

ry, and seems to embrace *riots*, *roust*, and *unlawful assemblies*, under the general term of *Riot*, which, by the English law, are thus defined.

An *unlawful assembly* is, when three or more do assemble themselves together to do an unlawful act, as to pull down inclosures, &c. and part without doing it, or making any motion towards it.

A *Roust* is, where three or more meet to do an unlawful act, upon a common quarrel; as forcibly to break down fences, &c. upon any claim or pretence of right, &c. and make some advances towards it.

A *Riot* is, where three or more actually do an unlawful act of violence, either with, or without a common cause of quarrel; as if they beat a man, or do any other unlawful act with force and violence; or even do a lawful act, as removing a nuisance, in a violent and tumultuous manner.

The only English statute respecting riots, reported to extend to Pennsylvania, is the stat. 34 Edw. 3. c. 1. (referred to in the note to chap. 41. *ante*. p. 6,) which has been liberally construed for the advancement of justice; and it has been held, that if a justice of the peace find persons riotously assembled, he alone, hath not only power to arrest the offenders, and bind them to their good behaviour, or imprison them if they do

not offer good bail, but that he may also authorize others to arrest them by a bare *parol* command without other warrant; and that by force thereof, the persons so commanded, may pursue, and arrest the offenders, in his absence, as well as presence.

The following points have been ruled in the Supreme Court. MSS. Reports.

Information will lie against a justice of the peace, for not actively assisting in suppressing a riot.

It is the duty of every citizen to endeavour to suppress a riot; and when rioters are engaged in treasonable practices, the law protects other persons in repelling them by force.

After a recognizance taken to answer for a riot, justices of the peace should not issue warrants for assaults and batteries, which are *overt* acts of the former offence.

See the act entitled "An act to prevent intrusions on lands within the counties of Northampton, Northumberland and Luzerne," passed April 11th, 1795, (post. chap. 1815,) and a supplement thereto, passed February 16th, 1801, (post. chap. 2171,) for the punishment of settlers on certain land, on pretended titles not derived from Pennsylvania; and of combinations and conspiracies to effect certain objects by that act declared to be unlawful.

1705.

CHAPTER CXXXII.

An ACT for the better confirmation of the owners of lands, and inhabitants of this province, in their just rights and possessions. (x)

WHEREAS the late king Charles the second, by his royal charter to William Penn, Proprietary and Governor of this province, did declare, that the laws for regulating and governing of property within this province, for descent and enjoyment of lands, as likewise for the enjoyment and succession of goods and chattels, should be and continue the same, as they should be for the time being by the general course of the law in England, until the said laws should be altered by the said William Penn, his heirs or assigns, and by the freemen of the said province, their delegates or deputies, or the greater part of them.

And whereas divers laws have been enacted in this province, that made all lands and tenements, without any regard to the fee-simple, and other tenures by which they were held, as liable to pay debts as chattels, and to be taken and sold upon executions, or by decrees in courts of equity, or to be sold by such executors, as had no power by their testators' wills for so doing, and in certain cases to be sold by administrators, as also to be divided, allotted and dis-

(x) See *post*. chap. 152, and the several acts respecting the judiciary department, *post*. chap. 236. This act is

chiefly retrospective. The second section, however, contains an important general provision.

1705.

tributed, amongst the widows and children of intestates: in pursuance of which laws, divers lands, tenements, and hereditaments in this province, have been sold, delivered, assigned, allotted or distributed accordingly. Now, to the end that those sales, deliveries, assignments, and allotments or distributions, may have effect, according to the tenor and true meaning of the said laws, and that the possessors and owners of the said lands and hereditaments so sold, delivered, assigned and distributed, and their heirs and successors, may quietly have, hold and enjoy the same:

All grants, &c. made according to the form of those laws, declared good against the grantors &c.

I. *Be it enacted*, That all and singular the bargains and sales, being made *bonafide*, and for valuable consideration, as also all assignments, grants, and allotments or distributions, made to any person or persons whatsoever, of any lands, tenements and hereditaments, in this province, according to the tenor and direction, or the true intent and meaning of the said laws in those cases made and provided, shall be, and are hereby declared to be good and effectual, and shall stand and be taken, deemed and adjudged good, sure and available in law, against all persons whatsoever, according to the tenor and effect of the same bargains, sales, assignments, grants, and allotments or distributions; and that every person or persons, bodies politic and corporate, their heirs and successors, and all claiming by, from or under them, or any of them, for and according to their and every of their several estates and interests, of, in and to, the said lands, tenements and hereditaments, with their appurtenances, so as aforesaid sold, delivered, assigned and allotted, shall or may quietly and peaceably have, hold and enjoy the same lands, tenements, and hereditaments and premises, and every part thereof, against all and every person and persons, their heirs and assigns, having, claiming, or pretending to have, any estate, right, title, interest, claim or demand whatsoever, of, in or to, the same; *Saving nevertheless*, to all and every person and persons, bodies politic and corporate (other than to the person and persons for payment of whose debts, or maintenance of whose widows and children, any of the said lands, tenements or hereditaments, have been sold, delivered or conveyed as aforesaid, and his and their heirs; and other than to the heirs at law of the said intestates, or any claiming under them, who shall attempt to avoid or annul the said divisions, allotments or distributions, which have been made of the said intestates, lands and hereditaments amongst their widows and children, by virtue or in pursuance of the said laws) all such actions, estates, possessions, rights, titles, interests, rents, profits and demands, as they or any of them have, shall, may or ought to have, of, in or to, all or any of the said lands, tenements and hereditaments, or any part thereof, in such manner and form as if this act had never been made; so that they do pursue their said rights, titles, claims and interests, by way of action or lawful entry, before the first day of October, which will be in the year of our Lord, one thousand seven hundred and ten.

Strangers may pursue their claims within a limited time.

Lands, &c. which have been distributed according to these laws, shall

II. *Provided always*, That all and every the widows and children of intestates, to or amongst whom any lands, tenements or hereditaments, have been allotted or distributed by virtue of the said laws, and all and every person or persons, to whom any parts

or purparts of lands, tenements, and hereditaments, have, as aforesaid been, or hereafter shall be, sold or delivered upon executions, shall hold and enjoy their said respective parts, purparts or allotments, in severalty, or as tenants in common, and not as joint tenants. 1705.
be held by the parties in severalty.

III. *And be it further enacted*, That no deed, grant, conveyance or assurance, heretofore made, of any lands, tenements or hereditaments whatsoever, shall be judged or taken to be defective, avoided or prejudiced, for or by reason of any want of form, or formal or orderly parts of a deed, as *the Premises, Habendum, Tenendum, Reddendum, the Clause of Warrantee, the Conclusion, In Witness whereof*, and the *Date*, or for *Mis-naming, Mis-recital, or Non-recital*, of any of the said lands or hereditaments, or for *Mis-recital or Non-recital, or not mentioning, or not true mentioning*, of the grantor's estate of, in or to, the premises, or for want of *Livery and Seizin, or Attournment, or Proofs* of the consideration money actually paid, or for *not producing in Court*, upon trial, any of the said deeds or grants, recited in the said conveyances, or for *not being recorded* in the **Rolls-office**: but that all and every the said deeds, grants and conveyances, releases and assurances, shall be, and are hereby declared and enacted to be, good and available in law, and shall be expounded as the law of this province was when they were made, and shall conclude all strangers, as well as privies to the same: saving to every person and persons, other than to the said grantors, their heirs and successors, all such rights, titles, estates, claims and interests, as they or any of them had, or ought to have, of, in or to, the said lands, tenements and hereditaments, or any part thereof, at the time when such deeds or conveyances were sealed and delivered, so as they do pursue their said rights, titles, claims or interests, by way of action or lawful entry, before the first day of **October**, which shall be in the year of our Lord one thousand seven hundred and ten. All deeds defective in the form, &c. declared good.
Strangers may pursue their claims within a limited time.

Passed in 1705.—Recorded A, vol. I. page 155.

CHAPTER CXXXIII.

An ACT concerning the probates of written and nuncupative wills, and for confirming devises of lands.

BE it enacted, That all wills in writing, wherein or whereby any lands, tenements or hereditaments, within this province, have been, are, or shall be devised (being proved by two or more credible witnesses, upon their solemn affirmation, or by other legal proof in this province, or being proved in the Chancery in England, and the bill, answer and depositions transmitted hither, under the seal of that court, or being proved in the **Hustings** or **Mayor's Court** in London, or in some **Manor-Court**, or before such as have or shall Written wills, proved in this province, or elsewhere, and certified copies thereof, shall be good, and the estate given by the same shall pass.