

if any of the said intestate's relations shall appear and make their claims to such intestate's personal estate within seven years after the decease of the intestate, they shall be restored thereunto.

And if the lawful heir to any such lands or tenements, shall at any time within twenty-one years after the intestate's decease, appear, he may traverse the inquisition or office found for the land so escheated, and recover the same, paying the lord or person in possession for the improvements made thereupon, according to the valuation of twelve men.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 27, 1712-13, Chapter 197; February 4, 1748-9, Chapter 374; June 20, 1759, Chapter 445; March 23, 1764, Chapter 512; March 21, 1772, Chapter 669, and the two Acts passed August 31, 1778, Chapter 803 and 804. Repealed by the Act of April 19, 1794, Chapter 1751.

CHAPTER CXXXVI.

AN ACT FOR THE ACKNOWLEDGMENT AND RECORDING OF DEEDS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That every deed of feoffment, bargain and sale, or other conveyance hereafter to be made and executed for lands, tenements and hereditaments in this province (except leases for twenty-one years or under) shall be within six months after the date thereof acknowledged by the party or parties that grant the same, or be duly proved by two of the witnesses thereto before one or more of the justices of the peace (the recorder or enroller of deeds or his deputy, in any of the counties within this pro-

vince being present) and be recorded in the city or county where such lands or tenements lie. And the justice or justices before whom such deed shall be so acknowledged or proved shall, under his or their hands and seals, certify the same upon the back of such deed, and the day and year when such acknowledgment or proof was made, and by whom; which deed so acknowledged or proved and recorded or enrolled at length in the said office, shall be valid and effectual in law. And every deed or conveyance (other than leases for twenty-one years or under) heretofore made for any lands, tenements or hereditaments in this province, not yet acknowledged in court or recorded, which shall, within five years after the twenty-fifth day of the month called March in the year of our Lord one thousand seven hundred and six, be acknowledged or proved and recorded as aforesaid, shall take effect from the time of their signing and sealing, and shall be, and are hereby declared and enacted to be good and available in law; and the justice before whom such acknowledgments or proofs are made according to this act, shall have and receive of the grantee for certifying the acknowledgment or proof of every deed, one shilling and no more. And the recorder, if occasion be, is hereby required to go to the justice, and shall have three pence per mile traveling charges, and one shilling for his fee, and shall exact and demand no more, under the penalty of forty shillings for every offense, one-half thereof to the governor for support of the government of this province, and the other half to him or them that will sue for the same in any court of this province, where no essoin, protection or wager of law shall be allowed.

[Section II.] And be it further enacted by the authority aforesaid, That all deeds and conveyances made and granted out of this province and brought hither, the execution whereof being proved by the solemn affirmations of one or more of the witnesses thereunto, before one or more of the justices of the peace of the proper county, and delivered to be recorded, or 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 accordingly certified under the common or public seal of the cities, towns or places where such deeds or convey-

ances are so proved respectively, and the same deeds or conveyances being recorded in the aforesaid office for the county where such lands lie, within six months next after the arrival of the ship, vessel or person that brought the same, shall be, and are hereby declared to be as valid as if the said deeds or conveyances had been here made, acknowledged, proved and recorded according to the form and time hereinbefore appointed.

Provided nevertheless, That if any person here lawfully empowered shall, in pursuance of that power, make sale and assurance of any lands or hereditaments (to any person whatsoever) within this province, and the deeds thereof be duly proved (or patent had) and recorded according to the true meaning of this act, before any conveyance either from the proprietor of this province or other owner of the same lands or hereditaments, or any part thereof, to any other person be here produced, proved and recorded as aforesaid, the said deed or patent so made passed and recorded here shall stand good and effectual in law to all intents and purposes whatsoever, and the other shall be void.

[Section III.] And be it further enacted by the authority aforesaid, That all deeds and conveyances made or to be made, proved, acknowledged and recorded according to the true intent and meaning of this act, shall be of the same force and effect here, for the assurance of the said lands, tenements and hereditaments, and for docking and barring estates tail, as fines and recoveries at common law, or deeds of feoffment with livery and seizin, or deeds enrolled in any of the Queen's courts at Westminster, are or shall be in the kingdom of England. And the exemplifications of all deeds so enrolled, being examined by the recorder and certified accordingly under the seal of the proper office, which the keeper thereof is hereby required to affix thereto, shall be, and are hereby declared and enacted to be as valid and effectual in law as the original deeds themselves; and may be shown, pleaded and made use of accordingly. Saving to all and every person or persons, bodies politic and corporate, their heirs and successors, executors and administrators (other than to the said feoffers and grantors, their heirs

and successors) all such rights, titles, estates, claims and interest as they or any of them have of, in or to the said lands, tenements and hereditaments, or any part thereof, at the time of such feoffment or other conveyance aforesaid sealed and delivered, so that they do pursue their said rights, titles, claims or interests by way of action or lawful entry within seven years next after the date of such deeds or conveyances; and saving to all persons such action, right, title, interest and claim of, in or to the said lands, tenements or other hereditaments as first shall grow, remain, descend or come to them after the dates of the said deeds or conveyances by force of any gift or grant, or by any other cause or matter had or made before the ensealing and delivery of the said deeds, so that they take their action or pursue their right according to law, within seven years next after such action, right, claim, title or interest to them accrued, descended or came; and that the said persons and their heirs may have their said action against the perners of the profits of the said lands and hereditaments at the time of the said action to be taken. And also saving the right and title of all persons who at the time of the sealing and delivery of the said deeds, or at the time the said action, right and title may accrue, descend or come as aforesaid, shall be women covert, and no parties to the said deeds; or within age, or in prison, or beyond the seas, or not of whole or sound memory, so that they or their heirs take their said action or lawful entry according to their right and title, within three years next after they come and be at their full age, out of prison, within this province in person or by their attorney or agent, unmarried, and of whole memory, and pursue the same actions and entries with effect according to the laws of this province. And if they do not take their actions and entries as is aforesaid, that they and every of them and their heirs shall be concluded by the said feoffments, deeds and conveyances forever, in the like manner as they that be parties or privies thereunto.

Provided always, That where any person or persons shall, by a deed duly executed, grant or convey his or their lands or tenements to any person or persons, and before the recording or enrollment of such deed, shall grant or convey the same

lands or tenements to any other person or persons who get the last deed or grant recorded or enrolled, if afterwards the first deed be recorded or enrolled within the time prescribed by this act for recording such a deed, then the last or other deed and the enrollment thereof shall be *ipso facto* void, anything in this act contained to the contrary notwithstanding.

Provided also, That no woman shall recover her dower or thirds of any lands or tenements which have been sold, aliened or conveyed by her husband during her coverture, although she be no party to the deed nor anyways consenting to the sale or assurance of such lands or tenements, any law or usage to the contrary in anywise notwithstanding.

Provided also, That from henceforth no woman shall be debarred of her right or inheritance in any lands or tenements which she hath in her own right before or after marriage, which shall be sold, aliened or conveyed by her husband during the coverture, unless she be party to such deeds or assurances, and be examined secretly and apart by the justice or justices before whom such deeds are acknowledged, whether she be content of her own free will to part with her right in the land, or whether she does it by menace or threats or out of fear of her husband or by any other compulsory means, and then the contents of the deed shall be read distinctly to her, and if the justice or justices doubt of her age, he or they may examine her upon her solemn affirmation concerning the same.

[Section IV.] And be it further enacted by the authority aforesaid, That no deed or mortgage or defeasible deed in the nature of mortgages shall be good or sufficient to convey or pass any freehold or inheritance or to grant any estate therein for life or years, unless such deed be acknowledged or proved, and enrolled or recorded where the land or estate lies, as before directed for other deeds.

[Section V.] And it is further enacted by the authority aforesaid, That any mortgagee of any real or personal estates within this province, having received full satisfaction and payment of all such sum and sums of money as are really due to him by such mortgage shall, at the request of the mortgagor, enter satisfaction upon the margin of such mort-

gage recorded or to be recorded in the said office of enrollment; which shall forever hereafter discharge, defeat and release the same, and shall likewise bar all actions brought or to be brought thereupon. And if such mortgagee by himself or his attorney shall not, within three months after request and tender made for his reasonable charges, repair to the said office and there make such acknowledgment as aforesaid, he, she or they so refusing shall for every such offense forfeit and pay unto the party or parties aggrieved any sum not exceeding the mortgage money, to be recovered in any court of record within this province by bill, plaint or information.

[Section VI.] And be it further enacted by the authority aforesaid, That the said enrollment office shall be kept in some convenient place in each county of this province; and the recorder or enroller, by himself or sufficient deputy, shall duly attend the service of the same, and at his own proper costs and charges shall provide rolls of parchment, or good large books of royal or other large paper and well covered, where he shall record or enroll the said deeds or conveyances in a fair legible hand; for which he shall have and receive for recording or enrolling and for copying or exemplifying every deed, conveyance or writing, one penny for every line, accounting twelve words at least for a line, one with another; and for every search, eighteen pence; and for every acknowledging satisfaction in the margin of a mortgage recorded, twenty pence, and no more; and for the seal he shall have and receive for fixing the same to every exemplification ten pence, and shall take and exact no more, under the penalty of five pounds for every offense, one-half thereof to the governor for the use aforesaid, and the other half to him or them that shall sue for the same.

[Section VII.] And be it further enacted by the authority aforesaid, That the present master of the rolls, and every other master of the rolls succeeding him, that shall be appointed recorder or enroller for the whole province shall, by himself or sufficient deputies (for whom he shall be answerable) hold his office at Philadelphia and in each of the other counties of this province, for recording deeds, and shall find one or more sufficient sureties with himself to become bound to the governor for

the time being in a bond of five hundred pounds, for the true and faithful execution of the said office and for delivering up the records and other writings belonging to the said office by him, his heirs, executors or administrators, to his successor in the said office safe, whole and undefaced; which said bond shall be filed in the secretary's office and there safely kept, in order to be made use of for making satisfaction to the parties that shall be damnified or aggrieved, as is or shall be directed by the laws of this province in such cases. And no master of the rolls, recorder or enroller of deeds whatsoever, hereafter to be appointed by commission from the governor, shall enter upon or shall officiate in his office before he hath given such security as aforesaid, upon pain of forfeiting the sum of one hundred pounds, to be recovered as aforesaid; the one-half thereof shall go to the governor for the use aforesaid, and the other half to him or them that shall sue for the same.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 170.

CHAPTER CXXXVII.

AN ACT TO ASCERTAIN THE NUMBER OF MEMBERS OF ASSEMBLY AND TO REGULATE THE ELECTION.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That for the well-governing of this province there shall be an assembly yearly chosen, and for that end it shall and may be lawful to and for the freemen and inhabitants of the city of Philadelphia, as also for the freemen and inhabitants of the respective counties of this province, without any writ or summons to meet on the first day of October yearly, forever, at the most usual place