

and being in this state, the deed or deeds, conveyance or conveyances, which shall be first recorded according to law, shall have preference in all courts of law and equity in this state, according to the times of the recording of such deeds or conveyances respectively; *Provided*, that the deed or deeds, conveyance or conveyances, so to be preferred, be made bona fide, and upon good and valuable consideration, and further that no deed or conveyance shall defeat or prejudice the title or interest of any bona fide purchaser of any lands, tenements, or hereditaments or chattels, unless the same shall have been duly recorded.

SEC. 2. *And be it enacted*, That every deed conveying real estate or chattels, which by any other instrument or writing, shall appear to have been intended only as a security in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage, and that the person or persons for whose benefit such deed shall be made, shall not have any benefit or advantage from the recording thereof, unless every instrument and writing, operating as a defeasance of the same, or explanatory of its being designed to have the effect only of a mortgage, or conditional deed be also therewith recorded.

Deed given  
as mort-  
gage.

SEC. 3. *And be it enacted*, That no sale of any lands, tenements or hereditaments or chattels made, or to be made, in virtue of this act, by any mortgagee or others thereunto authorized by special power for that purpose, from any person entitled to the equity of redemption therein, shall be defeated to the prejudice of any bona fide purchaser thereof, in favour or for the benefit of any person claiming such equity of redemption: *Provided*, that nothing herein contained, shall be construed to prejudice any other mortgagee of the same premises, or any part thereof, whose title accrued prior to such sale, or any creditor to whom the mortgaged premises, or any part thereof, were before bound by any judgment at law or decree in equity; *And provided also*, that nothing herein contained shall operate to secure any such purchaser under any power executed heretofore, or hereafter to be executed for the purposes of such sale, unless the party executing the same, be of the age of at least twenty-five years.

Sale of  
lands, &c.  
by mort-  
gage not to  
be defeated.

Provisos.

SEC. 4. *And be it enacted*, That all such powers to mortgagees, made, or to be made, authorizing sales, shall be executed, acknowledged and recorded as deeds and conveyances usually are before the conveyances for the sale be executed, and every such sale shall be at public auction or vendue, and public notice shall be given thereof by advertisements, one copy thereof to be inserted and continued at least once a week for six successive months previous to the sale, in one of the news-

Sale regu-  
lated—ad-  
vertisement  
required.