

## CHAPTER CLXX.

## AN ACT FOR THE ACKNOWLEDGING AND RECORDING OF DEEDS.

[Section I.] Be it enacted by Charles Gookin, 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 there shall be an office of record, which shall be called and styled the enrolment office, and 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, wherein he shall record or enroll the deeds or conveyances hereafter mentioned, 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, three farthings for every line, and for every search one shilling and six pence, and for every acknowledging satisfaction in the margin of a mortgage recorded, two shillings and six pence, and no more; and for the seal he shall have and receive, for fixing the same to every exemplification, four shillings and six pence; and shall take and exact no more, under the penalty of five pounds for every offense, one-half thereof to the governor for and towards the support of government, and the other half to him or them that shall sue for the same. And that every deed of feoffment, bargain and sale, or other conveyance hereafter to be made and executed, for lands, tenements or 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, or his deputy, in any of the counties within

this province, being present) and be recorded in the said office for 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 nor recorded, which shall, within five years after the twenty-fifth day of March, in the year of our Lord one thousand seven hundred and eleven, be acknowledged or proved and recorded as aforesaid, and also, all and every such deeds or conveyances as have been at any time since the twelfth day of January, in the year of our Lord one thousand seven hundred and five, acknowledged or proved, and recorded in the same manner as is directed by this act, 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 justices 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 four 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 the 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 conveyances 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 proprietary of this province, or other owner of the same lands or hereditaments, or any part thereof, to any other person, be here proved and recorded, as aforesaid—the said deed or patent, so made, passed or 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 or conveyances made or to be made and proved or 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 of record at Westminster, are or shall be in the Kingdom of Great Britain, and the exemplification 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 showed, 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 interests 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 interest 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 deed, 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 may 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 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 enrolment thereof, shall be, *ipso facto*, void, anything in this act contained to the contrary notwithstanding.

[Section IV.] And be it further enacted by the authority aforesaid, That no deed of 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 such lands or estates lie, 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 estate 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 mortgage recorded, or to be recorded in the said office of enrolment, which shall forever thereafter 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 present master of the rolls, and every other master of the rolls succeeding him, that shall be ap-

pointed 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 two hundred pounds, for the true and faithful executing 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 successors 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 case. 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 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.

[Section VII.] Provided always, and be it further enacted and declared by the authority aforesaid, That nothing herein contained, or in the said obligation, shall bind or oblige, or be construed, adjudged, deemed or taken to oblige or bind the said recorder or enroller, his deputy or deputies, or any of them, to deliver up the said office records and writings, or any of them, in such condition as aforesaid, where the same, or any of them respectively shall happen to be destroyed, damnified or defaced by any casualty of fire, inundation, earthquake, enemies or thieves, anything herein, or in any other law, to the contrary notwithstanding.

And whereas many persons in this province finding their patents, deeds and writings recorded in the said office, to be safe and secure in the hands and custody of the officers, have neglected to take up the same for many years, to the dis-

advantage and disappointment of the officers; for prevention whereof for the future:

[Section VIII.] Be it enacted by the authority aforesaid, That it shall and may be lawful to and for the master of the rolls, and office of enrolment, for the time being, his deputy and deputies, to have, receive and take for every patent, deed, or writing to be recorded in the said office or offices, that shall lie in his or their hands not paid for by the owner, above the space of one month next after the same is recorded, the sum of two pence per month for every month then following, so long as the same shall remain unpaid for as aforesaid; which said sum of two pence per month, together with the fees of the office, and offices aforesaid, the said officer, his deputy and deputies, shall recover in any court in this province, or before any inferior judicature or jurisdiction in the same for recovery of debts under forty shillings.

Passed February 28, 1710-11. Repealed by the Queen in Council, February 20, 1713-14. See Appendix III, Section II, and the Act of Assembly passed May 28, 1715, Chapter 203.

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## CHAPTER CLXXI.

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AN ACT DIRECTING AN AFFIRMATION TO SUCH WHO FOR CONSCIENCE  
SAKE CANNOT TAKE AN OATH.

Whereas William Penn, Esquire, Proprietary and Governor of this province together with the greatest part of the freeholders thereof were at the first settling of this colony and still continue to be such who for conscience' sake can neither take nor administer an oath, as also divers of those from a tender scruple of conscience cannot take the affirmation allowed by law to Quakers in Great Britain, and forasmuch as there is great danger of a failure of justice if so considerable a number of the inhabitants be made incapable of giving evidence; therefore, to the end that they may be the better enabled and qualified for such offices, places and stations as they may be required to serve in: