

An act to prevent usury in the county of Monmouth.

P. L. 1875, p. 248.

Approved March 10, 1875.

What contracts
usurious in Mon-
mouth county.

7. SEC. 1. That all contracts for the loan of any money, wares, merchandise, goods or chattels, hereafter made in the county of Monmouth in this state, whereby above the value of seven dollars for the forbearance of one hundred dollars for a year or above that rate for a greater or less sum, or for a longer or shorter period, shall be taken directly or indirectly, shall be utterly void.

Repealer.

8. SEC. 2. That all acts and parts of acts inconsistent with this act are and the same are hereby repealed.

Judgments.

I. LIEN OF.

1. Lands liable to be sold for debt.
2. Judgment binds lands only from entry.
3. Judgment of common pleas not to affect land unless a rule be entered.

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4. To be entered and indexed within six months.
5. Bond of clerk may be prosecuted for neglect.

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28. Satisfaction may be entered by survivor.
29. Parties may proceed before court to have satisfaction entered.
30. Where a judgment is recovered against two or more defendants, satisfaction may be entered as to defendant or defendants satisfying the same.

R. S. 660, 826, 974.
993.

An act concerning judgments.

Revision—Approved March 27, 1874.

P. L. 1856, p. 195.
" 1862, p. 219.
" 1867, p. 809.
" 1871, p. 108.
" 1873, p. 47,
147.

Lands liable to
be sold for debt.

R. S. 660, § 1.

Judgment binds
lands only from
entry.

Ib. § 2.

Judgment of
common pleas
on appeal not to
affect lands, un-
less rule for re-
cording it be
entered.

P. L. 1862, p. 219.

I. Lien of.

1. That all lands, tenements, hereditaments and real estate shall be and hereby are made liable to be levied upon and sold by executions to be issued on judgments, which are or shall be obtained in any court of record of this state (except justices' court constituted for the trial of small causes) for the payment and satisfaction of the debt, damages, sum of money and costs so recovered or to be recovered; *provided*, that no lands, tenements, hereditaments, or real estate, of any testator or intestate, shall be sold or in any wise affected by any judgment or execution against executors or administrators. (a)

2. No judgment shall affect or bind any lands, tenements, hereditaments, or real estate, but from the time of the actual entry of such judgment on the minutes or records of the court. (b)

3. Judgments of the court of common pleas upon appeals from the courts for the trial of small causes shall not affect or bind any lands, tenements, hereditaments, or real estate, unless a rule shall be entered in the minutes of the court of common pleas in which such judgment shall be rendered, for recording such judgment, which rule shall be a rule of course, and may be entered at any time without notice; and it shall be the duty of the clerk of the several courts of common pleas, upon the entry

(a) Where a claim is barred by the statute of limitations at the time of the testator's death and the debt is to be satisfied out of the *real estate*, no acknowledgment of the executor will bind the real estate in the hands of the devisee, *Stark v. Hunton*, 2 Gr. Ch. 300. But see *Shreve v. Joyce*, 7 Vr. 44. A decree or judgment against executors does not bind heirs or devisees, *Hazen v. Tillman*, 1 Hal.

Ch. 363. *Den v. Ayres*, 1 Gr. 153. *Den, Cozens v. Colson*, Pen. *878. *Budd v. Hiler*, 3 Dutch. 44.

(b) A judgment without the issuing of an execution operates as a lien from the time of recording it, *Vansciver v. Bryan*, 2 Beas. 434. *Reeves v. Johnson*, 7 Hal. 29. *Bloom v. Welsh*, 3 Dutch. 177. See *Leggett v. Doremus*, 10 C. E. Gr. 122.

of such rule as aforesaid, to record any such judgment in the book of judgments of said court, and index the same, as now required by law respecting the judgments of such courts in suits originally commenced therein, which record shall be a transcript from the minutes of the said court on said judgment, and for this service the clerk shall be entitled to receive twenty-five cents; and such judgment shall, from the time of entering such rule, affect and bind all lands, tenements, hereditaments and real estate, within the county where such court of common pleas is held, belonging to the person or persons against whom such judgment may be; and executions against the goods and chattels, lands, tenements, hereditaments and real estate, of such person or persons, may be issued out of such court of common pleas thereupon, immediately upon the entry of such rule.

Clerk to record.

Binds lands from such entry.

Execution on.

II. Recording.

4. It shall be the duty of the clerk of the supreme court, and of the clerks of the several and respective circuit courts and courts of common pleas in this state, to enter on record in a book, the proceedings and judgments, and to make a complete alphabetical index to the same, as required and directed by the one hundred and ninety-second section of the act entitled "An act to regulate the practice of courts of law," within six months after the final judgment in every civil cause, in which by law such final judgment is required to be entered as aforesaid; and no clerk shall charge any fee therefor, until such service shall have been actually performed; *provided always*, that nothing herein contained shall affect the validity or legal effect of any such judgment, as shall not be recorded within the time herein limited.

Judgment to be entered and indexed within six months.

R. S. 826, § 1.

5. If any clerk shall neglect or omit to perform the duty required of him by the preceding section within the time therein mentioned, the court in which such neglect or omission shall have taken place, may by an order of the court, give notice thereof to the attorney general of this state; and it shall be his duty, on receiving such notice, to proceed by action at law, upon the official bond of such defaulter, for the recovery of the penalty thereof, with costs; and when judgment shall be obtained upon any such bond, the court, where such judgment shall be recovered, shall direct so much money to be levied thereon by execution, as shall be sufficient to pay all the expenses of entering or recording the said proceedings and judgments which shall then remain unrecorded by the said clerk, and indexed as aforesaid; and which service, the court, wherein such default takes place, is hereby authorized and directed to have done and performed, and paid for out of the money so recovered as aforesaid; and if, after judgment obtained on any such bond, any other neglect or default shall take place, the court, in which such judgment shall have been obtained, shall direct such further sum to be levied as aforesaid thereon, as shall be sufficient to pay the expense of recording all such proceedings and judgments as remain to be recorded by the said clerk, and of making such index as aforesaid, and which service the court is hereby directed and authorized to have done and paid for as aforesaid, as often as any neglect or default shall take place; *provided*, that the sureties in any such official bond shall not be charged hereby beyond the penalty of such bond.

Bond of clerk prosecuted for neglect.
Ib. § 2.

Bond prosecuted by attorney general by order of the court.

Money recovered to be paid to others performing service.

Sureties of clerk not liable beyond penalty of bond.

III. Docketing.

6. Any final judgment of a circuit court or court of common pleas may be docketed in the supreme court, by the party recovering the same or by his executor or administrator.

Judgment docketed in supreme court.
R. S. 974, § 1.

P.L. 1856, p. 195.
" 1873, p. 147.

7. The clerk of every circuit court and court of common pleas shall provide and keep a docket, in which shall be entered, upon the request of any party thereto, all final judgments rendered in either of such courts for the payment of any debt, damages, costs or other sum of money.

Clerk to keep docket.

R. S. 974, § 2.
Amended.

8. Upon such request being made, and on payment of the fees allowed for docketing such judgment, and for making and sending transcripts of such docket, as hereinafter directed, the said clerk shall enter in such docket a statement of such judgment, containing: first, the title of the court, the names at length of all the parties to such judgment, designating particularly against whom it is rendered, with their places of abode,

Form of statement to be entered in docket.
Ib. § 3.

description, titles, trades or professions, if any such appear by the record; second, the style of action, and the amount of the debt, damages or other sum of money recovered with the costs; third, the time of signing such judgment and docketing the same.

Clerks to transmit copies of judgment to supreme court.
Ib. § 4.

9. The clerk docketing such judgment shall immediately transmit a certified transcript thereof, from the docket, to the clerk of the supreme court, who shall forthwith, on the receipt thereof, and of the fees for that purpose hereinafter provided, file the same and enter such transcript in a docket, to be by him provided and kept for that purpose, and note therein the time of receiving and of entering the same.

Dockets to be public records.
Ib. § 5.

10. The clerks of the circuit courts, courts of common pleas and the clerk of the supreme court shall make to their respective dockets a complete alphabetical index and said dockets shall be public records, to which all persons desirous of examining the same shall have access.

Operation of judgments docketed in the supreme court.
Ib. § 6.

11. Such judgment shall, from the time of such docketing in the supreme court, operate as a judgment obtained in the supreme court, and satisfaction thereof may be entered in the margin of the docket, upon the same evidence and in the same manner, as is now provided by law in case of judgments rendered in the supreme court.

No execution out of court below after docketing in supreme court.
Ib. § 7.

12. After judgment shall be docketed in the supreme court, no execution shall be issued upon the same, out of the court in which it was originally obtained; and if any judgment shall be docketed in the supreme court, after an execution shall have been issued thereon, out of the court from which such judgment was docketed, then the supreme court may exercise the same authority and control over such execution as if the same had issued out of the supreme court.

Judgment, how revived.
Ib. § 8.

13. Every judgment docketed as herein directed, may be revived by *scire facias* in the supreme court, in the same manner, in the like cases, and with the like effect, as if such judgment had been obtained in that court.

Execution to be stayed in case of writ of error.
Ib. § 9.

14. If any judgment recovered in any circuit court or court of common pleas shall be removed by writ of error to the supreme court or court of errors, and bail in error shall be duly perfected thereon, and such judgment shall, either before or after such removal, be docketed as herein provided, then execution shall be stayed in the supreme court, in the same manner as in such circuit court or court of common pleas.

Judgment may be removed to supreme court.
Ib. § 10.

15. A judgment docketed as herein provided, may be removed to the supreme court by writ of error, in the same manner as if such judgment had not been so docketed.

Proceedings in case of reversal.
Ib. § 11.

16. If any judgment docketed as herein provided, shall be reversed on writ of error by the court of errors, and a transcript of the judgment of reversal, duly certified, shall be delivered to the clerk of the supreme court, it shall be his duty to file the same in his office, and enter in the margin of the docket, opposite the entry of such judgment the word "reversed," and the date of such reversal.

Fees of clerks.
Ib. § 12.

17. The clerks of the supreme court, circuit courts, and courts of common pleas, shall be entitled to receive, for docketing any judgment, fifty cents; for certified transcripts of such docket, fifty cents; and for filing certificate of reversal, and entering the same in the docket, twelve cents.

IV. Assignments of, recorded.

Assignment of judgments to be recorded.

P. L. 1871, p. 108.

Record to be notice.

Sheriff not liable to assignee without actual notice of assignment.

18. The clerk of the supreme court of this state, and the clerks of the several counties of this state, are hereby authorized and directed to record, in suitable books to be provided for that purpose, properly indexed, any assignment of any judgment recovered or docketed in said supreme court, or in the courts of record of the several counties respectively, the same being in writing with the execution thereof, proved or acknowledged as the execution of deeds is or shall be required to be proved to authorize the same to be recorded; and such recording shall be notice, from the time such assignment is left for that purpose, to all persons concerned, that said judgment is so assigned; *provided always*, that any sheriff, or other officer, who has an execution placed in his hands, upon any judgment by the owner or owners of such judgment at that time, shall not be liable to the assignee of such judgment, without actual notice of such assignment, unless he fail to return such execution to the term to which it is returnable.

19. The records and certified copies of such assignment shall be evidence in the same manner and in like cases as the record of deeds; and it shall be lawful for the assignee of any judgment so assigned of record, to receive satisfaction of the same, and to authorize and empower the clerk of the court in which such judgment was rendered, to enter an acknowledgment of satisfaction upon the record of such judgment, or to enter such satisfaction himself in the same manner as the party in whose favor such judgment was obtained, or his attorney, might do before this act was passed.

Certified copies to be evidence. *Ib.* § 2.

Assignee may empower satisfaction to be entered.

20. The clerk of the supreme court, and the clerks of the several counties, shall be entitled to a fee of fifty cents for recording and indexing each assignment, and the proof or acknowledgment thereof, under this act.

Fees for recording assignment. *Ib.* § 3.

V. Entry of satisfaction.

21. It shall be the duty of the clerk of the supreme court, and of every circuit court and court of common pleas in this state, in recording judgments, to leave at the foot or bottom of the record of each and every judgment, in the book of judgments, a sufficient space for entering satisfaction of said judgment on the record, and that all satisfactions of judgments entered, whether by the directions of this act or by the order of the court, shall be entered at the foot or bottom of the record of such judgments, or in the margin thereof, in cases where there is not sufficient space left at the foot or bottom of such judgment for entering thereof.

Manner of making entry of. *R. S. 993, § 1.*

22. Whenever any party, in whose favor a judgment is rendered in the supreme court, circuit court or court of common pleas in this state, shall have received satisfaction of such judgment, it shall be the duty of said party, either by himself or his attorney, (a) forthwith to enter an acknowledgment of satisfaction upon the record of said judgment, or in case the judgment shall not have been made up and recorded, then such acknowledgment shall be entered in the minutes of the court where such judgment shall have been rendered; and it shall thereupon become the duty of the clerk of such court, as soon as the record of such judgment is entered in the judgment book, to make the entry of satisfaction in the manner prescribed in the foregoing section, and in the following form:

Party having judgment satisfied to enter satisfaction. *Ib.* § 2.

Satisfaction of this judgment has been duly acknowledged by A. B. (or his attorney, as the case may be), in the minutes of this court, of the term of _____, in the year _____, agreeably to the act of the legislature in such case made and provided.

Form of entry.

23. Whenever any party shall receive full satisfaction as aforesaid, it shall be lawful for the said party to sign, seal, and deliver to the party so making satisfaction as aforesaid, or his attorney, a warrant or authority, directed to the clerk of the court wherein such judgment shall be rendered, to enter satisfaction as aforesaid, which said warrant may be as follows:

Warrant to enter satisfaction. *Ib.* § 3.

To the clerk of the _____ court of _____
 WHEREAS I, A. B. heretofore, to wit, in the term of _____, obtained final judgment in the _____ court of _____ in the State of New Jersey, against C. D. for _____ debt, and _____ costs (or for damages and costs, or for costs, as the case may be), as by the record thereof may appear; and whereas I have received satisfaction for the same, these are therefore to desire and authorize you to enter an acknowledgment of satisfaction upon the record of the said judgment, and for your so doing this shall be your sufficient warrant and discharge in that behalf; in witness whereof, I have hereunto set my hand and affixed my seal, the _____ day of _____ eighteen hundred and _____.

Signed, sealed, and delivered }
 in the presence of } A. B. [SEAL].

Form of.

Which said warrant or authority, being acknowledged or proved before any judge or other officer having authority to take the acknowledgment or proof of deeds for the conveyance of land in this state, or in case the party shall reside out of this state, the same being acknowledged or proved before any judge or justice of any supreme or superior court, or before any judge of any court of common pleas or master in chancery of the kingdom,

Acknowledged or proved.

(a) An acknowledgement of satisfaction by an attorney, binds his client, *Wycoff v. Bergen, Coze* 214.

state, or territory wherein he shall reside, and, after such proof or acknowledgment, such warrant or authority being delivered to the clerk to whom the same shall be directed, it shall be the duty of the said clerk forthwith to enter satisfaction on the record of said judgment, as herein-before directed, in the words following, or as nearly in conformity thereto as can be conveniently done:

Form of entry. I, E. F., clerk of the court of _____, in virtue of a special warrant of attorney (duly acknowledged or proved, as the case may be) from A. B. in the foregoing record named, and to me directed, do hereby acknowledge that the said A. B. is satisfied of the debt and costs (or damages and costs, or costs, as the case may be); dated this _____ day of _____, eighteen hundred and _____ E. F., Clerk.

Filed. And it shall be the duty of the said clerk forthwith, after entering said satisfaction, to file the said warrant or authority, with the declaration, pleadings, and other papers in the cause in which said judgment shall have been obtained.

Attorney of record may authorize clerk to enter satisfaction. 24. It shall be lawful for the attorney upon the record of said judgment to authorize and empower the clerk of the court in which said judgment was rendered to enter an acknowledgment of satisfaction upon the record of said judgment by an instrument in writing of the same general form and effect as that mentioned and described in the last preceding section; and when such attorney upon the record shall have delivered to said clerk a power of attorney, duly executed by him, and acknowledged or proved, of the same tenor and effect as that mentioned in the preceding section, the said clerk shall forthwith enter satisfaction of said judgment in pursuance thereof, and in conformity, as nearly as may be, to the directions in cases wherein said power of attorney may have been executed by the party in whose favor the judgment was rendered, and the same fees shall be charged for such services as in other cases.

P. L. 1867, p. 809,
§ 1 & 2.
Amended.

Preceding section extended to mechanics' liens and decrees in chancery.

P. L. 1873, p. 42.

Fees for services.

R. S. 993, § 5.

Court may order satisfaction entered.
Ib. § 4.

Satisfaction may be entered by survivor.
Ib. § 6.

Parties may proceed before court to have satisfaction entered.
Ib. § 7.

25. The last preceding section shall apply to the satisfaction of record of claims of mechanics' liens, if there be an attorney of record of the same, and of any judgment entered thereon, and also, to the satisfaction of decrees in the court of chancery if there be a solicitor of the complainant of record.

26. The judge or other officer who shall take the acknowledgment or proof of any warrant or authority to enter satisfaction on the record as aforesaid, shall be entitled to receive twenty-five cents, and no more, for each acknowledgment or proof taken or had before him; and the clerk for entering satisfaction on the record, and filing the warrant or authority for so doing, shall be entitled to receive the sum of twenty-five cents and no more.

27. In case any party, having received full satisfaction for any judgment obtained in either of the courts aforesaid, shall refuse or neglect, when requested, to enter satisfaction as aforesaid, or to sign, seal, and deliver a warrant, duly acknowledged as aforesaid, to enter satisfaction as aforesaid, the party so making satisfaction may, on due notice given, apply to the court to have satisfaction entered as aforesaid, and the said court may order the same to be done, and that the party so having received satisfaction shall pay the cost of the said application, which costs may be recovered by a writ of *feri facias* or *capias ad satisfaciendum*.(a)

28. When the original parties to the action or either of them are dead, before satisfaction is entered on the record, the preceding provisions and the like remedy shall apply as between the survivor or survivors or the lawful representatives of any deceased party and a surviving party; and the warrant to the clerk mentioned in the twenty-third section of this act, and other proceedings under the same, shall be in the same form, as near as may be, as is required in the case of the original parties to the suit.

29. Nothing herein contained shall be construed to prevent any party, making satisfaction as aforesaid, from proceeding, according to the course of the respective courts, to enforce the entering satisfaction on the record of judgments as heretofore, nor to deprive any attorney at law from any lien which he may have on any judgment for his costs.

(a) The court will not order entry of satisfaction to be made unless the proof of payment is satisfactory. *Hankinson v. Hummer*, 7 Hal. 64. *Delaware and Lackawanna Railroad Co. v. Blair*, 4 Dutch. 139. See *Coulter v. Kaighn*, 1 Vr. 98.

Whoever has been made a party must have notice of the application. *Howard v. Richman, Coze* 132. See *Waddle v. Dayton*, 3 Hal. 174.

Supplement.

Approved April 13, 1876. P. L. 1576, p. 124.

30. Sec. 1. That in any action brought or to be brought in the supreme court or any circuit court or court of common pleas in this state, wherein judgment shall have been or may hereafter be recovered against two or more defendants thereto, and the party in whose favor said judgment is rendered shall have received satisfaction thereof from any defendant or defendants less than the whole number of defendants, it shall and may be lawful for the person so receiving satisfaction, either by himself or his attorney, to enter an acknowledgment of satisfaction as to said defendant or defendants from whom satisfaction thereof shall have been received upon the record of said judgment, or in case the judgment shall not have been made up and recorded, then such satisfaction may be entered in the minutes of the court where such judgment shall have been rendered, and such acknowledgment of satisfaction when so entered shall not operate as a release or discharge of said judgment as to any defendant liable thereon primarily to or equally with the defendant or defendants as to whom such acknowledgment of satisfaction shall have been entered, but may be assigned to such defendant or defendants as have satisfied the same, and he or they shall have full control of said judgment, and may issue execution thereon against such defendant or defendants as to whom there has been no satisfaction entered the same as if there had been no payment whatever, and no satisfaction had been entered; *provided*, that such defendant or defendants shall only recover on such execution the proportional share of said judgment for which the defendants as to whom such satisfaction has not been entered were originally liable; *and provided further*, that previous to issuing said execution the amount for which it shall issue shall have been fixed by a judge of the court out of which said execution shall be issued upon application of the party desiring to issue the same made upon two days' notice to the person or persons against whom it is intended said execution shall issue.^(a)

When a judgment is recovered against two or more defendants satisfaction may be entered as to defendant or defendants satisfying same.

Not to operate as a release or discharge of other defendants.

Proviso.

(a) See *White ads. Brown, 5 Dutch. 307, 514.*

Juries.

1. Process for jury.
2. To what county awarded.
3. Fees of jurors.
4. Not discharged except by court.
5. Penalty for non-attendance.
6. Fines, how collected.
7. Vacancy in grand jury supplied.
8. Foreman of grand jury to swear witnesses and certify list of.

I. OF THE GENERAL PANEL.

9. List of jurors to be laid before the court.
10. How general panel reduced.
11. How venire shall be executed by coroners and elisors.

II. STRUCK JURIES.

12. Struck juries in civil and criminal cases.
13. After rule for struck jury, cause not to be tried by common jury.
14. Plaintiff to have preference on motion for.
15. Thirty days' notice of trial, if defendant has rule for struck jury.
16. Panel to be delivered to plaintiff twelve days before trial.
17. If cause not tried, new jury to be struck.
18. How jury struck. Notice, etc.
19. Court or judge may order struck jury.
20. Who to pay fees for striking.

III. EMPANNELING JURIES.

21. How jury selected from general panel. Tales and challenges.
22. How venire returned.

23. Names replaced in box.
24. How jury selected from struck jury.

IV. JURY OF VIEW.

25. Jury of view, process, for.
26. View by struck jury.
27. Trial to proceed, though no view had.
28. Expenses of view, etc.
29. Court may order view during trial of any cause.

V. FOREIGN JURY.

30. Supreme court may order.
31. Foreign juries in criminal cases.
32. How venire directed and juries selected.

VI. CHALLENGES.

33. Interest as taxpayer not a ground of challenge.
34. Peremptory challenges, how many.
35. Peremptory challenges by state.
36. Peremptory challenges on trial by a struck jury.
37. Challenges tried by court.

VII. EXEMPTIONS FROM JURY DUTY.

38. Names of exempt firemen to be filed in clerk's office.
39. Clerk to keep register of names.
40. Officer not to take reward for excusing juror, nor summon any person applying.
41. Qualification of jurors.
42. Sheriffs to procure lists of persons qualified as jurors.
43. Jurors, how summoned.
44. How general panel of jurors selected.
45. In case of death of clerk judge of pleas to act.
46. Repealer.