An act in relation to the lien of dyers upon goods in their possession.

Approved March 23, 1888. P. L. 1888, p. 222.

Dyers entitled to lien upon goods in their possession.

66. SEC. 1. That all persons or corporations engaged in the business of dyeing any cotton, woolen or silk yarns or goods shall be entitled to a lien upon the property of others which may have come into their possession for the purpose of being dyed, for the amount of any account that may be due them from the owners of such yarns or goods by reason of work and labor performed and materials furnished in and about the dyeing of the same or other goods of such owner or owners.

Lien not waived by recovery of judgment.

67. SEC. 2. That such lien shall not be waived, merged or impaired by the recovery of any judgment for the moneys due for such work, labor or materials, and such lien may be enforced by levy and sale under execution upon such judgment.

An act in relation to the lien of manufacturers, spinners and throwsters of cotton, woolen and silk goods.

Approved May 9, 1889. P. L. 1889, p. 425.

Lien on cotton, wool or silk goods.

68. SEC. 1. That all persons or corporations engaged in the business of manufacturing, spinning or throwing cotton, wool or silk into yarn or other goods, shall be entitled to a lien upon the goods and property of others that may come into their possession for the purpose of being so manufactured, spun or thrown into yarn or other goods, for the amount of any account that may be due them from the owners of such cotton, wool or silk, by reason of any work and labor performed and materials furnished in or about the manufacturing, spinning or throwing of the same or other goods of such owner or owners.

Lien not impaired by recovery of judgment.

69. SEC. 2. That such lien shall not be waived or impaired by the recovery of any judgment for the moneys so due, and for the work and labor performed and materials furnished; and such lien may be enforced by levy and sale under execution upon such judgment.

An act in relation to the lien of finishers of silk and other goods of which silk is a component part.

Approved June 13, 1890. P. L. 1890, p. 469.

Lien of persons and corporations on silk goods for work.

70. SEC. 1. That all persons or corporations engaged in the business of finishing silk or other goods of which silk is a component part, shall be entitled to a lien upon the goods and property of others that may come into their possession for the purpose of being finished and prepared for sale, for the amount of any account that may be due them from the owner of such goods, by reason of any work and labor performed and materials furnished in the finishing and preparing for sale of the same or other goods of such owner.

Lien not impaired by recovery of judgment.

71. SEC. 2. That such lien shall not be waived or impaired by the recovery of any judgment for the moneys so due, and for the work and labor performed and materials furnished; and such lien may be enforced by levy and sale under execution upon said judgment.

Limitation of Actions.

Rev. 80.

R. S. 652.

An act for the limitation of suits respecting titles to land.

Passed June 5, 1787.

WHEREAS, The laws, now in force, for the limitation of suits respecting real estates, are found insufficient to answer the good purposes of quieting claims and securing titles—therefore,

Sixty years' possession good title.

1. That sixty years' actual possession of any lands, tenements, or other real estate, uninterruptedly continued by occupancy, descent, conveyance or otherwise, in whatever way or manner such possession might have commenced, or have been continued, shall vest a full and complete right and title in every actual possessor or occupier of such lands, tenements, or other real estate, and shall be a good and sufficient bar to all claims that may be made, or actions commenced by any person or persons whatever, for the recovery of any such lands, tenements, or other real estate. (*a*)

In what cases thirty years a bar.

2. That thirty years' actual possession of any lands, tenements or other real estate, uninterruptedly continued as aforesaid, wherever such possession commenced, or is founded upon a proprietary right duly laid thereon, and recorded in the surveyor-general's office of the division in which such location was made, or in the secretary's office, agreeably to law, or wherever such possession was obtained by a fair bona fide purchase of such lands, tenements, or other real estate, of any person or persons whatever, in possession, and supposed to have a legal right and title thereto, or of the agent or agents of such person or persons, shall be a good and sufficient bar to all prior locations, rights, titles, conveyances, or claims whatever, not followed by actual possession as aforesaid, and shall vest an absolute right and title in the actual possessor and occupier of all such lands, tenements, or other real estate; *provided always*, that if any person or persons, having a right or title to lands, tenements, or other real estate, shall, at the time of the said right or title first descended or accrued, be within the age of twenty-one years, feme covert, non compos, imprisoned, or without the United States of America, then such person or persons, and his and their heir and heirs, may, notwithstanding the aforesaid times are expired, be entitled to his or their action for the same, so as such person or persons, or his or their heirs, commence or sue forth his or their action within five years after his or their full age, discoverture, coming of sound mind, enlargement out of prison, or coming within any of the United States, and at no time after; *and provided also*, that any citizen or citizens of this or any other of the United States, and his or their heirs, having right or title to any lands, tenements, or other real estate within this state, may, notwithstanding the aforesaid times are expired, commence his or their action for such lands, tenements, or other real estate, at any time within five years next after the passing of this act, and not afterwards.

Proviso.

Proviso.

Surveys inspected, &c., bar against proprietors.

3. That any survey, made of any lands, within either the eastern or western division of the proprietors of the state of New Jersey, and inspected and approved of by the general proprietors, or council of proprietors of such division, and by their order or direction entered upon record in the secretary's office of this state, or in the surveyor-general's office in such division, shall, from and after such record is made, preclude and forever bar such proprietors and their successors from any demand thereon, any plea of deficiency of right or otherwise notwithstanding. (*b*)

(*a*) *Wright* v. *Scott*, 4 *Wash. C. C.* 16.
(*b*) *Arnold* v. *Mundy*, 1 *Hal.* 68. *Estell* v. *Bricksburg Land Co.*, 6 *Vr.* 235. *Den, Gardner* v. *Sharp*, 4 *Wash. C. C.* 609.

4. That if any person or persons, for the purpose of establishing the boundaries of lands between them, shall, by certificate under their hands and seals, executed in the presence of two or more subscribing witnesses, certify unto the clerk of the county or counties, wherein such line or partition shall lay, any lines, corners, and boundaries, as shall by them be allowed and acknowledged to be the true bounds betwixt their lands; and the said certificate, filed in said clerk's office, and recorded by said clerk in a book to be by him provided for that purpose, shall be as fully conclusive and binding to the parties so certifying, and their heirs and successors, as could have been done by deeds of quit-claim or in any other manner whatsoever.

Boundaries of lands between persons, how ascertained.

Supplement.

Rev. 104
R. S. 653.

Passed November 28, 1789.

Preamble.

WHEREAS, There may be divers ancient surveys of land fairly made, which by the neglect of officers, or through some casualty, have not been put on record, and others, the records whereof have been destroyed by fire or lost; by reason whereof, and the natural decay of marked lines and corners, the ancient metes and bounds cannot be clearly ascertained but by testimony and reputation; *and whereas*, it hath been found, on running the lines of divers such surveys, that they hold more, or extend farther than their strict length of chain, large measures having been formerly allowed, even by the proprietors, as an encouragement to location, of which avaricious persons do, or may take advantage against the owners and possessors of such lands, by confining their surveys to the net length of chain, thereby making vacancies of valuable improved parts, some whereon buildings are erected and made, and on causing surveys to be made of such overplus, have procured and may procure the same to pass the council of proprietors without legal notice, or due preference given to the possessors, who may have innocently supposed their title was indefeasible, or otherwise would have willingly resurveyed, covered, and secured the same; for remedy whereof in future,

5. SEC. 1. That no such newly-made partial survey, now lying within the council of proprietors, or which may hereafter be returned to them, or made on any lands improved or unimproved within what has been usually taken and deemed to be the ancient reputed boundary of such lands, shall be recorded or be of any avail to the person so surveying, unless it shall be made to appear, by the testimony of at least two good and sufficient witnesses, that the possessor or possessors, holding such lands by survey, deed, or otherwise, had been duly notified, for the space of six months previous to the making of such survey, of the intention of doing thereof, and had refused or neglected to resurvey and cover such overplus lands. (*a*)

What surveys of no avail without previous notice to the possessor.

6. SEC. 2. That if the council of proprietors shall refuse or neglect to give the preference to any prior survey, legally made, or to the possessor or possessors of any tract of land, enabling such possessor or possessors to cover with rights, and secure such overplus lands, which may be found within their ancient bounds, on such possessor or possessors making a resurvey of his or their lands within six months after such legal notice as aforesaid, that it shall and may be lawful for such possessor or possessors, or any other person legally authorized on his, her, or their behalf, to cause a resurvey to be made, agreeably to the ancient reputed lines and boundaries, either by a deputy surveyor, or some other person understanding the art of surveying, and appropriate so many rights thereon as will be sufficient to include the overplus, which surveyor or person so surveying, being duly qualified before a justice of the peace of the county wherein the land may lie, that the survey, so by him made, is just according to the best of his knowledge, the same may be produced to the clerk of the county, who is hereby required, on the receipt thereof, to record the same in the book directed to be kept in the respective counties, by the act entitled "An act for the limitation of suits at law respecting titles to land,"

Prior surveys to have preference, &c.

(*a*) *Lippincott* v. *Souders*, 3 *Hal.* 161. *Den, McMurtrie* v. *McMurtrie*, 3 *Gr.* 277.

passed at Burlington the fifth day of June, seventeen hundred and eighty-seven, which survey so made and recorded, shall give such owner and possessor an absolute title in fee. [See SURVEYS.]

To what cases this act shall not extend.

7. SEC. 3. That nothing in this act contained shall be construed or taken to authorize any person or persons to make any survey within the certain or reputed bounds of any survey, or resurvey made and entered on record agreeably to the said recited act, any large or overplus measure therein contained, notice as aforesaid given, deficiency of rights or other plea to the contrary notwithstanding.

R. S. 92.

P. L. 1855, p. 496.
" 1859, p. 80.
" 1860, p. 691.

An act for the limitation of actions.

Revision—Approved March 27, 1874.

Actions within six years.
R. S. 92, § 1.

8. SEC. 1. That all actions of trespass, quare clausum fregit, all actions of trespass, detinue, trover, and replevin for taking away of goods and chattels, all actions of debt, founded upon any lending or contract without specialty, or for arrearages of rent due on a parol demise, and all actions of account and upon the case, (*a*) except actions for slander, and except, also, such actions as concern the trade or merchandise between merchant and merchant, their factors, agents, and servants, (*b*) shall be commenced and sued within six years next after the cause of such actions shall have accrued, and not after. (*c*)

(*a*) On a note payable on demand, the statute begins to run from the time of making the note. *Larason* v. *Lambert*, 7 *Hal.* 247. *Agens* v. *Agens*, 5 *Dick.* 566. Where a note is given to renew one against which the statute has nearly become a bar, and it is antedated, the statute is a good bar six years from the time it becomes due. *Paul* v. *Smith*, 3 *Vr.* 13. It was suspended during the revolution. *Montgomery* v. *Bruere*, 1 *South.* *266. It applies to a set-off. *Nolin* v. *Blackwell*, 2 *Vr.* 170. To an action for use and occupation. *Conover* v. *Conover*, *Sax.* 404. If an account is *prima facie* barred by the statute, and it is pleaded, it should not be overruled by the justice. *Sayres* v. *Scudder*, *Pen.* *54. *Neafie* v. *Ackerman*, *Pen.* *562. See *Stout* v. *Seabrook's Executors*, 3 *Stew.* 187. *Todd* v. *Rafferty's Administrators*, 3 *Stew.* 254. A suit in equity for an account, founded on a covenant in a sealed instrument, is not barred by a delay of more than six years from the last breach of the covenant. *Lilliendahl* v. *Stegmair*, 18 *Stew.* 648. It bars an action brought by an executor to recover money overpaid to a legatee *Ely* v. *Norton*, 1 *Hal.* 187. An insolvent discharged cannot plead the statute to a debt due before. *Scott* v. *Stackhouse*, 1 *Hal.* 431. *Evans* v. *Huffman*, 1 *Hal. Ch.* 354. It is a positive and legal bar in all cases within its provisions. *Thorpe* v. *Corwin*, *Spen.* 311. See *Cook* v. *Smith*, 1 *Vr.* 394. If a party has been restrained from suing by an injunction, the statute is a good plea, but equity may enjoin the defendant from pleading it. *Dekay* v. *Darrah*, 2 *Gr.* 288. *Doughty* v. *Doughty*, 2 *Stock.* 347. An action commenced but not prosecuted to judgment, is no bar. *Ivins* v. *Schooley*, 3 *Har.* 269. Damages done within six years by a nuisance erected before the six years, are not barred, where the nuisance has not been so long erected as to raise a presumption of a grant. *Delaware and Raritan Canal Co.* v. *Wright*, 1 *Zab.* 469. *Delaware and Raritan Canal Co.* v. *Lee*, 2 *Zab.* 243.

(*b*) When an account may be considered as a running account. *Franklin* v. *Camp*, *Coxe* 196. An account for firewood, hay, &c., the products of plaintiff's farm, is not an account between merchants. *Miller* v. *Colwell*, 2 *South.* *577. It is now extended to the accounts of persons other than merchants. *Belles* v. *Belles*, 7 *Hal.* 339. It applies to a set-off by the defendant. *Smith* v. *Ruecastle*, 2 *Hal.* 357. *Semble* overruled. *Nolin* v. *Blackwell*, 2 *Vr.* 173. There must be items on *both* accounts within six years. *Gulick* ads. *Turnpike Co.*, 2 *Gr.* 545. Nor can the plaintiff remove from the statute that part of his account which is more than six years old by giving the defendant a credit not claimed by him. *Hibler* v. *Johnston*, 3 *Har.* 266. A submission to arbitration cannot keep alive indefinitely an account between partners. *Cowart* v. *Perrine*, 3 *C. E. Gr.* 454.

(*c*) The statute must be pleaded, and cannot be taken advantage of under the general issue. *Brand* v. *Longstreet*, 1 *South.* *325. If a bill in equity states a case to which the statute applies, without bringing it within some of its exceptions, the defendant may take advantage of the statute by demurrer. *Bird* v. *Inslee*, 8 *C. E. Gr.* 363. *Wisner* v. *Barnet*, 4 *Wash. C. C.* 631. Or by plea or answer. *Conover* v. *Wright*, 2 *Hal. Ch.* 613. *Ruckman* v. *Decker*, 8 *C. E. Gr.* 263. Upon a replication filed to a plea that there was no promise within six years, an agreement not to take advantage of the statute cannot be given in evidence. *Cowart* v. *Perrine*, 6 *C. E. Gr.* 101. A plea of *non assumpsit* within *eight* years is bad. *Riggs* v. *Quick*, 1 *Har.* 160. After it is overruled it cannot be again pleaded by the same parties or their privies. *Fisher* v. *Rutherford*, *Bald. C C.* 188. Trusts which fall within the proper, peculiar and exclusive jurisdiction of courts of equity are not subject to the statute of limitations. *Buckingham* v. *Ludlum*, 10 *Stew.* 137. *Williams* v. *McKay*, 13 *Stew.* 189. *Williams* v. *Reilly*, 14 *Stew.* 137. *Rusling* v. *Rusling*, 15 *Stew.* 594. *Dyer* v. *Waters*, 1 *Dick.* 484. Where there is both a legal and equitable remedy for the same cause of action, if the legal remedy is barred by lapse of time the equitable remedy will also be held to be barred. *Smith's Administrator* v. *Wood*, 15 *Stew.* 563. See *Gutch* v. *Fosdick*, 3 *Dick.* 353. *Agens* v. *Agens*, 5 *Dick.* 566. A bill was filed against a defendant by the directors of a bank, alleging embezzlements of its funds by him when cashier thereof between 1862 and 1874. He was elected president in the latter year and held that office until 1880. It was alleged he fraudulently concealed the embezzlements until their discovery in 1881. *Held*, that the statute of limitations might be pleaded to the bill. *Somerset Bank* v. *Veghte*, 15 *Stew.* 39. The presentation of a claim to an administrator, after he has initiated proceedings to declare the estate insolvent, suspends the running of the statute. *Smith* v. *Crater*, 16 *Stew.* 636. But not where application is made for an order to sell lands to pay debts. *Everitt* v. *Williams*, 16 *Vr.* 140. A court of equity has power to prevent a defendant from setting up the statute of limitations as a defense to an action at law which the defendant has prevented the plaintiff from bringing until sufficient time has elapsed to render such defense available to him. *Lamb* v. *Martin*, 16 *Stew.* 34. See, also, *Terhune* v. *Hackensack Savings Bank*, 18 *Stew*, 344. *Herbert* v. *Herbert*, 2 *Dick.* 11. It is a well-settled rule in equity that in cases of fraud the time limited within which the action must be brought will not commence to run until the discovery of the fraud, or until the complainant was in a situation where, by the exercise of reasonable diligence, he would have discovered the fraud. *Lincoln* v. *Judd*, 4 *Dick.* 387. The statute of limitations will not be applied in equity to an express trust unless it appears that the trustee has held the funds claimed adversely for the statutory period. *Smith* v. *Combs*, 4 *Dick.* 420. When the time is to be computed from a date the day is excluded, and when it is to be computed from an event or an act the day is included. *McCulloch* v. *Hopper*, 7 *N. J. L. J.* 336, See, also, 18 *Vr.* 189. Where it clearly appears on the face of a bill of complaint that complainant's right of action is barred, advantage may be taken of the statute of limitations by demurrer. *Partridge* v. *Wells*, 3 *Stew.* 176. The statute is not a bar to a suit in equity for the recovery of a legacy payable out of the personal estate only. *Hedges* v. *Norris*, 5 *Stew.* 192. The actions of debt limited by the statute are those only growing out of contract, or such as are given by statute for the enforcement of penalties. The statute does not run against an action of debt for the enforcement of an assessment for a local improvement, unless the statute authorizing the assessment so provides. *Dickinson* v. *Trenton*, 8 *Stew.* 416. Nor to a salary due from a city. *Outwater* v. *Passaic*, 22 *Vr.* 345. *Cowenhoven* v. *Freeholders*, 15 *Vr.* 232. One partner cannot set up the statute against the other in a case where there have been dealings in respect to the partnership affairs within six years. *Buckingham* v. *Ludlum*, 10 *Stew.* 138. When a right of action has become barred under the statute, the statutory defense is a vested right that cannot be impaired by subsequent legislation *Ryder* v. *Wilson's Executors*, 12 *Vr.* 9. See, also, *Moore* v. *State*, 14 *Vr.* 203. The payment of interest on the promissory note of a firm by a copartner, after dissolution of the copartnership, but within six years after the maturity of the note, the payment having been made within six years before the bringing of the suit, takes the note out of the statute. *Casebolt* v. *Ackerman*, 17 *Vr.* 169. A foreign judgment, when sued on here, is subject to our statute of limitations, being barred by the lapse of six years. *Summerside Bank* v. *Ramsey*, 26 *Vr.* 383. In an action of *assumpsit*, a plea of the statute of limitations was interposed. A replication, setting up a fraudulent concealment of the cause of action until a time within the statutory limit of six years, and seeking thus to avoid the bar of the statute, was held to be bad on demurrer. Relief in such case must be sought in equity. *Freeholders of Somerset* v.

9. SEC. 2. That all actions of trespass for assault, menace, battery, wounding, and imprisonment, or any of them, shall be commenced and sued within four years next after the cause of such action shall have accrued, and not after. Actions within four years. Ib., ¿ 2.

10. SEC. 3. That every action upon the case for words shall be commenced and sued within two years next after the words spoken, and not after. For words. Ib., ¿ 3.

11. SEC. 4. That if any person or persons who is, are, or shall be entitled to any of the actions specified in the three preceding sections of this act, is, are, or shall be, at the time of any such cause of action accruing, within the age of twenty-one years, or insane, (*a*) that then such person or persons shall be at liberty to bring the said action so as he, she, or they institute or take the same within such time as is before limited after his, her, or their coming to or being of full age, or of sane memory, as by other person or persons having no such impediment might be done. Against whom not to run. Ib., ¿ 4. Amended.

12. SEC. 5. [Amended by Sec. 30, *post.*]

13. SEC. 6. That every action of debt or covenant for rent or arrearages of rent, founded upon any lease under seal, whether indented or poll, and every action of debt upon any single or penal bill for the payment of money only, or upon any obligation with condition for the payment of money only, or upon any award under the hands and seals of arbitrators for the payment of money only, shall be commenced and sued within sixteen years next after the cause of such action shall have accrued, and not after;(*b*) but if any payment shall have been made on any such lease, specialty, or award, within or after the said period of sixteen years, then an action instituted on such lease, specialty or award, within sixteen years after such payment, shall be good and effectual in law, and not after;(*c*) *provided, always*, that the time during which the person who is or shall be entitled to any of the actions specified in this section shall have been within the age of twenty-one years, or insane, shall not be taken or computed as part of the said limited period of sixteen years. Sealed instruments. Ib., ¿ 6. Amended. Proviso.

14. SEC. 7. That judgments in any court of record of this state may be revived by scire facias, or an action of debt may be brought thereon within twenty years next after the date of such judgment, and not after; *provided*, that the time during which the person who is or shall be entitled to the benefit of such judgment shall have been under the age of twenty-one years, or insane, shall not be taken or computed as part of the said limited period of twenty years. (*d*) Judgments. Ib., ¿ 7. Proviso. Amended.

15. SEC. 8. That if any person or persons against whom there is or shall be any such cause of action as is specified in the first, second, third, fifth, sixth and seventh sections of this act, shall not be resident in this state when such cause of action accrues, or shall remove from this state after the Non-residents excepted. Ib., ¿ 8.

Veghte, 15 *Vr.* 509. An executor may retain, out of the assets of the estate, a debt due to himself, although it be more than six years old. *In re Estate of John Phillips, deceased*, 6 *N. J. L. J.* 371. The statute of limitations should be regarded as a strict defense, and if the party lets it slip, the court ought not to relieve him. *West Hoboken* v *Syms*, 20 *Vr.* 546 *Query*—Is the statute of limitations a bar to a debt due from husband to wife? *Gray* v. *Gray*, 12 *Stew.* 511. See, also, *Yeomans* v. *Petty*, 13 *Stew.* 495, where it was held that the statute is not a bar to such a claim. Recovery of a premium paid in violation of the usury laws was held to be barred by the statute, one of the firm by which it was taken having lived in this state for over six years. *Adams* v. *Mahnken*, 13 *Stew.* 373. See, also, *Martin* v. *Lamb*, 13 *Stew.* 669. *Arnett* v. *Finney*, 14 *Stew.* 147.

(*a*) Whether insane is a question for the jury, under the direction of the court. *Den. Steelman* v. *Steelman*, 1 *Har.* 68.

(*b*) It begins to run from the time when the bond is due, and not from its date. *Richman* v. *Richman*, 5 *Hal.* 114. It is presumed to have been paid after sixteen years. *Mease* v. *Stevens*, *Coxe* 433. But not after twelve years. *Kinna* v. *Smith*, 2 *Gr. Ch.* 14. Where a mortgage is given as security for a bond, it may be foreclosed after suit on the bond is barred. *Morris* v. *Condit*, 2 *Hal.* 114. *Barned* v. *Barned*, 6 *C. E. Gr.* 245. It applies to bonds executed before the date of its passage. *Marston* v. *Seabury*, *Pen.* *435. A plea that the bond was not *made* within sixteen years is bad. *Richman* v. *Richman*, 3 *Hal.* 55. Where a written lease is not under seal, and is accompanied with a surety agreement which is under seal, although the principal debtor may plead in bar *actio non accrevit infra sex annos* on his contract not under seal, the action against the surety on his contract under seal will not be barred until the lapse of sixteen years. *Wagoner* v. *Watts*, 15 *Vr.* 126, 16 *Vr.* 184. A recognizance is not within the bar of the statute of limitations of this state. *Elsasser* v. *Haines*, 23 *Vr.* 10.

(*c*) The indorsements of payments on the bond must be proved by the plaintiff to have been made at, or soon after, the time they bear date before they can be read in evidence, and also that they were made by or with the consent of the obligor. Form of pleading in such case. *Van Dike* v. *Van Dike*, 3 *Gr.* 289. Upon a replication that the action accrued within sixteen years, proof of payments on the bond is inadmissible. *Van Dyke* v. *Van Dyke*, 2 *Har.* 478. But plaintiffs may amend. *S. C.*, 4 *Har.* 1. A partial payment by one of two joint obligors, if made while the joint liability exists, will take it out of the statute. *Disborough* v. *Bidleman*, *Spen.* 275, 1 *Zab.* 677. But not if such payment be made after the death of one obligor as against his heirs. *Ib.* If there are *three* joint and several obligors, the death of one only severs *his* liability, and a payment by one survivor is good as against the other. *Cortles* v. *Fleming*, 1 *Vr.* 349. A payment by one of two joint and several promisors after the death of the other, is good as against the representatives of the latter. *Bergen* v. *Davisson*, *Spen.* 282. *Infra*, Sec. 17. But if the bond be barred, a payment or promise *after* the statute has run cannot revive it. *Ludlow* v *Van Camp*, 2 *Hal.* 113. *Marston* v. *Seabury*, *Pen.* *702. See *Mease* v. *Stevens*, *Coxe* 433.

(*d*) A *scire facias* issued on a judgment fifty years old, without permission, was quashed. *Pears* v. *Bache*, *Coxe* 206. A judgment is presumed to be satisfied after twenty years. *Gulick* v. *Loder*, 1 *Gr.* 68. A bill to revive a judgment filed more than twenty years after the judgment was obtained, was dismissed. *Bird* v. *Inslee*, 8 *C. E. Gr.* 364. A judgment creditor was allowed to explain why he allowed a judgment and execution to remain unsatisfied for twenty-four years, when ample property of the debtor had been levied on. *Johnson* v. *Tuttle*, 1 *Stock.* 365. A *scire facias* on an *execution* is included in the act. *Buchanan* v. *Rowland*, 2 *South.* *721.

same shall accrue, and before the time of limitation mentioned in said sections is expired, then the time or times during which such person or persons shall not reside in this state shall not be computed as part of the said limited period within which such action or actions are required to be brought as aforesaid; but the person or persons having, or who may have such cause of action as aforesaid, shall be entitled to all the time mentioned in the said several sections, for bringing their said actions after the cause thereof shall accrue, exclusive of the time or times during which the person or persons liable to such actions shall be not resident in this state as aforesaid. (*a*)

Extended in case of death. Ib., § 9.

16. SEC. 9. That if any person, against whom there is or shall be any such cause of action as is specified in the first, fifth, sixth, or seventh sections of this act, shall have died or shall hereafter die before the expiration of the times of limitation therein mentioned, the space or term of six months next succeeding the death of such person shall not be computed as part of the limited period within which such action or actions is or are required to be brought by the said sections. (*b*)

New promise to be in writing. Revision.

17. SEC. 10. That in actions of debt or upon the case, grounded on any simple contract, no acknowledgment or promise by words only, shall be deemed sufficient evidence of a new or continuing contract, whereby to take any case out of the operation of this act, or to deprive any person of the benefit thereof, unless such acknowledgment or promise shall be made or continued by or in some writing to be signed by the party chargeable thereby; and that where there shall be two or more joint contractors or executors, or administrators of any contractor, no such joint contractor, executor, or administrator shall lose the benefit of this act so as to be chargeable in respect, or by reason only of any written acknowledgment or promise, and signed by any other or others of them; *provided always*, that nothing herein contained shall alter or take away or lessen the effect of any payment of any principal or interest made by any person whatsoever; *provided also*, that in actions to be commenced against two or more such joint contractors or executors or administrators, if it shall appear at the trial or otherwise that the plaintiff, though barred by this act as to one or more of such joint contractors or executors or administrators, shall, nevertheless, be entitled to recover against any other or others of the defendants by virtue of a new acknowledgment or promise, or otherwise, judgment may be given, and with costs allowed for the plaintiff as to such defendant or defendants, against whom he shall recover, and for the other defendant or defendants against the plaintiff. (*c*)

Proviso.

Proviso.

What indorsement or payment not sufficient. Revision.

18. SEC. 11. That no indorsement or memorandum of any payment written or made, after this act shall go into effect, upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom such payment shall be made, shall be deemed sufficient proof of such payment so as to take the case out of the operation of this act. (*d*)

Act to apply to set-off. Revision.

19. SEC. 12. That this act shall be deemed and taken to apply to the case of any debt on simple contract alleged by way of set-off on the part of the defendant.

(*a*) It applies to cases where the cause of action accrued and defendant removed from the state *prior* to its passage. *Smith* v. *Tucker*, 2 *Har.* 82. See *Evans* v. *Huffman*, 1 *Hal. Ch.* 354. A plea of non-residence at the time of *trial* is no exception. *Halsey* v. *Beach*, *Pen.* *123. The defendant must be either non-resident when the cause of action accrues, or must have removed after it accrued and before the time of limitation expired. *Paterson Bank* v. *Ludlow*, 6 *Hal.* 354. The non-residence of one of two joint debtors does not take it out of the statute. *Bruce* v. *Flagg*, 1 *Dutch.* 219. A defendant is entitled to a set-off where the plaintiff resided out of the state at the time the action accrued, and so continued until suit was brought, and defendant became a resident within six years after the action accrued, and so continued. *Nolin* v. *Blackwell*, 2 *Vr.* 170. The act does not extend to suits by non-resident *creditors* against non-resident debtors. *Beardsley* v. *Southmayd*, 3 *Gr.* 371. *Taberrer* v. *Brentnall*, 3 *Har.* 262. *Hale* v. *Lawrence*, 1 *Zab.* 713. *Wood* v. *Leslie*, 6 *Vr.* 472.

(*b*) Where A. had a demand against B. which was not barred by the statute, and B. died intestate—*Held*, the statute would not run until letters of administration were taken out, although there was an executor *de son tort*. *Burnet* v. *Bryan*, 1 *Hal.* 377; *contra*, *Dekay* v. *Darrah*, 2 *Gr.* 228.

(*c*) On foreclosure of a mortgage more than twenty years old, that the defendant, in taking a deed for *part* of the premises within twenty years, accepted the title subject to the mortgage, is a sufficient acknowledgment to take the case out of the statute. *Moore* v. *Clark*, 13 *Stew.* 152. Part payment of a book account, with an express verbal promise to pay the balance within six years, brings the case within the first proviso of this section and takes it out of the statute. *Romaine* v. *Corlies*, 18 *Vr.* 108. Payment of interest on a contract has now the same effect to keep alive the contract with respect to the statute of limitations as it had before the revision. *Anthony* v. *Fritts*, 16 *Vr.* 1.

(*d*) The indorsement or memorandum of payment by the party to whom payment is made is no longer sufficient proof thereof; but any payment, when proved by competent evidence *aliunde*, which would have been sufficient before the statute, is still sufficient to remove the bar of the statute. *Parker* v. *Butterworth*, 17 *Vr.* 244.

Bond of executor, &c.
P. L. 1855, p. 496.

20. SEC. 13. That no action which may be brought upon any bond given by any executor, administrator, guardian, trustee, receiver, or assignee, under any law relating to insolvent debtors or insolvent estates, for the faithful performance of all or any of the duties of such executor, administrator, guardian, trustee, receiver, or assignee, shall in any wise operate against, or in any manner affect the surety or sureties named in said bond, unless such action be commenced within twenty years next after the date of said bond; and such surety or sureties, his or their heirs, devisees, or personal representatives, may plead this act in bar of any action not commenced within that time; *provided*, that the time during which the person who is or shall be entitled to the benefit of such bond shall have been under the age of twenty-one years, or insane, shall not be computed as part of the said limited period of twenty years; *and provided further*, that if any such surety shall not reside in this state when the cause of action accrues on such bond, or shall remove from this state after the same shall accrue, and before the limitation herein mentioned shall expire, then the time or times during which such surety shall not reside in this state shall not, in actions against such surety, his heirs, devisees, or personal representatives, be computed as part of the said limited period; and if any such surety shall die before the expiration of the time of limitation herein mentioned, then the space or term of six months next succeeding such death shall not, in actions against the heirs, devisees, or personal representatives of such surety, be computed as part of the said limited period.

Bond of insolvent.
P. L. 1859, p. 80.
Amended.

21. SEC. 14. That any prosecution to be had or commenced upon any bond heretofore given, or hereafter to be given, by any insolvent debtor or person arrested upon final process in any civil action, to the sheriff of any county in this state, for the benefit of the prison limits, shall in nowise operate against or in any manner affect the securities named and bound in such bond, unless such prosecution shall be commenced within sixteen years next after the date of said bond.

Bond by justice.
P. L. 1860, p. 691.

22. SEC. 15. That any prosecution to be had or commenced upon any bond heretofore given, or hereafter to be given, by any justice of the peace and his securities, according to the eleventh section of the act entitled "An act relating to justices of the peace," approved April seventeenth, eighteen hundred and forty-six, shall in nowise operate against, or in any manner may affect the said securities named and bound in said bond, their heirs, executors, or administrators, unless such prosecution shall be commenced within ten years after the date of said bond, and not after.

Right of entry, when barred.
R. S. 92, § 10.
Amended.

23. SEC. 16. That no person who now hath, or hereafter may have, any right or title of entry into any lands, tenements, or hereditaments, shall make any entry therein, but within twenty years next after such right or title shall accrue; and such person shall be barred from any entry afterwards;(*a*) *provided, always*, that the time during which the person who hath or shall have such right or title of entry, shall have been under the age of twenty-one years, or insane, shall not be taken or computed as part of the said limited period of twenty years.(*b*)

Proviso.

Action for lands.
Ib., § 11.
Amended.

24. SEC. 17. That every real, possessory, ancestral, mixed or other action, for any lands, tenements or hereditaments, shall be brought or instituted within twenty years next after the right or title thereto, or cause of such action shall accrue, and not after;(*c*) *provided, always*, that the time during which the person who hath or shall have such right or title, or cause of action, shall have been under the age of twenty-one years,

Proviso.

(*a*) A peaceable possession for twenty years under a parol partition will give title. *Den, Watson* v. *Kelly*, 1 *Har* 517. But not for five or six years. *Den, Woodhull* v. *Longstreet*, 3 *Har.* 405. *Lloyd* v. *Conover*, 1 *Dutch.* 47. See *Den, Howell* v. *Howell, Spen.* 411. The statute will run against the proprietors. *Cornelius* v. *Giberson*, 1 *Dutch.* 1. It applies to an action of dower. *Berrien* v. *Conover*, 1 *Har.* 107. *Conover* v. *Wright*, 2 *Hal. Ch.* 613. Twenty years' adverse possession gives title. *Den, Van Wickle* v. *Alpaugh, Pen.* *416. Possession by a father after his son arrives at full age is adverse. *Den, Clark* v. *Lane, Pen.* *417 (*e*). What constitutes adverse possession so as to amount to *notice, ante*, p. 855, note (*c*). See, also, *Foulke* v. *Bond*, 12 *Vr.* 545. What possession plaintiff in ejectment must prove. *Den* v. *Johnson*, 2 *Hal.* 6. It does not begin to run against a reversioner or remainderman until after the estate for life is terminated. *Pinckney* v. *Burrage*, 2 *Vr.* 21. The statute of limitations applies as well to the board of proprietors as to individuals. *Yard* v. *Ocean Beach Association*, 4 *Dick.* 306. *Newark* v. *Watson*, 27 *Vr.* 667.

(*b*) Such disability is *personal*, and can only be set up by the parties or those claiming under them. *Den, Watson* v. *Kelly*, 1 *Har.* 517. *Den, West* v. *Pine*, 4 *Wash. C. C.* 694. If the statute once begins to run, it runs over all subsequent disabilities. *Den, Clark* v. *Richards*, 3 *Gr.* 347. *De Kay* v. *Darrah*, 2 *Gr.* 288. *Den, Roberts* v. *Moore*, 3 *Wall. Jr.* 292. See *Lloyd* v. *Conover*, 1 *Dutch.* 48.

(*c*) Ejectment will not lie against a possessor of lands for twenty years. *Den* v. *Wright*, 2 *Hal.* 175. *Supra*, Sec. 23 (*a*). Easements are acquired. *Carlisle* v. *Cooper*, 4 *C. E. Gr.* 256. Twenty years' adverse possession will establish a title against the proprietors. *Newark* v. *Watson*, 27 *Vr.* 667. *Yard* v. *Ocean Beach Association*, 4 *Dick.* 306.

or insane, shall not be taken or computed as part of the said limited period of twenty years.

Equity of redemption. Ib., § 12.

25. SEC. 18. That if a mortgagee and those under him be in possession of the lands, tenements and hereditaments contained in the mortgage, or any part thereof, for twenty years after default of payment by the mortgagor, then the right or equity of redemption therein shall be forever barred. (*a*)

Judgment reversed or arrested. Ib., § 13.

26. SEC. 19. That if in any of the said actions specified in any of the preceding sections of this act judgment be given for the plaintiff, and the same be reversed by writ of error, or if a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, then the said plaintiff, his or her heirs, executors or administrators, as the case shall require, may commence a new action within one year after such judgment reversed or given against the plaintiff, and not after. (*b*)

Actions by the state. Ib., § 14.

27. SEC. 20. That no person or persons, bodies politic or corporate, shall be sued or impleaded by the state of New Jersey, for any lands, tenements or hereditaments, or for any rents, revenues, issues or profits thereof, but within twenty years after the right, title or causes of action to the same shall accrue, and not after.

Actions on penal statutes. Ib., § 16.

28. SEC. 21. That all actions or informations which shall be brought or exhibited for any forfeiture upon any penal statute made or to be made, whereby the said forfeiture is or shall be limited to the state of New Jersey only, shall be brought or exhibited within two years next after the offense committed or to be committed against such penal statute, and not after; and all actions or informations, which shall be brought or exhibited for any forfeiture upon any penal statute, made or to be made, the benefit and suit whereof is or shall be by the said statute limited or given to any person or persons who shall prosecute for the same, or to the state of New Jersey, and to any other who shall prosecute in that behalf, shall be brought or exhibited by any person or persons who may lawfully sue for the same as aforesaid, within one year next after the offense committed or to be committed against the said statute; and in default of such suit, then the same shall be brought or exhibited for the state of New Jersey, at any time within one year after the termination of the aforesaid year, and not after; and all actions or informations which shall be brought or exhibited for any forfeiture or cause upon any statute, made or to be made, the benefit and suit whereof is or shall be limited or given to the party aggrieved, shall be brought or exhibited within the space of two years next after the offense committed or to be committed, or cause of action accrued, and not after; *provided always*, that where any action or information is or shall be limited by any statute to be brought or exhibited within a shorter time than is limited by this section, then the said action or information shall be brought or exhibited within such shorter time so limited by such statute. (*c*)

Where forfeiture to the state.

To prosecutor.

To state and prosecutor.

To party aggrieved.

Proviso.

Where forfeiture to county or township. Ib., § 17.

29. SEC. 22. That all actions or informations which shall be brought or exhibited for any forfeiture upon any penal statute, made or to be made, whereby the said forfeiture is or shall be limited to any county, township, or town corporate, or to any officer of such county, township, or town corporate, or to any person or persons for the use of such county, township, or town corporate, or to the use of the poor of such township or town corporate, either in whole or together with any other person or persons who may lawfully sue for the same, shall be brought or exhibited within one year next after the offense committed or to be committed, and not after; *provided always*, that where any action or information is or shall be limited by any statute to be brought or exhibited within a shorter time than is limited by this section, then the said action or information shall be brought or exhibited within such shorter time so limited by such statute.

(*a*) *Bates* v. *Conrow*, 3 *Stock.* 137. A mortgage is presumed satisfied if nothing has been paid thereon for twenty years, or the mortgagee has not entered into possession. *Evans* v. *Huffman*, 1 *Hal. Ch.* 354. *Barned* v. *Barned*, 6 *C. E. Gr.* 245. See *Wanmaker* v. *Van Buskirk*, *Sax.* 685. *Chapin* v. *Wright*, 14 *Stew.* 438.

(*b*) Does not apply to a non-suit. *Ivins* v. *Schooley*, 3 *Har.* 270.

(*c*) *Boswell* v. *Robinson*, 4 *Vr.* 273. *McLaren* v. *McVicar*, 12 *Vr.* 271.

Supplement.

Approved February 13, 1883. P. L. 1883, p. 33.

30. SEC. 1. That the fifth section of the act to which this is a supplement [see Sec. 12, *ante*], be amended so as to read as follows:

Limitation of actions on bonds of sheriffs, collectors or constables.

[That any prosecution to be had or commenced upon any bond heretofore given or hereafter to be given by any sheriff and his securities for the faithful performance of the office of sheriff, or by any city, county or township collector and the securities of such collector for the faithful performance of the duties of said office of collector, shall in no wise operate against or in any manner affect the said securities named and bound in said bond, unless such prosecution shall be commenced within nine years after the date of the said bond and not after; and any prosecution to be had or commenced upon any bond heretofore given or hereafter to be given by any constable and his securities for the true and faithful performance of all duties enjoined on him as constable, shall in no wise operate against or in any manner affect the said securities named and bound in said bond, unless such prosecution shall be commenced within four years after the date of the said bond and not after.]

Supplement.

Approved February 15, 1886. P. L. 1886, p. 27.

31. SEC. 1. [Supplied by Sec. 32, *post.*]

Supplement.

Approved April 27, 1886. P. L. 1886, p. 280.

Revival of judgments on forfeited recognizances.

32. SEC. 1. That judgments in any court of record in this state entered upon forfeited recognizances in criminal cases may be revived by scire facias, or an action of debt may be brought thereon within ten years next after the date of such judgment and not after.

When judgment ceases to be a lien.

33. SEC. 2. That the lien of any judgment heretofore entered upon a forfeited recognizance in a criminal case shall cease to be a lien after ten years, notwithstanding the issuing of scire facias thereon, if no proceedings shall have been taken upon such scire facias within the past ten years.

Lis Pendens.

1. No process affecting possession of or title to lands deemed constructive notice to purchaser, &c., until *lis pendens* is filed.
2. *Lis pendens* to be recorded.
3. Fee for recording *lis pendens*.
4. When decree or judgment is in favor of defendant, abstract thereof to be recorded.
5. Order discharging lands from effect of *lis pendens* may be made if defendant give security.
6. Fee for recording abstract or discharge.
7. When judgment or decree is paid, or suit settled or abandoned, statement may be filed.
8. When writ of error must be taken where *lis pendens* is filed.

An act to provide for the filing of a lis pendens in actions either at law or in equity, relating to or affecting the possession or title of lands or real estate.

Approved February 16, 1880. P. L. 1880, p. 29.

No process affecting possession or title to lands deemed constructive notice to purchaser, &c., until lis pendens is filed.

1. That neither the issuing of a summons or subpœna, or other process or writ, nor the filing of a declaration or bill in any suit relating to or affecting the possession of or title to lands or real estate, nor any proceedings had or to be had thereon, either at law or in equity, before a final judgment or decree, shall be deemed or taken to be constructive notice to any bona fide purchaser or mortgagee of any lands or real estate to be affected thereby, until the plaintiff or complainant in such action, or his attorney or solicitor, shall have first filed, in the office of the clerk of the court of common pleas, but in counties where there is a register of deeds and mortgages, in the office of the register of deeds and mortgages of the