not sworn before clerk.

**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.

**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 subdivision 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.

**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.

**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.

**57.** [Amended by Secs. 78 and 105, *post.*]

## IX. Supplements.

### Supplement.

Approved March 9, 1875.

P. L. 1875, p. 21.

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

**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.

Supplement.

Approved April 9, 1875.

P. L. 1875, p. 84.

59. 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 acknowledgment 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.

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

Proviso.

Supplement.

Approved April 9, 1875.

P. L. 1875, p. 93.

60. 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."

Foreign commissioners, how commissioned.

61. 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.

Commissions issued without designation "foreign," &c., and official acts of commissioners holding such commissions made valid.

62. 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.

Official certificates declared valid.

Supplement.

Approved April 4, 1876.

P. L. 1876, p. 71.

63. SEC. 1. That every acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, heretofore or hereafter made by any grantor or witness thereto, before or by any officer in some other state in the Union or territory thereof, authorized at the time of such proof or acknowledgment, by the laws of the state or territory wherein such proof or acknowledgment shall be or shall have been made or taken, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements or hereditaments lying and being in such state or territory, shall be as good, valid and effectual in law, and the record thereof as admissible in evidence, fully and completely, as if such proof or acknowledgment had been made or taken by or before an officer authorized by the laws of this state to take the same; *provided*, that such acknowledgment or proof and the certificate thereof shall in all other respects conform to the laws of this state, and that each certificate thereof shall be accompanied by a certificate under the great seal of the state or territory, or under the seal of some court of record of the county in which it was or shall be made, that the officer before whom such proof or acknowledgment was or shall be made was, at the time of the taking of such proof or acknowledgment, authorized by the laws of such state or

Before what officers in another state or territory acknowledgments and proofs may be made.

How certified.

## CONVEYANCES.

territory to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in such state or territory, which said last-named certificate shall have been or be recorded with such deed or conveyance. (a)

Repealer.

**64. SEC. 2.** That the act entitled "A supplement to the act entitled 'An act respecting conveyances,'" approved March twenty-seventh, one thousand eight hundred and seventy-four, which supplement was approved March twenty-fourth, eighteen hundred and seventy-five, be and the same is hereby repealed.

## Supplement.

Approved February 25, 1880.

P. L. 1880, p. 53.

Releases of lands from liens of mortgages or judgments to be recorded.

**65. SEC. 1.** That the clerks or registers of the several counties of this state be and they are hereby authorized and required to record, in suitable books to be provided for that purpose, any release, or deed intended to operate as a release, in which release or deed the intention to operate as a release shall be plainly manifest, of any lands from the lien and effect of any mortgage or judgment incumbrance thereon, the same having thereon such certificate of the acknowledgment or of the proof of execution thereof, as is or may be by law required for recording of deeds, which certificate shall be recorded therewith; and such recording shall be notice from the time such release, or deed intended to operate as a release, is left for that purpose, to all persons concerned, that said lands have been released from said mortgage or judgment incumbrance.

Recording to be notice of release.

Releases to be indexed and copies to be evidence.

**66. SEC. 2.** That such releases, and deeds intended to operate as releases, shall be properly indexed, in suitable indexes to be provided for that purpose, and the records and certified copies thereof shall be evidence, in the same manner and in like cases as the record of deeds; and the clerk or register shall be entitled to the same fees for recording such releases, and deeds intended to operate as releases, and for copying such records, as for recording and copying deeds, and for every search, five cents for each book.

Fees for recording, &c.

Effect of not recording release.

**67. SEC. 3.** That when any such release, or deed intended to operate as a release, made and executed after this act shall take effect, is not recorded, or when in such release or deed the intention to operate as a release shall not be plainly manifest, as in this act provided, any payment made, in good faith and without actual notice of such release or deed, to the holder of any mortgage or judgment, from the lien and effect of which any lands may be thereby released, and any assignment of such mortgage or judgment, or of any interest therein, to any person not having actual notice of such release or deed, shall be as valid and effectual as if said release or deed had not been made; and any lands released from the lien and effect of any mortgage or judgment by any such release or deed not recorded, shall be bound by any proceedings and sale under and by virtue of such mortgage or judgment, as if the said lands had not been released from the lien and effect thereof. (b)

## Supplement.

Approved March 10, 1880.

P. L. 1880, p. 154.

Certain instruments of writing heretofore executed with scroll of same force as if sealed with wax.

**68. SEC. 1.** That every instrument of writing heretofore made purporting to convey any interest in lands, tenements, hereditaments or real estate, either absolutely or by way of trust or mortgage, to which the grantor, bargainor or feoffor shall have affixed a scroll or ink or other device by way of a seal, shall be taken and adjudged to be of the same force and effect as if it had been actually sealed with wax. [See Sec. 153, *post*.]

All such instruments held valid.

**69. SEC. 2.** That all instruments of writing answering the description contained in the first section of this act, executed and delivered since the sixth day of April, one thousand eight hundred and seventy-five, shall be held to be as good and valid to all intents and purposes, in all courts and

(a) As to what proof held sufficient to admit a mortgage to be recorded under the provisions of this act. *Baldwin v. Howell*, 18 Stew. 522.

(b) This section has no application to a mortgage to which

the obligor and mortgagor has a valid defense, and does not have the effect of giving the assignee of such mortgage the position of a purchaser, for value, of lands. *Magie v. Reynolds*, 6 Dick. 113.

places, as if they had been sealed with wax, and no title depending on or purporting to be conveyed or transferred by any such instrument shall be impeached or questioned for lack of a wax seal; *provided*, that all the other requirements of the law respecting conveyances have been complied with. [See Sec. 154, *post.*]

Proviso.

Supplement.

Approved March 12, 1880.

P. L. 1880, p. 257.

**70. SEC. 1.** That every deed or conveyance of lands, tenements or hereditaments, lying and being in this state, to any purchaser of the same, which shall be made and executed on or after the fourth day of July, in the year of our Lord one thousand eight hundred and eighty, 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 acknowledged or proved and recorded, or lodged for that purpose with the clerk of the court of common pleas, but in counties where there is a register of deeds and mortgages, with the register of deeds and mortgages 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; *provided, nevertheless*, that such deed or conveyance shall, as between the parties and their heirs, be valid and operative. [See Secs. 143-146, *post.*]

Conveyance of lands to be void against judgment creditors, &c., unless conveyances shall be recorded within a certain time.

Proviso.

**71. SEC. 2.** That when any deed or conveyance hereafter recorded shall not be recorded, as above provided, within fifteen days after the time of signing, sealing and delivering the same, such deed or conveyance shall not operate against any bona fide purchaser for a valuable consideration, not having notice thereof, whose deed or conveyance for the same lands, tenements and hereditaments shall be previously recorded or lodged for that purpose with the clerk of the court of common pleas, but in counties where there is a register of deeds and mortgages, with the register of deeds and mortgages of the county in which such lands, tenements and hereditaments are situated.

Effect of not recording deed within fifteen days.

Supplement.

Approved March 25, 1881.

P. L. 1881, p. 279.

WHEREAS, Writings declaring or directing uses or trusts of real estate are often too informal to be recorded by authority of the present recording laws; for remedy whereof,

Preamble.

**72. SEC. 1.** That all writings heretofore made, or hereafter to be made, to declare or to direct any use or trust of real estate, or which, though made or to be made for some other purpose, are yet, by the terms of any recordable deed, or will which refers to such writing, made to operate as such a declaration or direction, may be recorded in the same manner as deeds are recorded in the office of the clerk of the county in which such real estate is situate; *provided*, that such writing shall be recorded in the office of the register of deeds instead of in the office of the clerk of the county, when both offices exist in the county in which such real estate is situate.

Certain informal writings declaring uses or trusts may be recorded.

Proviso.

**73. SEC. 2.** That every such writing, before being recorded, shall be proved by the subscribing witness thereto, or acknowledged by the grantor thereof, in like manner as deeds of conveyance of real estate are now required to be acknowledged or proved except as provided in the next section.

Such writings to be proved or acknowledged as deeds.

**74. SEC. 3.** That when any such writing derives its force as such a declaration or direction from any recordable deed or will which refers to such writing, and such deed or will has been or shall have been duly acknowledged or proved and recorded, and such writing is not susceptible of being proved or acknowledged as required in section two of this act, then such writing, so operating as such a declaration or direction, may be recorded as aforesaid, notwithstanding the same may not be proved or acknowledged; *provided*, that in such case satisfactory proof shall be made before the circuit court of the county in which the real estate is situate, to be evidenced by the certificate of the presiding judge of said court indorsed upon the said

What writings may be recorded though not acknowledged or proved.

Proviso.

writing, over his signature, that the writing so offered to be recorded is the identical writing so referred to in such recorded deed or will; and ten days' notice of the application to said court shall be given, by publication in a newspaper published in the county where the land is situate, or when no newspaper is published in such county, then the notice shall be published in a newspaper circulating in such county.

Record and copies  
to be evidence.

**75. SEC. 4.** That the record of such writings, with such certificate thereon, and certified copies of such records shall be evidence in the same manner and in like cases as the records of deeds.

Supplement.

Approved March 9, 1882.

P. L. 1882, p. 81.

Certain conveyances made under letter of attorney executed by married woman, valid.

Proviso.

Provisions of act extended to letter of attorney.

**76. SEC. 1.** That any conveyance heretofore 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; *provided*, that said letter of attorney shall be acknowledged and such acknowledgment certified in the manner prescribed for the acknowledgment of deeds of conveyance of lands, tenements or hereditaments by the act to which this is a supplement or by the supplements thereto.

**77. SEC. 2.** That the provisions of the supplement to the act respecting conveyances, which supplement was approved March first, one thousand eight hundred and forty-nine, shall extend to said letters of attorney so made. [See Sec. 16, *ante*.]

Supplement.

Approved March 23, 1883.

P. L. 1883, p. 209.

**78. SEC. 1.** [This section, amending Sec. 57, *ante*, is amended by Sec. 105, *post*.]

Supplement.

Approved March 27, 1884.

P. L. 1884, p. 104.

Certain acknowledgments made in another state or territory, accompanied by a defective certificate, validated.

Proviso.

**79. SEC. 1.** That every acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments lying and being in this state, heretofore made by any grantor or witness thereto, before or by any officers in some other state in the Union or territory thereof, authorized at the time of such proof or acknowledgment, by the laws of the state or territory wherein such proof or acknowledgment was made or taken, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements or hereditaments lying or being in such state or territory, shall be good, valid and effectual in law, and the record thereof admissible in evidence and good, valid and effectual in law for all purposes, notwithstanding the certificate accompanying such acknowledgment or proof, under the great seal of such state or territory, or under the seal of a court of record of the county in which it was made, does not certify that the officer before whom such proof or acknowledgment was made was, at the time of the taking thereof, authorized by the laws of such state or territory to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in such state or territory; *provided*, such certificate and such acknowledgment or proof, and the certificate thereof, in all other respects conforms to the laws of this state.

Supplement.

Approved April 16, 1884.

P. L. 1884, p. 188.

Power of appointment of foreign commissioners of deeds not limited to persons of male sex.

**80. SEC. 1.** That the power vested by said act (to which this is a supplement) in the governor of this state, by and with the advice and consent of the senate, to name, appoint and commission "foreign commissioners of deeds for New Jersey," shall not be limited to the appointment of persons of the male sex, but such appointments may be of persons of either sex;

and all words in said act, or any supplement thereto, referring to said commissioners as of the masculine gender, shall be understood to include and shall be applied to females as well as males. [See Sec. 83, *post.*]

Supplement.

Passed February 17, 1885. P. L. 1885, p. 35.  
Preamble.

WHEREAS, Commissioners of deeds in and for this state in some instances have, through inadvertence or mistake, continued to take acknowledgments and proofs of deeds, mortgages and other writings after their term of office had expired, or after their commissions had become void by reason of removal out of the township, ward or district in which they resided at the time of their appointment, and innocent persons may be subjected to loss or injury thereby; therefore,

81. SEC. 1. That all acknowledgments and proofs of deeds, mortgages and other writings and the certificates thereof, heretofore taken or made before or by any commissioner of deeds in and for this state whose term of office had expired, or whose office had been vacated, or whose commission had become void at the time of taking such acknowledgment or proof, and the records of such deeds, mortgages and other writings are hereby confirmed and made valid and legal and effectual to the extent that the same would have been valid, legal and effectual if the term of office of the commissioner taking such acknowledgment or proof had not expired, nor his office been vacated, nor his commission become void as aforesaid. (1)

Acknowledgments heretofore taken by commissioners whose term of office has expired, valid.

Supplement. (2)

Approved March 25, 1885. P. L. 1885, p. 171.

82. SEC. 1. That hereafter the clerk of the court of common pleas in every county of this state be and he is hereby authorized during his continuance in office to perform all the duties and exercise all the powers belonging to the office of commissioner for taking the acknowledgment and proofs of deeds; and each clerk aforesaid upon taking any acknowledgment or proof by virtue of the powers conferred by this act shall affix to his signature the words "county clerk."

County clerk vested with powers of commissioners of deeds.

Amendatory act.

Approved April 1, 1885. P. L. 1885, p. 186.

83. SEC. 1. That section forty-one of an act entitled "An act respecting conveyances" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, be and the same is hereby amended to read as follows:

[That the governor of this state be and he hereby is authorized to 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 a 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 to be 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 the law required, shall have the same force and effect and

Commissioners of deeds for other states, how appointed.

Authority of.

(1) See similar acts. P. L. 1877, p. 110; 1878, p. 56; 1879, p. 320; 1882, p. 66; 1883, p. 126; 1888, p. 191; 1889, p. 365; 1890, p. 418; 1891, p. 67; 1891, p. 473; 1893, p. 351.

(2) See act to authorize records of deeds in Bergen county to be transcribed into the records of Hudson county in certain cases, approved March 23th, 1878. P. L. 1878, p. 61. Also an act for the transcribing of certain deeds, &c., relating to lands now in the county of Passaic, approved February 27th, 1873 (P. L. 1873, p. 237), and supplement approved April 9th, 1875. P. L. 1875, p. 682. Also act to authorize the transcript of certain deeds, &c., in the county of Union, approved March 27th, 1874. P. L. 1874, p. 723.

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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.]

## Supplement.

Approved April 10, 1885.

P. L. 1885, p. 234.

Deed for land lying in more than one county, where recorded.

**84. SEC. 1.** That whenever lands lie partly in one county and partly in one or more other counties, and a deed or conveyance of such lands shall have been recorded in one of such counties, it shall and may be lawful to record in any or all of the other said counties in which such lands lie as aforesaid, a certified copy of the record of such deed over the hand and official seal of the officer of such county authorized to record deeds, where the same is recorded, and the record of such certified copy shall be made in the same manner and shall be valid and effectual in law as if the original deed was then and there recorded in the stead of such certified copy; *provided*, that the certificate of the officer making such certified copy shall be recorded with the same; *and provided further*, that this act shall not affect the rights of any person or persons which may have been acquired before the recording of any such deed or certified copy thereof in any of said counties.

Proviso.

Proviso.

## Supplement.

Approved April 20, 1885.

P. L. 1885, p. 274.

Acknowledgments taken by commissioner after removal from ward, valid.

**85. SEC. 1.** That any acknowledgment taken before any person during the term for which such person was appointed a commissioner of deeds, after his removal from the ward for which he was appointed a commissioner of deeds, into some other ward in the same city, shall be held to be as valid and effectual as if taken while said commissioner resided in the ward for which he was appointed.

## Supplement.

Approved April 23, 1886.

P. L. 1886, p. 319.

Acknowledgments heretofore or hereafter made before consular agents of the United States declared valid.

**86. SEC. 1.** That the acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, heretofore made or that hereafter shall be made before any consular agent of the United States in any foreign kingdom, state, nation or colony in which the said party acknowledging or witness proving the said deed or conveyance happen to be, certified by such consular agent in the manner such acts are usually authenticated by him, shall be as good and effectual as if such acknowledgment or proof had been made in this state before, and certified by one of the justices of the supreme court of this state.

Surrogates to exercise powers of commissioners of deeds.

**87. SEC. 2.** That hereafter the surrogate in every county of this state be and he is hereby authorized, during his continuance in office, to perform all the duties and exercise all the powers belonging to the office of commissioner for taking the acknowledgment and proof of deeds; and each surrogate aforesaid, upon taking any acknowledgment or proof by virtue of the powers conferred by this act, shall affix to his signature the word "surrogate."

## Amendatory act.

Approved April 2, 1888.

P. L. 1888, p. 354.

**88. SEC. 1.** That section eight of an act entitled "An act respecting conveyances" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, be and the same is hereby amended so as to read as follows:

Acknowledgment or proof by party residing or being in foreign state or kingdom, when valid.

[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'affaires or other representative of the United States for the time

being, at any foreign court or government, or before any court of law, or any notary public 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.]

Supplement.

Approved April 4, 1889. P. L. 1889, p. 171.

89. SEC. 1. That hereafter the register of deeds in every county in this state be and he is hereby authorized during his continuance in office to perform all the duties and exercise all the powers belonging to the office of commissioner for taking the acknowledgment and proof of deeds, and each register of deeds aforesaid, upon taking any acknowledgment or proof by virtue of the powers conferred by this act, shall affix to his signature the words "register of deeds."

Register of deeds authorized to take acknowledgments of deeds.

Supplement.

Approved June 9, 1890. P. L. 1890, p. 417.

90. SEC. 1. That when any deed or conveyance, heretofore or hereafter recorded in any office in this state, shall not have been recorded within ten years after date thereof, such record or any copy thereof duly certified shall be evidence in any court or proceeding, and shall have the same force and effect as if the original deed were produced; *provided*, that such original deed has been destroyed or lost, or taken out of the office of the clerk, where by law the same was required to be kept. [See Sec. 15, *ante*.]

Deeds not recorded for ten years, copy shall be evidence.

Proviso.

Supplement.

Approved June 13, 1890. P. L. 1890, p. 455.

91. SEC. 1. That where any executor, administrator with the will annexed or trustee is required to obtain the written consent of any person or persons to the execution by such executor, administrator with the will annexed or trustee, of a power for the sale, conveyance, acquittance or release of any lands, tenements or hereditaments in this state, such consent, if the making and execution thereof be acknowledged or proved, and such acknowledgment or proof be certified in the manner prescribed for the acknowledgment and proof of deeds of conveyance of lands, tenements and hereditaments, 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 consent, being so acknowledged or proved and certified, shall and may be recorded in the same manner as deeds of conveyance of lands, and the record of any such consent 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 consent were then and there produced and proved.

Proof of acknowledgment of consent for sale by executors, &c., received in evidence.

Consent to be recorded.

Supplement.

Approved June 20, 1890. P. L. 1890, p. 496.

92. SEC. 1. That every acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments lying and being in this state, heretofore made by any grantor or witness thereto, before or by any officers in some other state in the Union or territory thereof, authorized at the time of such proof or acknowledgment, by the laws of the state or territory wherein such proof or acknowledgment was made or taken, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements or hereditaments lying or being in such state or territory, shall be good, valid and effectual in law, and the record thereof admissible in evidence

Acknowledgment of deeds made out of state validated where certificate of officer defective.

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and good, valid and effectual in law for all purposes, notwithstanding the certificate accompanying such acknowledgment or proof, under the great seal of such state or territory, or under the seal of a court of record of the county in which it was made, does not certify that the officer before whom such proof or acknowledgment was made was, at the time of the taking thereof, authorized by the laws of such state or territory to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in such state or territory; *provided*, such certificate, and such acknowledgment or proof, and the certificate thereof, in all other respects conforms to the laws of this state. [See Sec. 96, *post.*]

Proviso.

## Supplement.

P. L. 1891, p. 23.

When governor authorized to fill vacancies in office of commissioner of deeds.

Approved February 16, 1891.

93. SEC. 1. That whenever any vacancy or vacancies shall occur in the office of commissioners of deeds appointed under section thirty-seven of the act to which this is a supplement, whether by expiration of time or failure of a joint meeting of the senate and general assembly to appoint proper and fit persons for each of the counties of this state as such commissioners of deeds, or by death, resignation or otherwise, or where under any act of the legislature additional commissioners of deeds are to be appointed and by reason of the failure to hold a joint meeting such appointments have not been made, the governor of the state is hereby authorized to appoint such additional commissioners of deeds where failure has been made to make such appointment by reason of no joint meeting of the senate and general assembly, and is also authorized to fill vacancies in such office, arising as hereinbefore set forth, who shall hold office until their successors shall be appointed by a joint meeting of the senate and general assembly.

Repealer.

94. SEC. 2. That all acts or parts of acts inconsistent herewith be and the same are hereby repealed, and this act shall take effect immediately.

## Supplement.

P. L. 1891, p. 305.

Approved April 2, 1891.

95. SEC. 1. [This section, amending Sec. 39, *ante*, is amended by Sec. 97, *post.*]

## Supplement.

P. L. 1891, p. 493.

Acknowledgments of deeds made out of state validated where certificate of officer defective.

Approved April 17, 1891.

96. SEC. 1. That every acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments lying and being in this state, heretofore made by any grantor or witness thereto, before or by any officers in some other state in the Union or territory thereof, authorized at the time of such proof or acknowledgment by the laws of the state or territory wherein such proof or acknowledgment was made or taken, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements or hereditaments lying or being in such state or territory, shall be good, valid and effectual in law, and the record thereof admissible in evidence and good, valid and effectual in law for all purposes, notwithstanding the certificate accompanying such acknowledgment or proof, under the great seal of such state or territory, or under the seal of a court of record of the county in which it was made, does not certify that the officer before whom such proof or acknowledgment was made was, at the time of the taking thereof, authorized by the laws of such state or territory, to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in such state or territory; *provided*, such certificate, and such acknowledgment or proof, and the certificate thereof, in all other respects conforms to the laws of this state.

Proviso.

Supplement.

Approved March 17, 1892. P. L. 1892, p. 132.

**97. SEC. 1.** That the thirty-ninth section [see Secs. 39 and 95, *ante*] of the act to which this is a supplement be and the same is hereby amended so as to read as follows :

[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 six for each township in said county that has been divided into election districts, or of townships having a population of twenty-five hundred, and three for each of the other townships, and a like number as last aforesaid for each of the wards of the different incorporated cities, boroughs and towns of this state, whenever any such city, borough or town is divided into wards ; and fifteen for each aldermanic district or ward of any city, whenever any such city is divided into aldermanic districts or wards any of which contain a population equal to the population of the least of any of the assembly districts situated wholly within the limits of said city ; *provided*, that the whole number of commissioners shall not, at any time, exceed three for each ward, or exceed fifteen for each aldermanic district.] [See Sec. 195, *post*.]

Commissioners of deeds to hold office for five years.

May be removed.

May take fees.

Number of commissioners in townships and wards.

Proviso.

Amendatory act.

Approved February 20, 1893 P. L. 1893, p. 23.

**98. SEC. 1.** That section seventeen of the act to which this is amendatory be and the same is hereby amended to read as follows :

[That all such powers of attorney, being so acknowledged or proved and certified, shall and may be recorded with the clerks or registers of the several counties of this state, in suitable books to be provided for that purpose ; and that the record of any such letters 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.]

Powers of attorney may be recorded with clerks or registers.

Transcript thereof duly certified shall be evidence.

Supplement.

Approved March 14, 1893. P. L. 1893, p. 269.

**99. SEC. 1.** That the acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments, lying and being in this state, heretofore made or that hereafter shall be made before any master in chancery of this state in any foreign kingdom, state, nation or colony in which said party acknowledging or witness proving the said deed or conveyance happen to be, in the manner such acknowledgment or proof of deeds is now taken by a master in chancery in this state, shall be as good and effectual as if such acknowledgment or proof had been made in this state before and certified by one of the justices of the supreme court of this state.

Any master in chancery authorized to take acknowledgment or proof of deeds in any foreign kingdom, state, &c.

## Supplement.

Approved March 17, 1893.

P. L. 1893, p. 426.

**100. SEC. 1.** That the sixth section of the act to which is this a supplement be amended to read as follows :

If witness be dead, insane or resident out of United States, proof may be before circuit court.

P. L. 1850, p. 273, amended.

Deed shall be recorded.

Proviso.

Notice of application to be given.

Proviso.

Deed to be put on file.

Certified copies may be recorded in other counties.

[That if the grantor, or any of the grantors, 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, (a) 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, or if there be no witnesses to said deed, by proving the handwriting of such grantor or grantors, to the full satisfaction of said court, which proof may be made by affidavits in writing taken before any officer in this state authorized by law to take the acknowledgment and proof of deeds, and annexed to the said deed, and 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 record thereof, when acknowledged or proved by the grantor 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 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 situated, at least two calendar months before making such application, and also by a publication 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 by affidavit annexed to said deed, if 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.]

## Supplement.

Approved March 17, 1893.

P. L. 1873, p. 431.

Preamble.

WHEREAS, Foreign commissioners of deeds from New Jersey in some instances have, through inadvertence or mistake, taken acknowledgments and proofs of deeds, mortgages and other writings after they were appointed and commissioned by the governor and before their official oaths and seals were filed in the office of the secretary of state of New Jersey, and innocent persons may be subjected to loss or injury thereby ; therefore,

(a) Deed admitted in evidence, on proof of handwriting of the grantor and of the subscribing witnesses, one of them being dead, and the other out of the state. (1813). Pen. \*1022. See

*Servis v. Nelson*, 1 *McCurt.* 94. *Coe v. Midland Railway Co.*, 4 *Stew.* 158.

**101. SEC. 1.** That all acknowledgments and proofs of deeds, mortgages and other writings, and the certificates thereof, heretofore taken or made before or by any foreign commissioner of deeds for New Jersey who was appointed and commissioned by the governor, and before whose official oath and seal were filed in the office of the secretary of state of New Jersey, the records of such deeds, mortgages and other writings are hereby confirmed and made valid and legal and effectual to the extent that the same would have been valid, legal and effectual if the said official oath and seal had been filed in the office of the secretary of state of New Jersey.

Acknowledgments and proofs of deeds made by foreign commissioners validated.

Supplement.

Approved April 4, 1894.

P. L. 1894, p. 33.

**102. SEC. 1.** That when any deed of conveyance, declaration of trust, marriage settlement, or other instrument in writing affecting or concerning the title to lands, shall have been recorded for more than twenty years in the public records of any state of the United States, or of any county thereof, and any person shall desire to have the same recorded in this state, for the purpose of making title to any lands or real estate in this state, or of manifesting such title, it shall be lawful for the clerk of the court of common pleas in any county of this state, or for the register of deeds and mortgages in counties having such register, upon an exemplified copy of the record of such deed of conveyance, declaration of trust, marriage settlement, or other instrument in writing, and of the acknowledgment or proof thereof, being filed in the office of such clerk or register, exemplified and attested as a true copy in the manner required by the laws of the state in which the same shall have been theretofore recorded, thereupon to record the said copy, together with the exemplification thereof, in the records of deeds of conveyance in the office of such clerk or register, and the record thereof shall have the same effect, and a certified copy thereof shall be admitted and received in evidence in the same manner as if the original deed of conveyance, declaration of trust, marriage settlement or other instrument in writing had been recorded instead of such exemplified copy; *provided, however,* that nothing herein contained shall impair the rights of any person or persons acquired in good faith before the recording of such deed of conveyance, declaration of trust, marriage settlement, or other instrument in writing, in this state as aforesaid.

Exemplified copy of record of deed, &c., affecting title to land in this state, recorded for more than twenty years in another state, may be recorded.

Record shall be admitted in evidence.

Proviso.

**103. SEC. 2.** That the acknowledgment or proof of any such deed of conveyance, declaration of trust, marriage settlement, or other instrument in writing, having been recorded in any other state, or in any county thereof, for more than twenty years, shall, notwithstanding any errors or imperfections in said acknowledgment or proof, and notwithstanding the same may not conform in all respects with the requirements of the laws of this state, be taken and held to be good and sufficient in law.

Acknowledgment or proof thereof shall be held good and sufficient in law.

Supplement.

Approved April 24, 1894.

P. L. 1894, p. 117.

**104. SEC. 1.** That hereafter the deputy surrogate in any county of this state be and he hereby is authorized, during his continuance in office, to perform all the duties and exercise all the powers belonging to the office of commissioner for taking the acknowledgment and proofs of deeds; and which deputy surrogate, upon taking any acknowledgment and proof by virtue of the powers conferred by this act, shall affix to his signature the words "deputy surrogate."

Deputy surrogate authorized to take acknowledgment of deeds, &c.

Supplement.

Approved February 18, 1895.

P. L. 1895, p. 84.

**105. SEC. 1.** That the fifty-seventh section [see Secs. 57 and 78, *ante*] of the act entitled "An act respecting conveyances" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, shall hereafter read as follows:

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

Proviso.

Act applies to deeds of married women.

[That all acknowledgments or proofs of deeds heretofore made or taken, or hereafter to be made or taken, after the lapse of ten years from the date of such acknowledgment or proof, notwithstanding any errors or imperfections in said acknowledgments 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, and that this act shall be construed to apply to deeds executed by married women, and such deeds shall be sufficient to convey their estates in the lands described therein, whether the execution of the same shall have been acknowledged by such married women or their execution thereof proved by the oath of a subscribing witness thereto.]

#### Supplement

Approved February 19, 1895.

P. L. 1895, p. 92.

Deputy county clerk authorized to take acknowledgments, &c.

**106. SEC. 1.** That hereafter the deputy county clerk in any county of this state be and he hereby is authorized, during his continuance in office, to perform all the duties and exercise all the powers belonging to the office of commissioner for taking the acknowledgment and proofs of deeds; and which deputy county clerk, upon taking any acknowledgment and proof by virtue of the powers conferred by this act, shall affix to his signature the words "deputy county clerk."

#### Supplement.

Approved March 14, 1895.

P. L. 1895, p. 273.

Females may be appointed commissioners of deeds.

**107. SEC. 1.** That the power vested by said act to which this is a supplement, in the senate and general assembly, in joint meeting, to appoint proper and fit persons for each of the counties of this state, to be styled and denominated "commissioners of deeds," shall not be limited to the appointment of persons of the male sex, but such appointments may be of persons of either sex; and all words in said act, or any supplement thereto, referring to said commissioners as of the masculine gender, shall be understood to include and shall be applied to females as well as males.

#### Supplement.

Approved March 20, 1895.

P. L. 1895, p. 368.

Acknowledgments heretofore taken out of this state irregularly, validated.

**108. SEC. 1.** That every acknowledgment or proof of any deed or conveyance of lands, tenements or hereditaments lying and being in this state, heretofore made by any grantor or witness thereto, before or by any officers in some other state in the Union or territory thereof, authorized at the time of such proof or acknowledgment by laws of the state or territory wherein such proof or acknowledgment was made or taken, to take the proofs and acknowledgments of deeds or conveyances of lands, tenements or hereditaments lying or being in such state or territory, shall be good, valid and effectual in law, and the record of said deed admissible in evidence and good, valid and effectual in law for all purposes, notwithstanding the certificate accompanying such acknowledgment of proof, under the great seal of such state or territory, or under the seal of a court of record of the county in which it was made, does not certify that the officer before whom such proof or acknowledgment was made was, at the time of the taking thereof, authorized by the laws of such state or territory to take the acknowledgments and proofs of deeds or conveyances for lands, tenements or hereditaments in such state or territory; *provided,* such certificate and such acknowledgment or proof and the certificate thereof, in all other respects conforms to the laws of this state.

Proviso.

**X. Miscellaneous acts.**

**An act respecting conveyances.**

Revision—Approved April 15, 1846. R. S. 639.

[By Sec. 1 of "An act relative to statutes," approved March twenty-seventh, eighteen hundred and seventy-four, sections one, two, three, four, five, six, seven, nine, ten, eleven, twelve, thirteen, fourteen, eighteen, nineteen, twenty-one, and twenty-two of "An act respecting conveyances" [Revision], approved April fifteenth, eighteen hundred and forty-six, were repealed. Rev. pp. 1120 and 1384, Sec. 42. Section eight of this act had been repealed by the act of March seventh, eighteen hundred and fifty. P. L. 1850, p. 273.]

**109. SEC. 15.** That 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)

Grants, &c., good without attornment.

875-109  
R 98-713  
33V-205

**110. SEC. 16.** That 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)

What warranty void against reversioner, &c.

**111. SEC. 17.** That 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)

What warranty void against heirs.

**112. SEC. 20.** That 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. (d)

Effect of mortgage to secure purchase-money.

**An act for confirming of the conveyances of lands, made and to be made by wills and powers of attorney, and declaring what exemptions 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, 1713-14. R. S. 635.

Rev. 7.

Preamble.

WHEREAS, On and several years after, the first settlement of this colony, the great distance of plantations, and scarcity of inhabitants was such, that it was difficult to get more than two witnesses to be present at the signing, sealing, and acknowledging of last wills and testaments, which induced the then legislature of the province of East Jersey, now the eastern division of this province, in the year one thousand six hundred and eighty-two, to make a law declaring, that all wills in writing, attested by

(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. *Souders 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. *Eyerson 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.

(d) 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 Deusen*, 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*, Sac. 55. A purchase-money mortgage may be made a second lien by an agreement, made after the sale, between the vendor and another mortgagee of the premises, where the agreement has been consummated by recording the other mortgage before the vendor's and by the vendor's knowingly acquiescing therein for several years. *Mutual Loan, &c., Asso. v. Etnell*, 11 Steu. 18. What held to be a purchase-money mortgage and superior in lien to a judgment. *Bradley v. Byron*, 16 Steu. 396. A mortgage given by a husband to secure unpaid purchase-money, will have precedence over the inchoate dower of his wife, though executed and delivered some time after the execution and delivery of the conveyance, unless the vendor has in the meantime done some act which amounts to a waiver of his equitable lien for the purchase-money. *Boorum v. Tucker*, 6 Dick. 135. Where the title to land is not in A. at the time of erecting a building, and he has no legal consent from the owner, mechanics' liens thereon must be postponed to a purchase-money mortgage given afterwards by A. when he had acquired title, although the building was almost finished. *Gibbs v. Grant*, 3 Steu. 419.

two credible witnesses, shall be of the same force to convey lands, as other conveyances; *and whereas*, pursuant to the said law, many wills have been made, bequeathing and devising lands, signed by the testator, and attested only by two subscribing witnesses;

What a sufficient execution of last will, in time past.

**113. SEC. 1.** That all last wills and testaments heretofore made in writing, signed by the testator, in presence of two subscribing witnesses, and proved according to the custom heretofore used, in either the eastern or western divisions of this province, by which any lands, tenements or hereditaments have been given, devised, or bequeathed unto any person or persons whatsoever, every of the said last wills and testaments shall at all times hereafter, be held, taken, deemed, and esteemed as good, valid and sufficient title in the law, to all intents, constructions and purposes, as if the testator had conveyed the same away in his lifetime, and shall forever bar any person or persons claiming or to claim estate under any such testator, contrary to the true intent and meaning of such will or testament; and the said will being proved as aforesaid, and the books of registers of either of the eastern or western divisions of this province in which they were entered, being proved as aforesaid, may be given, and shall be received in evidence, any law or custom to the contrary notwithstanding.

Register-books, where recorded, good evidence.

What a good execution of a will in future.

**114. SEC. 2.** That all wills and testaments which hereafter shall be made in writing, signed and published by the testator, in presence of three subscribing witnesses, and regularly proved and entered upon the books of records or registers, in the secretary's office of this province, or any proper office for that purpose, shall and are hereby declared, and forever hereafter shall be taken, accepted, deemed, and esteemed sufficient to devise, bequeath, and convey any lands, tenements, hereditaments, or other estates whatsoever, within this province, as effectually, to all intents, constructions, and purposes whatsoever, as if the testator had conveyed the same away in his lifetime; and the books, in which they are registered or recorded, may be given in evidence, and shall be accepted of, and be sufficient evidence, at all times and places, where the said wills or testaments may be requisite to be given in evidence, any law or custom to the contrary notwithstanding. (a)

Books in which they are registered, good evidence.

Copy of wills made in Great Britain, &c., certified under seal, good evidence.

376-115  
12D-587

**115. SEC. 3.** That the copies of any last will or testament whatsoever, heretofore made, or hereafter to be made, within any part of the kingdoms of Great Britain or Ireland, by which any lands, tenements, hereditaments, or other estate within this province, are devised or bequeathed, certified under the seal of such office, where such will or testament is proved and lodged, may be given, and shall be received in evidence before any of the courts of judicature within this province, and be esteemed as valid and sufficient as if the original will or testament were then and there produced and proved.

Same in colonies.

**116. SEC. 4.** That the copy of any will or testament, made in any other of her majesty's colonies, by which any lands, tenements, hereditaments, or other estate within this province is given, devised, or bequeathed, being proved according to the custom of such colony, certified under the great seal of such colony, may be given, and shall be received, in evidence in any of the courts of judicature within this province, and be esteemed as valid and sufficient, as if the original will or testament were then and there produced and proved. (b)

Deeds made by letters of attorney good.

**117. 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

(a) A will executed according to the laws of the testator's domicile will pass personal property wherever situate; but with respect to devises of land, the will must be executed according to the formalities prescribed by the law of the state in which the land is situated. *Nelson v. Potter*, 21 Vr. 324. The act of March 17th, 1713-14, is still in force (the word "colony" being taken to include "state"), except as modified by the act concerning wills of March 12th, 1851, with respect to the number of

witnesses required and the mode of executing and attesting wills. *Id.* *Grakon v. Whiteley*, 2 Dutch. 254, 258, 4 *Griff. Am. Rep.* 1241, 3 72, note 1.  
(b) As to the force and effect of transcripts of the records of wills in evidence as proof of title to lands and the legislation on the subject, see *Allaire v. Allaire*, 8 Vr. 312. *Nelson v. Potter*, 21 Vr. 324. *Lindley v. O'Reilly*, 21 Vr. 652.

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 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.

Lands sold by letters of attorney, such sales good.

**118. SEC. 6.** That 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, &c., and books of record of this province good evidence.

**119. SEC. 7.** That 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.

877-119  
38V-202

**120. SEC. 8.** That 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.

(a) This statute does not affect the estate or interest conveyed; it only annexes the possession to the use. *Montgomery v. Bruere*, 1 *South.* \*232. *Den v. Crawford*, 3 *Hal.* 107, 113. *Miller v. Halsey*, 2 *Gr.* 43. *Egbert ads. Chew*, 2 *Gr.* 447. Our statute should have a great weight, if not a controlling effect, upon the construction of a deed to uses within its purview. *Melick v. Piddock*, 17 *Stew.* 542. A use expressed in words of inheritance demonstrates that the grantor, by his deed, intended to convey

a fee. The statute declares that the grantees to whom the use is given, limited, granted or conveyed, shall be deemed in as full and ample possession, to all intents, constructions and purposes, as if such grantees, their heirs and assigns, were possessed thereof by solemn livery of seizin and possession. *Ib.* Unlike the English statute of uses (27 Hen. VIII., c. 10), our statute acts upon the use granted, without referring to the trustee's estate, and converts the former into a legal estate. *Ib.*

## CONVEYANCES.

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.

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

121. SEC. 1. [Amended by Sec. 125, *post.*]122. SEC. 2. [Amended by Sec. 126, *post.*]

123. SEC. 3. That 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.

Judges may issue writs of subpoena for witnesses.

124. SEC. 4. That 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 subpoena, 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.

## Amendatory act.

Approved March 31, 1890.

P. L. 1890, p. 164.

125. SEC. 1. That the first section [see Sec. 121, *ante*] of the act of which this is amendatory be and the same is hereby amended to be in the words following, to wit :

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

[That every person who has lost, or hereafter may 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 produce the same to the supreme court or any circuit court of this state, having previously advertised the purport of his application for at least four weeks, 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 or grantors 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 the 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 creditable witnesses that he, the said applicant, or his ancestors or grantors, 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

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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.]

**126. SEC. 2.** That the second section [see Sec. 122, *ante*] of the act of which this is amendatory be and the same is hereby amended to be in the words following, to wit :

[That the said court shall thereupon cause proclamation to be made in open court, 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.]

Proclamation to be made of such application.

**127. SEC. 3.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

**An act concerning tenures.**

Passed February 18, 1795.

R. S. 671.

**128. SEC. 1.** That it shall forever 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.

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

**129. SEC. 2.** That 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, 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.

All wardships, liveries, &c., taken away and discharged.

Fines for alienations, &c., taken away.

Tenures by knight's service abolished.

**130. SEC. 3.** That 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

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

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.

Antecedent conveyances to operate in free and common socage.

**131. SEC. 4.** That 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.

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

**132. SEC. 5.** *Provided*, this act, or anything 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.

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

**133. SEC. 6.** That 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.

#### An act respecting joint tenants and tenants in common.

R. S. 650.

Passed February 4, 1812.

How joint tenancy created.

**134. SEC. 1.** That 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. (a)

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

R. S. 648.

Passed November 10, 1797.

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

**135. SEC. 1.** That 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, ad-

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32V-183

(a) An estate of freehold in joint tenancy created before the passage of this act is not affected by it. *Den, Berdan v. Van Ripper*, 1 Har. 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. De Baum*, 1 McCart. 37. *McDermott v. French*, 2 McCart. 79. Where a legacy is given to two or more persons, by name or as a class, without more, they take as joint tenants, but in a grant or devise of land, express words are necessary to create a joint tenancy. *Noe's Admr. v. Miller's Exr.*, 4 Stew. 236. *Stoutenburgh v. Moore*, 10 Stew. 66. The common-law right of

survivorship among joint tenants of lands has not been abolished in this state by statute, and therefore, on a bill for specific performance of a contract to convey lands, it is not a valid objection to the title that the wives of complainant's grantors, who were joint tenants, did not join in their deed to complainants for the premises. *Babbitt v. Day*, 14 Stew. 392. The use of the words "joint tenants" in the appropriate places in a deed of conveyance, is sufficient to create an estate in joint tenancy under the statute of this state, without the use of the words "and not an estate of tenancy in common," or their equivalent. *Coudert v. Eurt*, 18 Stew. 654. This act does not apply to trustees. See *post*, TRUSTEES, Sec 1.

ministrators and assigns, as the said lessors themselves, or their heirs, ought or might have had or enjoyed at any time or times.

**136. SEC. 2.** That 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. (a)

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.

**137. SEC. 1.** That 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. (b)

Fines and common recoveries abolished.

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**An act to authorize the transfer of estates in expectancy.**

Approved March 14, 1851. P. L. 1851, p. 282.

**138. SEC. 1.** That from and after the passing of this act, any person may devise, or may convey, assign or charge, by any deed, any such contingent 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. (c)

Transfers of estates in expectancy authorized.

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(a) 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 its 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. The rule of the common law was changed by this statute, which gives the grantee of lands "let to lease" the same advantages by entry for non-payment of rent that the lessor might have exercised. *Fulton v. Greacen*, 9 *Stew.* 221. *Union Brick and Tile Mfg. Co. v. Lorillard*, 17 *Stew.* 6. *Watson v. Idler*, 25 *Vr.* 487.

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

(c) 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 transfer a mere contingent remainder, see *Ackerman v. Freedland*, 1 *McCurt.* 23. The act expressly excepts cases where the contingency is as to the person in whom the estate may vest. *Cantine v. Brown*, 17 *Vr.* 599. A conveyance of a contingent or executory interest which is made lawful by this act, carries with it the estate which, but for the conveyance, would vest in the grantor upon the happening of the contingency, although the deed may not contain that which will estop the grantor from claiming an after-acquired estate. *Wilkinson v. Sherman*, 18 *Stew.* 413.

**An act to authorize the registry of deeds of trust of personal property.**

P. L. 1870, p. 7.

Approved February 15, 1870.

Preamble.

WHEREAS, Gifts of personal property of great value are from time to time made by deed to literary, benevolent, religious and charitable institutions, upon particular trusts therein specified; *and whereas*, the public has an interest in many of such gifts, and it is desirable that the trusts whereon the same may be given should be matter of public record; therefore,

Clerks of counties to record certain deeds of trust of personal property.

**139. SEC. 1.** That the clerks of the courts of common pleas of the several counties of this state be and they are hereby authorized to record in suitable books to be provided for that purpose, any deed of personal property made or to be made to any literary, benevolent, religious or charitable institution, the same having thereon such certificate of the acknowledgment or proof of the execution thereof as is or may be by law required for recording of deeds of real estate, which certificate shall be recorded therewith, and such deed shall be recorded in the county where such institution is situate.

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Who authorized to take acknowledgments of.

**140. SEC. 2.** That all persons authorized by law to take the acknowledgment or proof of execution of deeds of real estate, are hereby authorized to take the acknowledgment or proof of execution required by the first section of this act, and to make the like charge therefor as in case of deeds of real estate.

Record of deed and transcript to be received in evidence.

**141. SEC. 3.** That all deeds recorded by virtue of this act shall be recorded in like manner as deeds of real estate, and shall be properly indexed, and the record of any such deed, and a transcript of such record duly certified by the clerk in whose office the record is kept, shall be received in evidence in any court of this state, in the same manner and to the same effect as the record or the transcript of the record of deeds of real estate is now received.

Fees.

**142. SEC. 4.** That the clerks shall be entitled for all services to be performed by virtue of this act to the same fees as for like services in the case of deeds of real estate.

**An act respecting the record of transfers of real property.**

P. L. 1883, p. 215.

Approved March 23, 1883.

Record of deed notice of the execution thereof, whether recorded within fifteen days or not.

**143. SEC. 1.** That whenever any deed of conveyance or release of lands lying in this state, or of any estate or interest in such lands, heretofore made or hereafter to be made, shall be duly recorded in the county where such lands lie, whether so recorded within fifteen days after its execution or not, such record shall become and be forthwith notice to all persons of the execution thereof.

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Record of deed heretofore made notice of execution thereof, although not recorded within fifteen days.

**144. SEC. 2.** That whenever any deed of conveyance or release of lands lying in this state, or of any estate or interest therein heretofore made, has been duly recorded in the county where such lands lie, although not so recorded within fifteen days after its execution, such record shall, from and after the passage of this act, forthwith become and be notice to all persons of the execution of such deed of conveyance or release.

Deed or release of land void in certain cases until recorded.

**145. SEC. 3.** That all deeds of conveyance or release of lands lying in this state, or of any estate or interest therein hereafter to be made, shall, until duly recorded in the county where such lands lie, be void and of no effect against subsequent judgment creditors without notice, and against all subsequent bona fide purchasers and mortgagees for valuable consideration, not having notice thereof, whose deed or mortgage shall have been first duly recorded or registered; *provided*, that all deeds of conveyance and release recorded in the manner provided by law shall be deemed to have been duly recorded, although not so recorded within fifteen days after their execution; *and provided, also*, that such deeds shall be valid and operative, although not recorded, except as against such subsequent judgment creditors, purchasers and mortgagees. (a)

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(a) *Chambers v. Cartaret and Sewaren R. E. Co.*, 25 Vr. 89. While a deed takes effect between parties from the time of delivery, it is void and of no effect against subsequent judgment creditors without notice until duly recorded. The vendee had

not, in such case, fifteen days after delivery to record his deed, with preference. *Hunt v. Swayze*, 26 Vr. 33. See Sec. 14, *ante*, and notes.

**146.** SEC. 4. That all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed. Repealer.

**An act to cure defective executions of conveyances by attorneys or agents.**

Approved March 23, 1883. P. L. 1883, p. 248.

**147.** SEC. 1. That whenever any attorney or attorneys authorized to execute and deliver conveyances for lands, tenements and hereditaments has or have failed to convey the title of their principal or principals thereto, as he or they were so authorized to convey the same, by reason of any informality or irregularity in the recitals or subject-matter contained in said deed or conveyance, or by reason of any informality or irregularity in the execution thereof, although it was the intention of such attorney or attorneys to convey a good title to the same, such informality or irregularity shall not affect the title intended to be so conveyed by said deed or conveyance, but such deed or conveyance shall convey the title of said principal or principals in and to said lands, tenements and hereditaments as effectually as though such informality or irregularity did not exist, and as though said principal or principals had himself or themselves executed said deed or conveyance. Defective execution of conveyance by attorney not to affect title.

**An act validating defective conveyances.**

Approved April 1, 1884. P. L. 1884, p. 114.

**148.** SEC. 1. That no deed or conveyance of land heretofore made by any sheriff or other officer or auditors in attachment pursuant to any decree, judgment, execution or order of any court, shall be null or void because it may lack the affidavit of the officer making the deed of conveyance aforesaid, and the approval of such deed by the chancellor, justice or master as provided for and required by an act of the legislature entitled "An act for the better security of titles to land sold by sheriffs or other officers," approved March twenty-fifth, one thousand eight hundred and sixty-four, nor shall the absence of the affidavit and approval therein so required be esteemed cause sufficient to prevent such deed of conveyance from being recorded in the records of deeds; and in any suit at law or in equity wherein the title to the land conveyed by any such deed shall be called in question, the burden of proof shall be upon the party attacking the title conveyed under such deed to disprove the facts which are required by the aforesaid act to be recited in the affidavit of the officer making the deed of conveyance. Certain defective conveyances not void.

**An act to cure defective acknowledgments of conveyances by corporations.**

Approved March 11, 1885. P. L. 1885, p. 78.

**149.** SEC. 1. That the acknowledgments and records of any and all deeds of conveyance of land, tenements and real estate situate within this state heretofore made, executed and delivered by any corporation organized under the laws of this state, and having for its object the purchase, improvement or sale of lands, but which deeds have been acknowledged by an officer of the grantor corporation instead of having been proved by a subscribing witness thereto, be and the same are hereby declared as good valid and effectual as if the same had been duly proved; *provided*, said deed or deeds shall have been recorded in the clerk's or register's office of the county wherein such lands are situated, for five years last past. Certain acknowledgments by corporations validated.

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**An act to provide for the indexing of deeds, mortgages, wills and other instruments required or authorized by law to be recorded.**

Approved April 21, 1887. P. L. 1887, p. 171.

**150.** SEC. 1. That in the recording of deeds, mortgages, wills or other instruments required or authorized by law to be recorded, the clerk, register, surrogate or other officer whose duty it is to make the record shall, in addition to the indices thereof now made and kept by him, make and Analytical or combination index to be made and kept of deeds, &c.

keep such classified analytical or combination index as the board of chosen freeholders of the respective counties shall determine, in index-books to be provided for that purpose by the said board of chosen freeholders, and shall enter therein according to the classification thereof an index of all the names now required to be indexed in the alphabetical indices of their respective offices.

Fee for each name indexed.

**151. SEC. 2.** That in each county of this state having within its territorial limits a population exceeding one hundred and fifty thousand inhabitants, for said services such clerk, register, surrogate or other officer shall receive the sum of three cents for each name so indexed, to be paid by the person offering the said deed, mortgage, will or other papers for record.

Repealer.

**152. SEC. 3.** That all acts and parts of acts inconsistent with the provisions of this act be and are hereby repealed and that this act shall take effect immediately.

**An act validating certain instruments, and authorizing scroll or other device by way of seal in sealed instruments.**

P. L. 1888, p. 256.

Approved March 26, 1888.

Every instrument heretofore made, with scroll affixed, validated.

**153. SEC. 1.** That every instrument in writing heretofore made, to which shall have been affixed a scroll, or ink, or other device by way of a seal, shall be taken and adjudged to be of the same force and effect as if it had been actually sealed with wax. [See Sec. 68, *ante.*]

Scroll or device by way of seal, in sealed instruments, authorized.

**154. SEC. 2.** That all instruments in writing heretofore made, or which shall be made hereafter, wherein a seal has been or shall be deemed necessary, and to which a scroll, or ink, or other device has been or shall be affixed by way of a seal, shall be held to be as good and valid to all intents and purposes, in all courts and places, as if they had been or should be sealed with wax, and no such instrument shall be impeached or questioned for lack of a wax seal. [See Sec. 69, *ante.*]

Repealer.

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

**An act to establish the use of local indexes for public records relating to land in certain counties in this state.**

P. L. 1888, p. 309.

Approved March 29, 1888.

Preamble.

WHEREAS, The records relating to lands in the public land record offices of the larger counties in population in this state are increasing to such an extent as to cause great accumulations of names in the indexes thereof now in use, and practically render such indexes unserviceable as a means of giving to the public due legal notice of the instruments of record; and whereas, a record index ought to be so simple that any one consulting it can at once be referred to every instrument affecting the property under investigation; and whereas, local indexes based on the division of a county into blocks or small areas, and the entering thereon in chronological order the names of parties to and dates of record of all instruments, affecting such area in an allotted portion of such indexes, is deemed the most practical index of land transfers; and whereas, such indexes can be established in use in the several counties of this state without any material change of existing laws for the recording of instruments; now, therefore,

Appointment of commissioners of land records in certain counties authorized.

**156. SEC. 1.** That in every county of this state of over two hundred thousand inhabitants, one hundred or more persons being residents and freeholders of such county may make application to the circuit court of such county, whereupon said court may, in its discretion, proceed thereon and appoint from the members of the board of chosen freeholders of such county for the time being, two commissioners, who and their successors, together with the counsel of the board of chosen freeholders of such county for the time being, shall constitute a board to be known as the board of commissioners of land records, whose powers and duties shall be as prescribed by this act; such board of commissioners shall continue in office for two years from the time of their appointment, and for such additional time as the said circuit court may by order direct and appoint; vacancies

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RWS98-714

Term of office.

Vacancies.

in the said board of commissioners, caused by death or otherwise, shall be filled in the same manner as original appointments are herein required to be made, and said commissioners shall receive for their services such compensation as the said court shall determine.

Compensation.

157. SEC. 2. That the said commissioners, in the performance of their duties, shall have free access to all public records and papers in this state, and be permitted to examine and copy the same free of charge.

To have access to records.

158. SEC. 3. That the said commissioners shall, immediately upon entering upon their duties, cause to be prepared, under their direction, by competent surveyors and draughtsmen, a map or plan of said county, on which map shall be shown and delineated all the streets, avenues and roads of said county, and all blocks or parcels of land bounded by said streets, avenues and roads, and such present or former lines of large tracts of land or farms or other general property lines and boundaries as they, in their judgment, may see fit; and the said commissioners shall cause said blocks or parcels of land shown on said map of said county to be numbered thereon from number one consecutively upward, for as many blocks or parcels of land bounded by streets, avenues, roads, streams, water-ways, railroads or other boundaries, as shall appear on said map; *provided, however*, that in cases of small blocks or parcels, more than one such block or parcel of land may be included in a single block number, whenever in the judgment of said commissioners the same is advisable; and they may cause the larger parcels of land to be divided and numbered or designated on said map in such way as they may think best, in order to carry out the general intent of this act.

To cause map of county to be prepared.

Proviso.

159. SEC. 4. That the said commissioners shall also cause said map of such county to be subdivided into convenient land sections, and shall cause said sections to be named (or numbered from number one consecutively upward), and cause the division lines of said several sections to be exhibited on said map; the numbers of said blocks shall commence at the southerly part of said county, and shall thence be continued northerly as nearly as may be; and said map, when completed, shall be marked as the official land map of such county, and certified as such by the said commissioners, and filed in the office of such county in which transfers of land or deeds are recorded, as a public record; and said commissioners shall cause said map to be copied in such manner and in such numbers as the public demand for the same shall warrant, and deliver such copies to the collector of such county, to be sold by him for the benefit of such county, at such price per copy as the commissioners shall fix.

Map to be divided into land sections.

How marked.

Filed. Copies.

160. SEC. 5. That all nominal indexes in use in such record offices at the time of the passage of this act shall be continued as heretofore, and every combination or analytical nominal index heretofore in use in such office shall be continued under the direction of said commissioners from the time to which the same has been brought to the time of the commencement of the local indexes hereinafter mentioned, and thereafter the said last-named nominal indexes shall be continued in lieu of all other nominal indexes of such instruments, by the recording officer of any such county, and the fees for such indexing now authorized by law shall be paid to such recording officer.

Nominal indexes to be continued.

161. SEC. 6. [A mended by Sec. 179, *post*.]

162. SEC. 7. That for the purpose of notice under this act, each block or parcel of land so to be separately numbered with a block number as aforesaid, and also each lot of land in a block, shall be deemed to extend to the middle line of the streets, avenues and roads then or thereafter laid out on said land map, fronting and adjoining such blocks and lots respectively.

Each block or parcel to be separately numbered.

163. SEC. 8. That said books of indexes shall be made of such convenient form and size as said commissioners shall determine, and each book of indexes shall be indorsed with its appropriate title and volume, and with the date of its commencement, and also with the numbers of the blocks on the land map and the section to which the entries therein relate.

How indexes made.

164. SEC. 9. That all instruments in writing relating to or affecting land in any such county, or any interest in such land recorded, registered

Instruments to be indexed.

Maps, indexes,  
&c., public  
records.

Register or clerk  
liable for damage  
for failure to  
index.

When instru-  
ments to be  
entered.

Instruments  
presented for  
record or registry  
to be indorsed,  
&c.

Instruments  
entered in local  
index to be  
indorsed, &c.

How record  
noted for ready  
reference.

When new  
blocks created,  
to be numbered  
and map filed.

or entered by virtue and in accordance with any law of this state in any public land record office, whether such land record office be the office of the register of deeds or county clerk, on and after the date hereinafter fixed for the completion of said maps and indexes, shall be entered in plain, legible handwriting in said indexes as provided by this act, in addition to such nominal indexes as are now used and by this act directed to be kept in said offices; and all maps, books and indexes and the entries in, and contents of, said maps, books and indexes as at any time to be made or prepared under this act shall be public records, and all of said maps, books and indexes shall be completed, certified and deposited for use as aforesaid in the said offices at the time hereinafter provided.

**165. SEC. 10.** That the register of deeds or county clerk of any such county shall be liable for any loss or damage to any person interested by reason of his failure to index an instrument as required by this act, or by reason of an erroneous entry made by him or by his direction, or by any deputy or clerk appointed by him, in any book of index to be kept in his office as required by this act; and every such officer shall enter every such instrument on the local index in his office, in the order of its receipt by him, under the block within which the land affected lies, in the manner provided by this act, or under which said instrument is directed to be indexed, within three days after such receipt.

**166. SEC. 11.** That all instruments presented to such recording officer for recording or registering shall be legibly indorsed by him with the number of the block or blocks in which the land affected by the instrument is situated; all assignments of mortgages and all releases, satisfactions and agreements respecting mortgages, to entitle the same to be recorded, shall state in the body thereof the book and page of the record of the original instruments, if recorded, to which such assignments, releases, satisfactions and agreements respectively relate, and said recording officer need not receive such instruments for record or registry unless they contain such statement.

**167. SEC. 12.** That every instrument entered in such local index shall be indorsed by the recording officer with the number of the land block under which such instrument is indexed, in addition to the other matters required by law, and said local indexes by this act directed to be made and kept and the entries made therein, shall for the purpose of notice be deemed and taken to be a part of the record of the instruments to which such entries respectively refer or relate, and such indexes shall be deemed and held to be constructive notice to all subsequent purchasers [mortgagees], incumbrancers, and dealers in the land affected by the instruments to which such entries respectively refer or relate, and of the record of entering thereof and of the execution and contents of such instruments, in the same manner, to the same extent and with like effect as the recording or registering of such instruments now is or may be notice.

**168. SEC. 13.** That for the purpose of ready reference to the local indexes and the discovery of errors of entry therein, every deed, mortgage or other instrument so entered shall have the block number or numbers under which the same is indexed noted on the margin at the commencement of the record or registry thereof; and after the passage of this act the book and page of the record of every assignment of mortgage and all releases, satisfactions and agreements respecting mortgages shall be noted on the margin of the record of the mortgage to which the same shall refer, and such release, assignment or other instrument shall thereupon be considered as fully entered in the local indexes; every satisfaction or cancellation of a mortgage, however, shall, in addition to the entry now required by law on the record thereof, be also noted in red ink on the local index entry of such mortgage.

**169. SEC. 14.** That whenever after the making of said land map any large area or block division, or part thereof, on said map, shall be laid out by the owners thereof on a map filed in such record office, into blocks and lots with the streets or avenues shown thereon dedicated to public use, and conveyances of lots shown thereon shall be made and recorded according to such map, it shall be the duty of the then recording officer and counsel

of the board of chosen freeholders of such county to cause such new blocks to be numbered consecutively upward from the last number then upon said land map (or to be designated in some other convenient way), and to cause a map showing such new blocks and their designations to be filed in the same manner as the previous land maps, and the block number heading of such subdivided block shall be marked as "subdivided" and reference made at such heading to the new blocks created therefrom; the land blocks and sections and the numbers and designations thereof shall not be changed after they have been once designated and entered on said maps (except as herein provided).

**170. SEC. 15.** That the said commissioners, or the said recording officers, after the term of office of said commissioners, shall establish such sub-indexes as circumstances may warrant, in which shall be indexed every duly-recorded or registered instrument, which in its language is general or vague as to the lands affected thereby, or that for other reasons cannot be safely and conveniently entered on the local index; and such sub-index, and the methods so substituted and put into operation in such recording office, shall be of the same force and effect as any other method authorized by this act.

Commissioners may establish sub indexes.

**171. SEC. 16.** That in case where there shall have been an erroneous indexing of any instrument in any such land record office, under the wrong block or otherwise, the recording officer shall, on being satisfied thereof, re-index such instrument in the proper index, and he shall at the same time make a note of such re-indexing upon the index in which the instrument was so erroneously indexed, opposite the entry thereof, and also upon the instrument recorded, if the same be in his possession, or produced to him for the purpose; *provided, however,* that no entry in any book or index in said recording offices shall be erased so as to be illegible, but, in case of any correction, the same shall be made without destroying the original entry, by drawing a line through such original entry.

How erroneous entry in index noted.

Proviso.

**172. SEC. 17.** That every person presenting to any such recording officer any instrument for record or registry under this act shall pay to such officer, in addition to the fees required by law for recording or registering such instrument, the following fee or fees, viz.: for indorsing and entering [every instrument on the local index, when the property described is embraced in a single block and one entry thereof only required, fifty cents; for every additional block in which such instrument is required to be indexed by this act, twenty cents.

Fees for record or registry.

**173. SEC. 18.** That for the purpose of procuring and preparing the maps and indexes directed by this act to be procured and prepared, and putting the same in use and otherwise carrying out the directions and intent of this act, said commissioners, in the name of the board of chosen freeholders of the county for which they shall be appointed, may hire rooms, purchase stationery and material and employ such surveyors, draughtsmen or other persons as they may require for such purpose; and the compensation for such labor and the cost of room, materials and work shall from time to time be certified by them to the circuit court of such county, and the judge of such court, if satisfied of the correctness of such expenditures, shall order the payment thereof by the board of chosen freeholders of such county, who shall order the county collector to pay the same out of such funds appropriated or to be appropriated for the maintenance of the courts and records of such county, or of any unexpended balance; and such board of commissioners shall, as soon as they conveniently can after their appointment, submit to said board of chosen freeholders a statement of the probable cost and expense of procuring and preparing such maps and indexes and putting the same in use.

Commissioners authorized to provide for preparation of maps and indexes.

Cost, how paid.

**174. SEC. 19.** That this act shall be construed by all courts according to the true intent and purpose thereof, which is declared to be to establish the use of local indexes for public records to land in the larger counties in population in this state, and thereby give to all future instruments required by law to be recorded or registered actual publicity upon the records, and give to the public facility of access thereto; and the courts are hereby

How courts to construe act.

CONVEYANCES.

directed to give such construction to this act as shall carry out such general purposes.

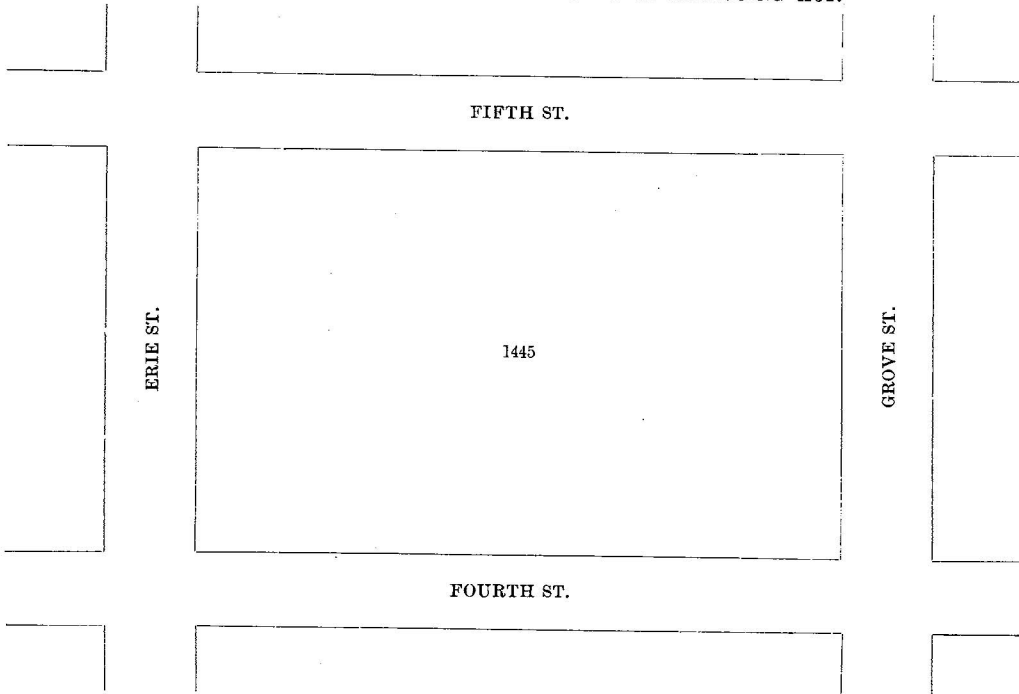
When maps and indexes to be completed.

**175. SEC. 20.** That the said maps and indexes shall be completed and placed in the proper offices for public use on the first day of January next after the appointment of such commissioners unless further time shall be required for the completion thereof; and if it shall be so represented to such circuit court by such commissioners, the said court shall, by order, extend the time for the completion thereof, and such notice of such order shall be given as the said circuit court shall direct.

Repealer.

**176. SEC. 21.** That all acts and parts of acts inconsistent with this act, be and the same are hereby repealed.

SCHEDULE REFERRED TO IN SECTION 6 OF FOREGOING ACT.



GRANTOR.	GRANTEE.	LIBER.	INSTRUMENT.	PAGE.	DATE OF RECORD.	BRIEF DESCRIPTION OF PREMISES.
John Doe.....	Richard Roe.....	445	Deed.....	760	July 1, 1889....	{ S. s. of 5th St., 300 W. of Grove, 25x100 ft.
John Smith.....	Joseph Brown.....	450	Power of Attorney.....	320	Aug. 2, 1889....	{ N. s. of 4th St., 225 W. of Erie, 20x80 ft.
Richard Roe and wife.....	William Jones.....	205	Mortgage.....	150	Aug. 10, 1889....	{ S. s. of 5th St., 312 6-12 W. of Grove, 12 6-12x100 ft.
James Johnson.....	George Franklin.....	460	Lease.....	220	Sept. 5, 1889....	{ E. s. of Erie St., 20 S. of 5th, 30x100 ft.
Richard Roe, Sarah Roe, Frank Robinson, Defendants, by Robert Davis, Sheriff.....	William Jones.....	475	Deed.....	540	March 1, 1890....	{ S. s. of 5th St., 312 6-12 W. of Grove, 12 6-12x100 ft.
Patrick Flynn.....	Penna. R. R. Co.....	480	{ Award of Commissioners..... }	390	March 10, 1890....	{ W. s. of Grove St., 75 N. of 4th, 25x100.
William Jones.....	Robert Moore.....	225	Mortgage.....	216	April 5, 1890....	{ S. s. of 5th St., 312 6-12 W. of Grove, 12 6-12x100 canceled.
George Sharp.....	Henry Brown.....	483	Deed.....	113	May 6, 1890....	{ Lot 8, on Block (246), map of Jersey City, 1861, by R. C. Bacot.
James Jenkins.....	Thomas Scott.....	484	Deed.....	214	May 10, 1890....	{ Lot 12, on Block (152), map of Aharslmus, 1804.

Supplement.

Approved March 27, 1889. P. L. 1889, p. 109.

**177. SEC. 1.** That the commissioners of land records appointed or hereafter to be appointed under the provisions of the act of the legislature of this state to which this act is a supplement, may establish such index of maps now filed and hereafter to be filed in the land record offices of any county for which such commissioners shall be appointed, as they shall deem proper; and the number or designation in such index given to every such filed map by such commissioners shall not thereafter be changed or altered, and such system of map indexing so established by such commissioners, shall thereafter be continued by the register of deeds or county clerk of any such county, as the case may be, and all maps thereafter filed shall be numbered consecutively in the order of their receipt, commencing with the number next after the last number adopted or given by such commissioners in the index so established.

Commissioners may establish indexes.

Number of filed map not to be changed.

System established to be continued.

**178. SEC. 2.** That after the completion and placing in the proper offices for public use, the maps and indexes required by the act to which this is a supplement, in any such county, no map shall be received for filing by the register of deeds or county clerk (as the case may be) of such county, unless such map shall have delineated and shown thereon the block boundary or boundaries and designations established by such commissioners respecting the territory intended to be shown on such map; and such register of deeds or county clerk shall be entitled to receive the sum of five dollars for filing and indexing every such map as required by this act.

No map to be filed unless block boundaries and designations are shown.

Fee for filing.

Amendatory act.

Approved March 19, 1890. P. L. 1890, p. 98.

**179. SEC. 1.** That the sixth section [see Sec. 161, *ante*] of the act entitled "An act to establish the use of local indexes for public records relating to land in certain counties in this state," approved March twenty-ninth, one thousand eight hundred and eighty-eight, be and the same hereby is amended so as to read as follows:

[That the said commissioners shall cause to be prepared, in book form, indexes for indexing instruments affecting land in said counties, recorded or registered in such record offices, on and after the date hereinafter fixed for the completion of the said maps and indexes, which indexes shall be prepared for use in accordance with the plan or system known as that of local indexing by blocks, and under the blocks and block numbers shown on said map, and the areas, numbers and descriptions of the block shown on said map; said indexes so to be prepared shall be both nominal and local, and in form substantially the same as the form of the schedule hereto annexed, which schedule is to be deemed and taken to be a part of this act; there shall be appropriated in each index to each block or parcel of land shown thereon not less than eight blank pages, including the heading of such index, which pages shall be properly ruled and prepared for future entries therein according to the plans of said schedule; the abbreviated description of the land affected by the instrument to be entered in the space allotted therefor in such index shall be as full as can be entered in such space, and serve to show the correctness of such entry under such block or area; but no liability is attached to any recording officer for any error in making up such brief description; the said commissioners may cause separate and distinct local indexes to be made for entering together mortgages, notices of lis pendens and other liens, and all instruments relating thereto; and the register or county clerk of any such county, as the case may be, may, whenever the local indexes to be prepared by such commissioners become filled with entries, continue the same separated as above; and such officers are hereby required, in order to fully utilize such local indexes, whenever the entries under a block shall have consumed the space appropriated thereto, and other block areas shall have comparatively few entries credited thereto, to

Commissioners to prepare indexes on system known as local indexing by blocks.

## CONVEYANCES.

carry forward such entries from the first-named block, by proper foot-marks and references, to the nearest of the sparsely-filled spaces, until such process shall be no longer feasible, upon which such officer shall make requisition to the board of chosen freeholders for (and the said board of such county shall thereupon provide) such additional indexes of like character for the continuation of the same as may be necessary; and whenever said hereinbefore-mentioned combination or analytical nominal index shall be required the same shall be provided in like manner.]

## An act for the preservation of filed maps.

Approved March 12, 1889.

P. L. 1889, p. 49.

Impaired maps  
may be copied,  
&c.890-180  
R98-714

**180. SEC. 1.** That the register of deeds or clerks and surrogates of the several counties in this state are hereby authorized, whenever any of the maps on file in their respective offices shall by public use become worn, torn or otherwise impaired, so as to be wholly or partly illegible, to employ a competent person, whose duty it shall be to copy, retrace, redraft or otherwise restore or make legible such impaired maps, re-index the same, and that the compensation of such person shall be fixed and paid by the boards of chosen freeholders of the several counties, according to law.

Compensation to  
be fixed and paid  
by chosen free-  
holders.

## An act for the preservation of public records.

Approved March 19, 1889.

P. L. 1889, p. 64.

Mutilated or worn-  
out records to be  
re-recorded, &c.890-181  
R98-714

**181. SEC. 1.** That whenever any of the records of any deeds, mortgages or other instruments of record in any office of any clerk, register or surrogate of any county of this state shall become worn out, mutilated, or in such condition that by use the same would be likely to become entirely void, lost or unintelligible, and the title to lands or other property endangered, it shall be the duty of such clerk, register or surrogate, upon the order of the circuit judge of said county to re-record such records in new books, numbered and paged similar to the old book or books, and certify the same under his hand and official seal to be a true copy of such record, at such fees to be paid by said county as are now allowed for original records; and that such certified record or a copy thereof, certified by said clerk, register or surrogate to be a true copy, shall be received in evidence in any court of this state, and be as good, effectual and available in law as if the original instrument was then and there produced and proven.

An act to provide for the keeping of an alphabetical index to the daily entry of deeds and mortgages required or authorized by law to be recorded.

Approved April 2, 1889.

P. L. 1889, p. 147.

Alphabetical  
index to daily  
entry of deeds  
and mortgages  
to be kept.890-182  
R98-714

**182. SEC. 1.** That it shall be the duty of the clerks, registers or other officers who now are obliged by law to receive and record all deeds and mortgages, to keep, in addition to the daily entry of the same, an alphabetical index of all the names of the grantors in deeds, and the names of all mortgagors in mortgages that may be presented for record, and that said alphabetical index shall be made of all deeds and mortgages by said clerk, register or other officer in manner aforesaid on the same day, or the day following, such deeds and mortgages shall have been received for record.

Fee for keeping  
index.

**183. SEC. 2.** That the said clerk, register or other officer, for his said services in keeping such index as aforesaid, shall receive the sum of three cents for each name so indexed, to be paid by the person offering said deed or mortgage for record.

Repealer.

**184. SEC. 3.** That all acts or parts of acts, general or special, inconsistent with the provisions of this act, be and the same are hereby repealed, and that this act shall take effect immediately.

**An act requiring contracts for the conditional sale of personal property to be recorded.**(1)

Approved May 9, 1889. P. L. 1889, p. 421.

**185. SEC. 1.** [Amended by Sec. 191, *post.*]  
**186. SEC. 2.** That the instruments mentioned in the preceding section shall be recorded in the clerk's office of the county wherein the party contracting to buy, if a resident of this state, shall reside at the time of the execution thereof, and if not a resident of this state, then in the clerk's office of the county where the property so conditionally bought shall be at the time of the execution of such instrument; *provided*, that in any county where the office of register of deeds exists or hereafter may be created, such instruments shall be recorded in the office of such register. (a)

Contracts for conditional sale of goods to be recorded in county clerk's office.

891-185  
 RWS98-714  
 891-185  
 -39v-479

Proviso.

**187. SEC. 3.** That no contract of sale or conveyance intended to operate as a contract to sell goods and chattels conditionally shall be recorded unless the execution thereof shall be first acknowledged or proved, and such acknowledgment or proof certified thereon in the manner prescribed by law for the acknowledgment and proof of deeds.

No contract to be recorded unless execution thereof acknowledged.

**188. SEC. 4.** That the clerks and registers of the several counties of this state shall record such instruments, in accordance with the provisions of this act, in the books used for the recording of chattel mortgages, and the said clerks and register shall respectively enter at the foot of the record of each such contract of sale and instrument so recorded, the time when such contract of sale or instrument was received by him in his office to be recorded, and shall indorse on each contract of sale and instrument, when recorded as aforesaid, the time when the same was delivered to him at his office to be recorded, and the book and page in which the same has been recorded, and shall thereupon deliver the same to the party entitled to it or to his order.

How instruments to be recorded.

**189. SEC. 5.** That such contracts of sale shall be properly indexed in the books used for indexing chattel mortgages, and the records and certified copies thereof shall be evidence in the same manner and in like cases as the record of deeds; and the said clerks and registers shall be entitled to the same fees for recording and indexing such contracts of sale and for copying such records as they are entitled to for the recording, indexing and copying of deeds.

How indexed. Record evidence.

Fees.

**190. SEC. 6.** That every contract of sale hereafter recorded pursuant to the provisions of this act shall be valid against the creditors of the person contracting to buy and against subsequent purchasers and mortgagees, from the times of the recording thereof until the same be canceled of record in the manner now provided by law for canceling of mortgages of real estate.

Contract hereafter recorded valid against creditors, &c.

891-190  
 12D-460  
 30V-280

**Amendatory act.**

Approved March 14, 1895. P. L. 1895, p. 302.

**191. SEC. 1.** That section one of an act entitled "An act requiring contracts for the conditional sale of personal property to be recorded," approved May ninth, one thousand eight hundred and eighty-nine, be and the same hereby is amended so as to read as follows:

[That in every contract for the conditional sale of goods and chattels hereafter made, which shall be accompanied by an actual delivery and be followed by an actual and continued change of possession of the things contracted to be sold, all conditions and reservations which provide that the ownership of such goods and chattels is to remain in the person so contracting to sell the same, or other person than the one so contracting to buy them, until said goods and chattels are paid for, or until the occurring of any future event or contingency, shall be absolutely void as against the

Conditional contracts of sale, accompanied by delivery, with reservation of ownership in vendor until payment, void against judgment creditor, &c., unless recorded.

891-191  
 38V-561  
 30V-290

(a) This act applies to a contract of sale made in New York of property to be delivered to, and held by, the purchaser within this state. *Knowles Loom Works v. Vacher*, 18 N. J. L. J. 89. A chattel mortgage subsequently given by the purchaser on such

property in this state, to secure a pre-existing debt, is, within the meaning of this act, a mortgage in good faith, and is entitled to priority over the unrecorded contract of sale of which the mortgagee had no notice. *Id.*

(1) By chapter LXXX. of the acts of 1895, (P. L. 1895, p. 158, *post*, title RAILROADS AND CANALS), the provisions of this act shall not be construed to apply to railroad and street railway equipment and rolling stock which shall be the subject of contracts of the kind specified in the "Act relating to certain contracts for the lease and conditional sale of railroad equipment and rolling stock and providing for the record thereof," as amended by the act of March 5th, 1895.

## CONVEYANCES.

judgment creditors of the person so contracting to buy the same, and subsequent purchasers and mortgagees thereof in good faith, and as to them the sale shall be deemed absolute, unless such contract for sale with such conditions and reservations therein be recorded as directed in the succeeding section of this act.

**An act for confirming of conveyances of land made by virtue of letters of agency, powers of attorney, or other power or authorities.**

P. L. 1890, p. 239.

Conveyances of lands heretofore made by virtue of powers of attorney, &c., and recorded, validated.

892-192  
R98-714

Approved April 8, 1890.

**192. SEC. 1.** 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 record of this state whereby any lands, tenements or hereditaments whatsoever within this state, 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; *provided*, that all such powers and authorities as aforesaid have been duly acknowledged and now entered upon the public records; *and provided further*, that this act shall not affect the title of any bona fide purchasers or mortgagees for valuable consideration.

Proviso.

Proviso.

**An act relating to acknowledgments or proofs of deeds, mortgages, certificates and other instruments requiring to be proved or acknowledged, as required of deeds of real estate taken before foreign commissioners of deeds for New Jersey.**

P. L. 1894, p. 116.

Certain acknowledgment or proof taken before foreign commissioner validated.

Approved April 24, 1894.

**193. SEC. 1.** That any acknowledgment or proof of any deed, mortgage, certificate of incorporation or other instrument required to be proved or acknowledged, as in case of deeds of conveyance of real estate heretofore taken before any foreign commissioner of deeds for New Jersey, shall be valid and effectual, although it may not appear by the certificate of acknowledgment or proof of any such deed, mortgage, certificate or other instrument, that the same was, in fact, taken in the state, territory or district where the commissioner who took such acknowledgment or proof resided; *provided*, that such certificate or acknowledgment or proofs is in other respects in the customary and proper form; and that this act shall take effect immediately.

Proviso.

**An act respecting conveyances.**

P. L. 1894, p. 279.

Recital in deed, duly recorded, of letter of attorney, prima facie proof of existence thereof.

892-194  
R98-714

Approved May 14, 1894.

**194. SEC. 1.** That whenever any deed or conveyance for lands or real estate in this state shall purport to have been executed by virtue of any letter or letters of attorney, and said deed shall have been properly acknowledged and recorded, that the recital of letter or letters of attorney in said deed shall be prima facie proof of the existence thereof, notwithstanding the same may not be recorded; *provided, however*, such deed or deeds shall have been recorded at least ten years; and the person or persons claiming under said deed shall take and subscribe an oath or affirmation that he, she or they has or have seen such letter or letters of attorney so recited,

Proviso.

which shall be recorded in the register of deeds' or the county clerk's office, as the case may be, in the county where such lands are situate, in the book therein provided for the recording of the powers of attorney to convey lands.

**An act concerning the number of commissioners of deeds in and for the cities of the second class of this state.**

Approved May 16, 1894. P. L. 1894, p. 379.

**195. SEC. 1.** That it shall be lawful to appoint five commissioners of deeds for each of the wards in the several cities of the second class of this state.

Five commis-  
sioners in each  
ward to be ap-  
pointed in second-  
class cities.  
Repealer.

893-195  
R98-714

**196. SEC. 2.** That all acts and parts of acts inconsistent herewith be and are hereby repealed, and this act shall take effect immediately.

**An act concerning the recording and plotting of conveyances of land and real estate situate in certain cities of this state.**

Approved February 20, 1895. P. L. 1895, p. 100.

**197. SEC. 1.** That no register of deeds, county clerk or other officer whose duty it shall be to record deeds, shall record any deed which conveys any property situate in any city of this state that now has or hereafter shall have atlas or block maps upon which shall be plotted the lots and subdivisions of lots of land and real estate situate in said city, unless it shall be duly certified thereon that the same has been presented at the office of the officer, officers or other department of such city having charge of such atlas or block maps for the purpose of recording or noting such changes as may have been made thereby in the property lines and ownership of the property therein described; *provided, however,* that such deeds shall be recorded even without such certificate being indorsed thereon in case the fee for plotting such deeds upon the city atlas or block map, together with a fee of twenty cents for the use of the register of deeds, county clerk or other officer whose duty it is to record the same, shall be paid to such officer, whereupon it shall be the duty of such officer within five days thereafter to present such deed or abstract thereof to the officer, officers or department in such city having charge of such plotting, together with the plotting fees aforesaid, for the purpose of having such changes in property lines or ownership duly plotted on such city atlas or block maps; *and provided further,* that this act shall not apply to the recording of any deed conveying land situate in any city where a contract exists between the municipal authorities of such city and the register of deeds, county clerk or other officer whose duty it shall be to record deeds, for the making of abstracts of such deeds for the purpose of having the land therein conveyed plotted upon the block or atlas maps of such city; but that such deeds shall be recorded as heretofore, anything to the contrary in this act notwithstanding.

Deeds shall not  
be recorded unless  
duly certified that  
the same has been  
presented for plot-  
ting on city atlas  
or block map.

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R98-714

Proviso.

Proviso.

**198. SEC. 2.** That all acts and parts of acts inconsistent herewith be and the same are hereby repealed, and that this act shall take effect immediately.

Repealer.

## Co-operative Societies.

1. Formation of society authorized.
2. What certificate of association shall set forth.
3. How certificate executed and where recorded.
4. Board of directors and officers, how elected.
5. First meeting of society, how called.
6. What by-laws shall provide.
7. Name of society to be kept on outside of place of business.
8. To have a registered office.
9. Shares of capital stock, how and when issued.
10. No member entitled to more than one vote, &c.
11. May hold interest in any other society.
12. Annual statement to be made and filed.
13. Any member may inspect books.
14. Distribution of profits.
15. Member may nominate person to whom shares shall be transferred at death.
16. Dissolution of society.
17. Whole capital stock to be paid in, if necessary to satisfy debts.
18. Repealer.