

sufficient evidence in any court of this State to prove such deed or instrument of writing.

37. Where any deed, bond, bill, note, or other instrument of writing, hath been executed in any other of the United States, or in any foreign country, and to give validity to which recording or registering is not made necessary, proof of the execution of such deed, bond, bill, note, or other instrument of writing, by the oath of the subscribing witnesses to the same, or any of them, taken before a commissioner of this State to take acknowledgments of deeds, or before any court, judge, or justice, or other officer of the State or country where such deed, bond, bill, or instrument hath been executed, having authority by law to administer an oath, and a certificate under seal from the governor, chief magistrate, or a notary public of such State or country, that the court or officer before whom such oath was taken had authority to administer an oath, and that such oath hath been duly made before such court, judge, justice, or other officer, or if proved before the commissioner aforesaid, the same to be certified under his official seal, shall be good and sufficient evidence in any court of this State to prove such deed, bond, bill, note, or other instrument.

38. If all the witnesses to any deed, bond, bill, note, or other instrument of writing, shall die before the execution thereof be proved as aforesaid, proof by a credible witness to the handwriting of the party making the same, or to the handwriting of the subscribing witnesses to the same, or any of them, taken and certified as directed in the preceding section, shall be good evidence to prove such deed, bond, bill, note, or other instrument of writing.

39. But if any suit be brought in any court of this State, upon any instrument of writing proved as hereinbefore directed, to recover any sum of money, or other valuable thing specified therein to be due, the party bringing such suit shall at or before the first imparlance court, make oath before some judge or justice of this State, or before the commissioner aforesaid, or some judge or justice or other officer of the State or country where such instrument of writing hath been executed having authority to administer an oath, and to be certified as aforesaid, that such instrument of writing was duly executed by the person therein mentioned to have executed the same, and that the debt or other valuable thing appearing to be due by such instrument of writing, or any part thereof, except what is credited, is not paid, or in any manner satisfied by discount, account in bar, or otherwise, to his knowledge or belief, but that the whole or such part thereof as shall be stated in such oath to be due remains unpaid, to the best of his knowledge and belief.

40. Nothing contained in this article, in relation to the proof of foreign deeds or other instruments of writing, shall affect the provisions of this code in relation to the conveyance of real estate within this State by persons residing or being out of this State; nor the

Id s 38
1785, c 46, s 3
Proof of foreign
deed or other
instrument of
writing, where
recording is
not made
necessary

Id s 39
1785, c 46, s 3.
Proof of deed,
etc., where wit-
nesses of exe-
cution dead.

Id s 40
1785, c 46, s 3
Oath to be made
by plaintiff
where suit upon
instrument of
writing proven
as aforesaid

Id s 41.
1785, c 46, s 3.
Not to affect
laws relating to
conveyancing,
a proof of
claims against