

CHAPTER DCV.

1770.

An ACT for the better confirmation of the estates of persons holding or claiming under feme-coverts, and for establishing a mode by which husband and wife may hereafter convey their estates.

WHEREAS it hath been heretofore the custom and usage, ever since the settlement of this province, in transferring the estates of feme-coverts, in many cases, for the husband and wife to execute the deed or conveyance in the presence of witnesses only, and in other cases, after such execution, to acknowledge the same before a Justice of the Peace, or a Justice of the County Court of Common Pleas, or before one of the Judges of the Supreme Court, the said wife being separate and apart from her husband examined, by means whereof a very great number of *bona-fide* purchasers, for a valuable consideration, under such deeds and conveyances, are now become the just and equitable owners and possessors of such estates: And whereas some doubts have arisen, whether the said deeds are sufficiently valid in law to transfer and pass the estate of the wife in and to the lands, tenements and hereditaments, by the said deeds and conveyances intended to be transferred and conveyed, and it is but just and reasonable that the said purchasers should be quieted and secured, and have, hold and enjoy the lands, tenements and hereditaments, intended by the said deeds and conveyances to be transferred and conveyed, according to the true intent and meaning thereof. *Be it therefore enacted*, That no grant, bargain and sale, lease, release, feoffment, deed, conveyance or assurance whatsoever, heretofore *bona fide* made and executed by husband and wife in manner aforesaid, of any lands, tenements and hereditaments whatsoever, shall be deemed, held or adjudged invalid or defective in law, or avoided or prejudiced; but that all and every the said grants, bargains and sales, releases, feoffments, deeds, conveyances and assurances, shall be, and are hereby declared to be, good and valid in law for transferring and passing the estates, rights, titles and interests of such husband and wife, according to the true intent and meaning of the words thereof; saving to every person and persons, bodies politic and corporate whatsoever (other than to the said husband and wife) their heirs and successors, all such rights, titles, estates, claims and interests, as they, or any of them, have, or ought to have, of, in or to the said lands, tenements and hereditaments.

Grants, &c.
heretofore
made, to be
valid, &c.

II. And in order to establish a mode, by which husband and wife may hereafter convey the estate of the wife, *Be it enacted*, That where any husband and wife shall hereafter incline to dispose of and convey the estate of the wife, or her right of, in or to any lands, tenements or hereditaments whatsoever, it shall and may be lawful to and for the said husband and wife to make, seal, deliver and execute any grant, bargain and sale, lease, release, feoffment, deed, conveyance or assurance in the law whatsoever, for the lands, tenements and hereditaments, intended to be by them, passed and conveyed, and, after such execution, to appear before one of the Judges of the Supreme Court, or before any Justice of the County Court of Common Pleas of and for the county where such lands, tenements or he-

Mode by
which hus-
band and
wife may
convey, &c.

1770.

reditaments, shall lie, and to acknowledge the said deed or conveyance; which Judge or Justice shall, and he is hereby authorized and required to take such acknowledgement, in doing whereof he shall examine the wife separate and apart from her husband, and shall read, or otherwise make known, the full contents of such deed or conveyance to the said wife; and if, upon such separate examination, she shall declare that she did voluntarily, and of her own free will and accord, seal, and as her act and deed, deliver the said deed or conveyance, without any coercion or compulsion of her said husband, every such deed or conveyance shall be, and the same is hereby declared to be, good and valid in law, to all intents and purposes, as if the said wife had been sole, and not covert at the time of such sealing and delivery, any law, usage and custom, to the contrary in any wise notwithstanding.

Deeds, &c.
executed by
husband
and wife
not residing
in this pro-
vince, but
properly
acknow-
ledged, to
be valid.

III. *And be it further enacted*, That all deeds and conveyances made and executed by husband and wife, not residing within this province, and brought hither to be recorded in the county where the lands lie (the acknowledgments thereof being taken and made, in the manner herein before directed, before any Mayor or Chief Magistrate, or officer of the cities, towns or places, where such deeds or conveyances are or shall be made or executed, and certified under the common or public seal of such cities, towns or places) shall be as valid and effectual in law, as if the same had been made and acknowledged, in manner aforesaid, before any Judge of the Supreme Court of this province, or before any Justice of the Court of Common Pleas for the county where the lands lie, any thing herein contained to the contrary notwithstanding.

Passed 24th February, 1770.—Recorded A. vol. V. page 344. (e)

(e) For a general reference to the acts for acknowledging and recording of deeds and adjudications on that subject, see ante. chap. 208.

Before the passing of the act in the text, a deed executed by husband and wife, in the manner here prescribed, was declared to be valid; for such deeds had generally prevailed in the province, and had undergone, from time to time, the notice of the Courts of Justice. *Communis error facit jus!* 1 Dallas 12. The same decision was given, even where there was no separate examination of the wife. 1 Dallas, 17. (*Note to former edition.*)

Under what circumstances a *feme-covert* may give away her real estate, by will, or any instrument in nature of a will, see 2 Dallas, 199, to 204.

The curtesy estate of the husband in the lands of the wife, is not forfeited to the commonwealth for the life of the

husband by his attainder for treason committed in her life-time and after issue born; but the wife's estate is discharged from the curtesy. 1 Binney, 1.

A deed of the wife's land, by the husband and wife, who by a certificate endorsed thereon, appeared before a Judge of the Common Pleas, and "acknowledged the indenture to be their act and deed, and desired the same to be recorded, she being of full age, and by him examined apart," is not sufficient to pass the wife's estate. It must appear by the certificate, at large, that the contents of the deed were made known to the wife, on the separate examination, and that she declared she voluntarily, of her own free will and accord, did seal, and as her act and deed deliver, the said deed or conveyance, without any coercion or compulsion of her said husband. *Lessee of Watson v. Bailey*, 1 Binney, 470.

It has been also held, that a conveyance of the husband's land, by husband and wife, without an acknowledgment by the wife, agreeably to the act in the text, does not impair the wife's right of dower. *Kirk v. Dean*. 2 Binney, 341. 1770.

CHAPTER DCVI.

A SUPPLEMENT to the act, entitled An Act to enable the owners, and possessors of a certain tract of marsh and meadow land, therein described, situate in the county of Chester, to keep the banks, dams, sluices and flood-gates in repair, and to raise a fund to defray the expense thereof. [Chap. 677. ante. p. 230. See chap. 1414.]

Passed 24th February, 1770.—Recorded A. vol. V. page 358.

CHAPTER DCX.

A SUPPLEMENT to the act, entitled An Act for bailing prisoners, and about imprisonment. (f)

WHEREAS it is declared and enacted by the act, to which this act is a supplement, that the public allowance to prisoners shall be two pence *per day*, and no more, and that the respective prisons shall be work-houses, until others are provided for felons, thieves, vagrants, and loose and idle persons: And whereas some doubts have arisen, whether it was the intent and meaning of the Legislature, that the said allowance should be paid to persons committed for criminal offences, after conviction: For the removal of which doubts, *Be it enacted*, That all persons committed for any criminal offence whatsoever shall, during their imprisonment, have and receive three pence *per diem* each; and that the Commissioners of and for each respective county, within this province shall pay the same to the Sheriffs of their respective counties, for the diet and support of such criminals as shall be within their gaols respectively, out of the county stock, which shall from time to time be raised and levied for the payment of the county debts, any usage or custom to the contrary notwithstanding.

Passed 24th February, 1770.—Recorded A. vol. V. page 340.

(f) For the original act, and a general reference to laws respecting prisoners, see ante. chap. 151, pa. 56. (Note to former edition.)

CHAPTER DCXVI.

An ACT for the regulation of apprentices within this province.

WHEREAS great mischiefs and losses have been sustained by the masters and mistresses of apprentices, within this province,