

Opinion No. 15-1671

November 5, 1915

BY: FRANK W. CLANCY, Attorney General

TO: Mr. Marshall H. Dean, Harrisburg, Pa.

Statutes regarding the preservation of records of the different offices of the state and counties.

OPINION

{*243} I have just received your letter of the 30th ult. asking me to refer you to the statute of this state relating to the preservation of records of the different offices of the state, and particularly of the Surrogate, County Clerk and other recording officers, and you specifically ask what statute refers to the records being well and securely kept in books, bound volumes or otherwise.

We have no such general statute as you speak of on the subject of how records generally shall be made, but scattered through the different statutes are to be found requirements as to things being recorded, and in a few instances some specification as to the character of the records to be kept. It is possible that reference to these statutory provisions may be of some assistance to you. In the following statement, the section numbers given are to be found in the codification of our statutes of the present year, but in each case I will try to give reference also to the original statute.

Section 1357, which was originally a part of the Kearney Code promulgated under the authority of General Kearney, in 1846, provides that the clerks of the supreme and inferior courts and of the probate judges, shall record proceedings of the respective courts and make a complete alphabetical index thereto.

Section 1405, originally a part of Chapter 66 of the session laws of 1891, prescribes the dockets and records of the district court which are to consist of a judgment docket, a civil docket, a criminal docket and a record or journal of the proceedings of the court. This section also specifies what shall appear upon the dockets and the journal.

Sections 1415 to 1418, the first of which was originally a part of Chapter 71 of the Laws of 1893, and the others, portions of Chapter 73 of the Laws of 1909, require the keeping of books of account in such form as may be prescribed by the Traveling Auditor of the State.

Section 1425 requires that the records of the probate court be under the charge of the clerk of such court and the clerk is prohibited from taking any document or book to any place beyond six miles from the office.

Section 4780, originally a part of an act of 1856, makes it the duty of the county clerk to record in a book of good size, kept in his office for that purpose, all land titles and other papers which by law should be recorded and Section 4782, which is originally a part of the same act of 1856, makes it the duty of the county clerks to keep their books of record well secured, and when they go out of office, to deliver them complete to their successors. Section 4789, originally a part of Chapter 10 of the Laws of 1887, requires such {*244} clerk to keep a reception book in which shall be noted the time of the deposit of any instrument in his office, to be alphabetically arranged, while the next section requires that the records of deeds and of mortgages must be kept in separate books.

Section 4800, originally a part of Chapter 87 of the Laws of 1903, prescribes the form of indexes for records of instruments affecting real estate.

Chapter 71 of the session Laws of 1915, which supersedes earlier provisions on the subject of chattel mortgages, contains provisions as to the recording of such mortgages, and in Section 5 requires the keeping of a book in which shall be entered a minute of all such instruments and prescribes what the headings of the columns shall be.

Section 3325, originally a part of Chapter 16 of the session Laws of 1880, requires the county clerk to record a claim for mechanics' lien in a book kept by him for that purpose, which must be indexed as deeds and other conveyances are required by law to be indexed.

There is practically nothing in the statutes as to the form in which the records of the Secretary of State, the State Treasurer and the State Auditor shall be kept. There are to be found some requirements as to records to be kept by boards and commissions such as the Cattle Sanitary Board, the Sheep Sanitary Board and educational institutions, but I believe there is nothing in these things bearing upon the particular question which you appear to be investigating. The citations hereinbefore contained will give you a fair idea of the lack of just such statutory requirements as you inquire about.