

conveyance,
&c.

to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of full age are compellable to convey or assign their trust, estates or mortgages.

CAP. XX.

An act for the publick registering of deeds, conveyances, and wills, and other incumbrances which shall be made of, or that may affect any honors, manors, lands, tenements, or hereditaments, within the county of Middlesex, after the twenty ninth day of September, one thousand seven hundred and nine.



A memorial of conveyances, made after Sept. 29, 1709. and of all wills, &c. that may affect any honors, &c. within the county of Middlesex, may be registered; and every conveyance made after such memorial registered, shall be void, &c. unless such memorial be registered before the registering of the conveyance, under which, &c. The like of a devise by will. 6 Ann. c. 35. Abr. Eq. 357. 358. Cheval v. Nichols in Scacc. Mich. 12 Geo. 1.

Registers appointed.

WHEREAS by the different and secret ways of conveying lands, tenements, and hereditaments, such as are ill disposed have it in their power to commit frauds, and frequently do so, by means whereof several persons (who through many years industry in their trades and employments, and by great frugality, have been enabled to purchase lands, or to lend monies on land security) have been undone in their purchases and mortgages, by prior and secret conveyances, and fraudulent incumbrances, and not only themselves, but their whole families thereby utterly ruined: for remedy whereof, may it please your most excellent Majesty (at the humble request of the justices of the peace, gentlemen, and freeholders of the county of *Middlesex*) that it may be enacted, and be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons in this present parliament assembled, and by the authority of the same, That a memorial of all deeds and conveyances, which from and after the twenty ninth day of *September*, in the year of our Lord one thousand seven hundred and nine, shall be made and executed, and of all wills and devises in writing made or to be made and published, where the devisor or testatrix shall die after the said twenty ninth day of *September*, of or concerning, and whereby any honors, manors, lands, tenements, or hereditaments in the said county, may be any way affected in law or equity, may be registered in such manner as is herein after directed; and that every such deed or conveyance that shall at any time after the said twenty ninth day of *September*, be made and executed, shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless such memorial thereof be registered as by this act is directed, before the registering of the memorial of the deed or conveyance under which such subsequent purchaser or mortgagee shall claim; and that every such devise by will shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration, unless a memorial of such will be registered at such times and in such manner as is herein after directed.

II. And for settling and establishing a certain method, with proper rules and directions for registering such memorials, as aforesaid,

aforesaid, be it further enacted by the authority aforesaid, That one publick office for registering such memorials of and concerning any honors, manors, lands, tenements, and hereditaments, that are situate, lying, and being within the said county, shall be erected and established in manner following; that is to say, That for the better and more effectual putting in execution the several matters and things in this act contained, the sworn clerk to execute the office of inrolment in the high court of *Chancery*, who is appointed to inrol for the county of *Middlesex*, the chief clerk to inrol pleas in the *Queen's Bench*, the clerk of the warrants in the court of *Common Pleas*, and the Queen's remembrancer, or his deputy in the court of *Exchequer*, shall be the registers or masters of the office for the matters and things in this act contained, and also shall and may, from time to time, nominate and appoint one or more able and sufficient person or persons, for whom they shall be accountable, to be their deputy or deputies; which said registers or their deputies shall well and truly do and perform all and every the matters and things intended by this act to be done and performed, in some convenient office or place to be provided by the said clerks or registers in or near some of the inns of court or *Chancery*, where to all persons may have free resort at the times appointed by this act; and that the said clerks or registers shall present such deputy or deputies to the lord high chancellor, or lord keeper, or lords commissioners of the great seal of *Great Britain*, to the chief justice of the *Queen's Bench*, to the chief justice of the *Common Pleas*, and to the chief baron of the court of *Exchequer* for the time being, to be by them, or any three of them, approved of, before such deputy or deputies shall enter upon the execution of the said office; and that such deputy or deputies shall and may be displaced and removed by the said lord high chancellor, or lord keeper, or lords commissioners of the great seal, the chief justices of the *Queen's Bench* and *Common Pleas*, and chief baron, or any three of them, by any writing under their hands and seals; and that the said lord chancellor, or lord keeper, or lords commissioners of the great seal, the two chief justices, and chief baron, or any three of them, shall, from time to time, have full power and authority to make such rules and orders for the better management and government of the said office, agreeable to the form and true intention of this act, as they shall find convenient and necessary.

III. And be it further enacted, That every such register or master, before he enter upon the execution of the said office, shall be sworn before the lord chancellor, or lord keeper, or lords commissioners of the great seal of *Great Britain*, or the chief justice of the *Queen's Bench*, chief justice of the *Common Pleas*, and chief baron of the court of *Exchequer*, or any one of them (who are hereby impowered and required to administer such oath) in these words:

His oath.

YOU shall swear, That you will truly and faithfully perform and execute the office and duty that is directed and required by you to be done by act of parliament, intituled, An act for the publick registering of deeds, conveyances, and wills, and other incumbrances which shall be made of, or that may affect any honors, manors, lands, tenements, or hereditaments, within the county of *Middlesex*, after the twenty ninth day of *September*, one thousand seven hundred and nine; and that you have not given or promised, directly or indirectly, nor authorized any person to give or promise any money, gratuity, or reward whatsoever, for procuring or obtaining the said office for you:

So help you GOD.

Register misdemeanoring himself, how punished.

IV. And be it further enacted by the authority aforesaid, That if such person so appointed register or master, shall be lawfully convicted of any neglect, misdemeanor, or fraudulent practice in the execution of the said office, he shall be liable to pay treble damages, with full costs of suit, to every person that shall be injured thereby, to be recovered as is herein after directed.

Memorials to be in parchment, &c.

V. And be it further enacted by the authority aforesaid, That all and every memorials, so to be entred and registred, shall be put into writing in vellum or parchment, and brought to the said office, and in case of deeds and conveyances shall be under the hand and seal of some or one of the grantors, or some or one of the grantees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof to be one of the witnesses to the execution of such deed or conveyance; which witness shall, upon his oath before one of the said registers, or masters, or before a master in *Chancery* ordinary or extraordinary, prove the signing and sealing of such memorial; and the execution of the deed or conveyance mentioned in such memorial; and in case of wills, the memorial shall be under the hand and seal of some or one of the devisees, his or their heirs, executors or administrators, guardians or trustees, attested by two witnesses, one whereof shall, upon his oath before the said registers or masters, or before such master in *Chancery*, as aforesaid, prove the signing and sealing of such memorial; which respective oaths the said registers or masters, and masters in *Chancery*, are hereby empowered to administer, and shall indorse a certificate thereof on every such memorial, and sign the same.

Memorials of deeds, &c. how to be attested,

and how memorials of wills.

Memorials to contain the day and year of the date, &c.

VI. And be it further enacted, That every memorial of any deed, conveyance, or will, shall contain the day of the month and the year when such deed, conveyance, or will bears date, and the names and additions of all the parties to such deed or conveyance, and of the deviser or testatrix of such will, and of all the witnesses to such deed, conveyance, or will, and the places of their abode, and shall express or mention the honors, manors, lands, tenements, and hereditaments contained in such deed, conveyance, or will, and the names of all the parishes, townships, hamlets, precincts, or extraparochial places within the said

said county where any such honors, manors, lands, tenements, or hereditaments are lying or being, that are given, granted, conveyed, devised, or any way affected or charged by any such deed, conveyance, or will, in such manner as the same are expressed, or mentioned in such deed, conveyance, or will, or to the same effect; and that every such deed, conveyance, and will, or probat of the same, of which such memorial is so to be registred as aforesaid, shall be produced to the said registers or masters at the time of entering such memorial, who shall endorse a certificate on every such deed, conveyance, and will, or probat thereof, and therein mention the certain day, hour, and time on which such memorial is so entred or registred, expressing also in what book, page, and number the same is entred; and that the said registers or masters shall sign the said certificate when so indorsed; which certificates shall be taken and allowed as evidence of such respective registries in all courts of record whatsoever; and that every page of such register books, and every memorial that shall be entred therein, shall be numbred, and the day of the month, and the year, and hour, or time of the day when every the said memorial is registred, shall be entred in the margents of register books, and in the margents of the said memorial; and that every such register or master shall keep an alphabetical calendar of all parishes, extraparochial places and townships within the said county with reference to the number of every memorial that concerns the honors, manors, lands, tenements, or hereditaments in every such parish, extraparochial place or township respectively, and of the names of the parishes mentioned in such memorials; and that such register or master shall duly file every such memorial in order of time as the same shall be brought to the said office, and enter or register the said memorials in the same order that they shall respectively come to his hands.

VII. Provided always, and be it enacted, That where there are more writings than one, for making and perfecting any conveyance or security, which do name, mention, or any ways affect or concern the same honors, manors, lands, tenements, or hereditaments, it shall be a sufficient memorial and register thereof, if all the said honors, manors, lands, tenements, and hereditaments, and the parishes, townships, hamlets, or extraparochial places wherein the same lie, be only once named or mentioned in the memorial or register of any one of the deeds or writings made for the perfecting of such conveyance or security; and that the dates of the rest of the said deeds or writings relating to the said conveyance or security, with the names and additions of the parties, and witnesses, and the places of their abodes, be only set down in the memorials and registers of the same, with a reference to the deed or writing whereof the memorial is so registred, that contains or expresses the parcels mentioned in all the said deeds, and directions how to find the registering the same.

VIII. Provided also, and it is hereby enacted, That all memorials of wills that shall be registred in manner, as aforesaid, shall be registred within

Every such deed, &c. shall be produced to the registers, &c. who shall indorse a certificate, which shall be allowed as evidence,

The page of the register books, and the memorials entred, shall be numbred. Register to keep an alphabet of all parishes, &c. and duly file the memorials in order of time.

If there be more writings than one which affect the same hereditaments, &c. they need be named but once in the memorial, and the dates, &c. of the rest only to be set down.

Memorials of wills to be registred in within

6 months after
testator's
death, dying
within Great
Britain, and
3 years if
beyond sea.

within the space of six months after the death of every respective devisor or testatrix, dying within the kingdom of *Great Britain*, or within the space of three years after the death of every respective devisor or testatrix, dying upon the sea, or in any parts beyond the seas, shall be as valid and effectual against subsequent purchasers, as if the same had been registered immediately after the death of such respective devisor or testatrix; any thing herein contained to the contrary thereof in any wise notwithstanding.

If the devisee
be disabled,
the registry in
6 months after
the disability
removed, shall
be sufficient.

IX. Provided always, That in case the devisee, or person or persons interested in the honors, manors, lands, tenements, or hereditaments, devised by any such will, as aforesaid, by reason of the concealment or suppression, or contesting such will, or other inevitable difficulty, without his, her, or their wilful neglect or default, shall be disabled to exhibit a memorial for the registry thereof within the respective times herein before limited, and that a memorial shall be entred in the said office of such contest, or other impediment, within the space of two years after the death of such devisor or testatrix, who shall die within the kingdom of *Great Britain*, or within the space of four years next after the decease of such person who shall die upon the sea, or beyond the seas, then, and in such case, the registry of the memorial of such will, within the space of six months next after his, her, or their attainment of such will, or a probat thereof, or removal of the impediment whereby he, she, or they are disabled or hindred to exhibit such memorial, shall be a sufficient registry within the meaning of this act; any thing herein contained to the contrary thereof in any wise notwithstanding.

Will conceal-
ed, &c. if not
registered in
5 years after
the devisor's
death, shall
not defeat a
purchase.
Fees of the
register.

X. Provided nevertheifs, That in case of any concealment, or suppression of any will, or devise, any purchaser or purchasers shall not be disturbed, or defeated in his or their purchase, unless the will be actually registered within five years after the death of the devisor or testatrix.

XI. And be it further enacted, That every such register or master shall be allowed for the entry of every such memorial, as is by this act directed, the sum of one shilling, and no more, in case the same do not exceed two hundred words; but if such memorial shall exceed two hundred words, then after the rate and proportion of six pence an hundred for all the words contained in such memorial, over and above the first two hundred words, and the like fees for the like number of words contained in every certificate or copy given out of the said office, and no more, and for every search in the said office, one shilling, and no more.

Register to
give due at-
tendance,

XII. And be it further enacted by the authority aforesaid, That every such register or master shall give due attendance at his office every day in the week (except *Sundays* and holy-days) between the hours of nine and twelve in the forenoon, and the hours of two and five in the afternoon, for the dispatch of all business belonging to the said office; and that every such register

gister or master, as often as is required, shall make searches and make concerning all memorials that are registred, as aforesaid, and searches when give certificates concerning the same under his hand (if required by any person) testified by two credible witnesses.

XIII. And be it further enacted by the authority aforesaid, Register, &c. That each of the said registers or masters, at the time of his to enter into a being sworn into the said office, as aforesaid, shall enter into a recognizance recognizance with two or more sufficient sureties (to be approved of by the lord chancellor, or lord keeper, or lords commissioners of the great seal of *Great Britain*, or the chief justice of the *Queen's Bench*, chief justice of the *Common Pleas*, and chief baron of the court of *Exchequer*, or any one of them) for the faithful performance of his office. of the penalty of two thousand pounds unto her Majesty, her heirs and successors, to be taken by one of the said chief justices, conditioned for his true and faithful performance of his duty in the execution of his said office, in all things directed and required by this act; the same to be transmitted by such chief justice within one month next after the date thereof, into the office of her Majesty's remembrancer of the *Exchequer*, there to remain amongst the records of the said court.

XIV. And be it further enacted, That the damages before-mentioned, to be forfeited by any such register or master, for his neglect, any neglect, misdemeanor, or fraudulent practice in the execution of his office, shall be recovered by action of debt, bill, plaint, or information in any of her Majesty's courts of record at *Westminster*, wherein no essoin, protection, privilege, or wager of law shall be allowed, nor any more than one imparlance. Forfeiture for his neglect, how to be recovered.

XV. And be it further enacted, That if any person or persons shall at any time forge or counterfeit any entry of the acknowledging of any such memorial, certificate, or indorsement, as is herein mentioned or directed, and be thereof lawfully convicted, such person or persons shall incur and be liable to such pains and penalties as in and by an act made in the fifth year of *Queen Elizabeth*, intituled, *An act against forgers of false deeds and writings*, are imposed upon persons for forging and publishing of false deeds, charters, or writings, sealed court rolls, or wills, whereby the freehold or inheritance of any person or persons of, in, or to any lands, tenements, or hereditaments shall or may be molested, troubled, or charged; and that if any person or persons shall at any time forswear himself before the said registers or masters, or before any judge, or master in *Chancery*, in any of the cases herein mentioned, and be thereof lawfully convicted, such person or persons shall incur and be liable to the same penalties as if the same oath had been made in any of the courts of record at *Westminster*. Persons forging an entry of any memorial, liable to the punishments in the 5 Eliz. c. 14. Perjury before a register, how to be punished.

XVI. And be it further enacted by the authority aforesaid, Upon certificate and proof That in case of mortgages, whereof memorials shall be entred made to the in the said register office pursuant to this act, if at any time register, that afterwards a certificate shall be brought to the said registers or money due on masters, signed by the mortgagee or mortgagees in such mortgage, entred in the

registry, has been satisfied, the register shall make an entry in the margin, against the inrolment, &c.

gage, his, her, or their executors, administrators, or assigns, and attested by two witnesses, whereby it shall appear that all monies due upon such mortgage have been paid or satisfied in discharge thereof, which witnesses shall upon their oaths before the said registers or masters, or before a master in *Chancery*, ordinary or extraordinary (who are hereby respectively impowered to administer such oath) prove such monies to be satisfied or paid accordingly, and that they saw such certificate signed by the said mortgagee or mortgagees, his, her, or their executors, administrators, or assigns, that then, and in every such case, the said registers or masters shall make an entry in the margins of the said register books against the registry of the memorial of such mortgage, that such mortgage was satisfied and discharged according to such certificate, to which the same entry shall refer, and shall after file such certificate, to remain upon record in the said register office.

This act not to extend to copyhold estates, &c.

XVII. Provided always, and be it further enacted, That this act shall not extend to any copyhold estates, or to any leases at a rack rent, or to any lease not exceeding one and twenty years, where the actual possession and occupation goeth along with the lease, or to any of the chambers in *Serjeants Inn*, the inns of court, or inns of *Chancery*; any thing in this act contained to the contrary thereof in any wise notwithstanding.

After 29 Sept. 1709. no judgments, &c. (other than such as are entred into in the name of the Queen, &c.) shall bind hereditaments in *Middlesex*, but from the time a memorial thereof shall be entred, &c.

XVIII. And be it further enacted by the authority aforesaid, That no judgment, statute, or recognizance, (other than such as shall be entred into in the name, and upon the proper account of her Majesty, her heirs and successors) which shall be obtained or entred into after the said twenty ninth day of *September*, in the said year of our Lord one thousand seven hundred and nine, shall affect or bind any honors, manors, lands, tenements, or hereditaments, situate, lying, and being in the said county of *Middlesex*, but only from the time that a memorial of such judgment, statute, or recognizance shall be entred at the said register office, expressing and containing, in case of such judgment, the names of the plaintiffs, and the names, additions, and places of abode, (if any such be in such judgment) of the defendants, the sums thereby recovered, and the time of the signing thereof; and in case of statutes and recognizances, expressing and containing the date of such statute or recognizance, the names, additions, and places of abode of the cognizers and cognizees therein, and for what sums, and before whom the same were acknowledged; and that in order to the making an entry of such memorials of judgments, statutes, and recognizances, as aforesaid, the party and parties desiring the same, shall produce to, and leave with the said registers or masters, to be filed in the said publick or register office, a memorial of such judgment, statute, or recognizance, signed by the proper officer, or his deputy, who shall sign such judgment in the same office, or by the proper officer, in whose office such statute, or recognizance shall be inrolled, together with an affidavit sworn before one of the judges at *Westminster*, or a master in *Chancery*, that such

such memorial was duly signed by the officer whose name shall appear to be thereunto set; which memorial such respective officer is hereby required to give such plaintiff or plaintiffs, cognizee or cognizees, or his, her, or their executors, or administrators, or attorney, or any of them, he, she, or they paying for the same the sum of one shilling, and no more.

XIX. And be it further enacted, That the said register or master shall make an entry and likewise (if required) shall give a certificate in writing under his hand, testified by two credible witnesses, of every such memorial of any judgment, statute, or recognizance brought to him to be so registred, as aforesaid, and therein mention the certain day on which such memorial is so registred or entred, expressing also in what book, page, and number the same is entred.

The register to make an entry, and (if required) to give a certificate of such memorial, &c.

XX. And be it further enacted, That this act shall be taken and allowed in all courts within this kingdom as a publick act, and all judges, justices, and other persons therein concerned, are hereby required as such to take notice thereof, without special pleading the same.

Publick act.

XXI. And be it enacted by the authority aforesaid, That no member of parliament shall be capable of being register, or of executing by himself or any other person or persons, the said office, or to have, take, or receive any fee or other profit whatsoever issuing out of the said office, or for or in respect thereof; nor shall any such register, or his deputy, or any person or persons receiving profit out of the said office, be at any time hereafter capable of being, or being chosen, a member to serve in parliament.

No member of parliament capable to be register, &c. Nor any register to be a member of parliament.

25 Geo. 2. c. 4.

C A P. XXI.

An act for improving the union of the two kingdoms.

WHEREAS nothing can more conduce to the improving the union of the two kingdoms, which by her Majesty's great wisdom and goodness hath been happily effected, than that the laws of both parts of Great Britain should agree, as near as may be, especially those laws which relate to high treason, and the proceedings thereupon, as to the nature of the crime, the method of prosecution and trial, and also the forfeitures and punishments of that offence; which are of the greatest concern both to the crown, and to the subjects: to the end therefore that the said union may be more effectually improved, be it enacted by the Queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, That from and after the first day of July, in the year of our Lord one thousand seven hundred and nine, such crimes and offences which are high treason or misprision of high treason within *England*, shall be construed, adjudged, and taken to be high treason and misprision of high treason within *Scotland*; and that from thenceforth no crimes or offences shall be high treason or misprision of high treason within *Scotland*, but those that are high treason or misprision of high treason in *England*;

21 Geo. 2. c. 19.
22 Geo. 2. c. 48.

After 1 July, 1709. high treason and misprision in *England* shall be so in *Scotland*, and no other.

And the Queen, &c. may grant commissions of Oyer and