

An. Code, sec. 2. 1904, sec. 2. 1888, sec. 2. 1856, ch. 154, sec. 83. 1890, ch. 232.

2. If acknowledged in the county or city within which the real estate or any part of it lies, the acknowledgement may be made before:

- 1st. A justice of the peace for such city or county.
- 2d. A judge of the orphans' court of such county or city.
- 3d. A judge of the circuit court for the county.
- 4th. A judge of the supreme bench of Baltimore city.
- 5th. A notary public.

A justice of the peace will not be allowed to impeach his own acknowledgment, though the acknowledgment may be contradicted by other proof. *Central Bank v. Copeland*, 18 Md. 318. And see *Byer v. Etnyre*, 2 Gill, 151. *Cf. Ridgely v. Howard*, 3 H. & McH. 321.

In making the certificate of acknowledgment, the justice acts ministerially. How the sufficiency of the acknowledgment is determined. *Lewis v. Waters*, 3 H. & McH. 432.

An acknowledgment before a proper officer is essential to the validity of a deed as a legal conveyance. A deed by a married woman without her acknowledgment, held to be void as against her, both at law and in equity, and that she could not be compelled to rectify the omission. *Grove v. Todd*, 41 Md. 640. And see *Johns v. Reardon*, 3 Md. Ch. 58.

Where a deed is recorded in time, and the year in which it is acknowledged is omitted, the presumption is that it was duly acknowledged. *Wickes v. Caulk*, 5 H. & J. 42.

For forms of acknowledgment, see sec. 70, *et seq.*

As to defective conveyances, see sec. 84, *et seq.*

See also secs. 1, 3, 8, 15 and 73, and notes.

As to acknowledgments by a corporation, see art. 23, sec. 127.

As to what acknowledgments, protests, etc., notary may not take, see art. 68, sec. 12.

An. Code, sec. 3. 1904, sec. 3. 1888, sec. 3. 1856, ch. 154, sec. 84. 1890, ch. 232.
1892, ch. 4.

3. If acknowledged within the State, but out of the county or city wherein the real estate or any part of it lies, the acknowledgment may be made before:

- 1st. A notary public.
- 2d. Any judge of the circuit court for the circuit in which grantor may be, or any judge of the orphans' court of the county in which the grantor may be.
- 3d. Any judge of the supreme bench of Baltimore city or any judge of the orphans' court of said city.

4th. Any justice of the peace for the county or city where the grantor may be at the time of the acknowledgment, the official character of the justice being certified to by the clerk of the circuit or superior court under his official seal.

When the acknowledgment is made under this section before a justice of the peace, the clerk's certificate is essential. Where such certificate is attached nearly two years after the instrument is executed and recorded, the certificate is of no effect. *Fersner v. Bradley*, 87 Md. 492.

In cases of acknowledgments under this section before a justice of the peace, if the clerk's certificate is not attached, the mortgage does not operate as constructive notice to subsequent *bona fide* purchasers, and is subordinate to a second mortgage duly executed, acknowledged and recorded. *Sitler v. McComas*, 66 Md. 137. See also *Dyson v. Simmons*, 48 Md. 214; *Johns v. Reardon*, 3 Md. Ch. 60.

Clerk's certificate, if in substantial compliance with this section, authorizes the deed to be recorded, but in no wise determines the validity of the deed; that depends on whether it was executed, acknowledged and recorded as required. *Johns v. Reardon*, 3 Md. Ch. 60. And see *Beall v. Lynn*, 6 H. & J. 336.