

1715. APRIL.

G E O R G E I.

C. H. A. P. XLVII.

such land lieth, and be a sufficient warrant for such county clerk, where the land lieth, to enrol the same; and if any such grantor or bargainer of any lands or tenements as aforesaid, shall happen to be out of this province, within any of his majesty's dominions, at the time of the enfealing such writing or writings indented, so as the same cannot be acknowledged, as is before directed, or enrolled within the time for that purpose herein before limited, that in every such case such lands or tenements as aforesaid shall be acknowledged by a letter of attorney well and sufficiently proved, either in the provincial or county court where such lands or tenements lie, or before one justice of the provincial court, or two justices of the county court as aforesaid, and be enrolled as aforesaid, any thing herein before contained to the contrary thereof notwithstanding.

The act of November, 1766, ch. 14, (reciting that this act extends to conveyances by bargain and sale only,) prescribes a mode (substantially the same) for the acknowledgment, &c. of every conveyance by which "any estate of inheritance or freehold, or any declaration or limitation of use, or any estate for above seven years," shall pass or take effect.

Deeds, &c. when to take effect, &c.

X. AND BE IT FURTHER ENACTED, by the authority aforesaid, That every such writing indented, to be acknowledged and enrolled as aforesaid, shall have relation, as to the passing and conveying of the premises, and the estate and estates thereby passed, or intended to be passed and conveyed, by and from the day of the enrolment of the same, and not from the day of the date thereof; (a) and shall at all times be construed and taken more favourably and beneficially for the benefit and advantage of the grantee or grantees, and more strongly for the barring the grantors therein to be named, and according to such intents, as by the words thereof shall appear to have been the true intent of the parties thereunto, although the same be not so firmly drawn as is used in England, where the advice of counsel learned in the law may be easily had.

(a) By November, 1766, ch. 14, section 5, such writings, deeds, &c. thereafter to be made, shall have relation as to conveying the premises, &c. to the day of the date.

Proviso.

XI. PROVIDED ALWAYS, That if any *feme-covert* be named as a grantor in any such writing indented, the same shall not be in force to debar her or her heirs, except upon her acknowledgment of the same, and the person or persons taking such her acknowledgment, shall examine her privately, out of the hearing of her husband, "whether she doth make her acknowledgment of the same willingly and freely, and without being induced thereto by fear or threats of, or ill usage by, her husband, or fear of his displeasure?" And that the person or persons so examining her shall, (in a note or certificate of the taking of the said acknowledgment,) certify her examination and acknowledgment thereupon, and that such certificate be likewise enrolled upon record; in which case, and by such acknowledgments and certificates, *feme-coverts* shall be barred, and not otherwise, and shall also be barred of their dower by such like acknowledgment, where they have only a right of dower in the estate conveyed, although not named in the deed thereof, any thing herein contained to the contrary notwithstanding.

By 1752, ch. 8, the acknowledgment and examination of any *feme-covert* who resides out of the province, taken before the mayor of any corporation in Great-Britain or Ireland, or before one justice of the supreme court of any province or colony within his majesty's dominions, and certified by endorsement upon such deed, under the hand of such magistrate, and seal of the corporation or colony respectively, shall be good in law to bar such *feme-covert* of her right of inheritance or dower, as the case may be.

Proviso.

XII. PROVIDED ALWAYS, AND BE IT FURTHER ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That where any acknowledgment or acknowledgments of any deed or deeds, conveyance or conveyances, by them that right had to grant, bargain and sell any manors, lands, tenements or hereditaments within this province, have been made during the continuance of any the former recited acts, of assembly before one justice of the provincial court, or before one or two of the council, and enrolled according to the direction of the former acts, shall be good and effectual in the law, to all intents, constructions and purposes whatsoever, any thing in this act contained to the contrary thereof in anywise notwithstanding.

C. H. A. P. XLVIII.

Passed 3d of June, 1715.

An ACT for rectifying the ill practices of attornies of this province, and ascertaining fees to the attorney-general, clerk of indictments, attornies and practitioners of the law in the courts of this province, and for levying the same by way of execution. Lib. LL. No. 4. fol. 275.

No criminal process to issue, &c.

BE IT ENACTED, by the King's most excellent majesty, by and with the advice and consent of his majesty's Governor, Council and Assembly of this province, and the authority of the same, That after the end of this session of assembly, no process for any criminal matter, or other misdemeanor, shall issue out of any the courts of this province against any person or persons whatsoever, without a presentment be first