

## No. 128.

## AN ACT

Relating to last wills and testaments.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met,* That every person of sound mind, married women excepted, may dispose by will of his or her real estate, whether such estate be held in fee simple, or for the life or lives of any other person or persons, and whether in severalty, joint tenancy, or common, and also of his or her personal estate. General right to dispose by will.

SECT. 2. *Provided,* That a married woman may, under a power legally created for the purpose, dispose of her real or personal estate by will or appointment, in nature of a will, and that any married woman may, with the assent or license of her husband, dispose of her personal estate by will. Disposal of estate by married women.

SECT. 3. *And provided also,* That no will shall be effectual unless the testator were at the time of making the same, of the age of twenty-one years, or upwards, at which age the testator may dispose of real as well as personal or mixed property, if in other respects competent to make a will. Age of testator.

SECT. 4. Every person competent to make a will as aforesaid, being the father of any minor child unmarried, may devise the custody of such child during his or her minority, or for any shorter period. Guardianship of minor children.

SECT. 5. The emblements or crops growing on lands held by a widow in dower, or by any other tenant for life, may be disposed of by will as other personal estate, also rents and other periodical payments accruing to any such tenant for life, or to any other person entitled under the laws of this Commonwealth regulating the descent and partition of real estate, may, so far as the same may have accrued on the day of the death of such tenant, for life, or other person, be disposed of by will in like manner. Disposal of growing crops as personal estate.

SECT. 6. That every will shall be in writing, and unless the person making the same shall be prevented by the extremity of his last sickness, shall be signed by him at the end thereof, or by some person in his presence, and by his express direction, and in all cases shall be proved by the oaths or affirmations of two or more competent witnesses, otherwise such will shall be of no effect. Wills to be written and proved on oath, &c.

SECT. 7. *Provided,* That personal estate may be bequeathed by a nuncupative will, under the following restrictions: Of the disposal of personal estate by nuncupative wills.

1. Such will shall in all cases be made during the last sickness of the testator, and in the house of his habitation or dwelling, or where he has resided for the space of ten days or

Place of making will.

more, next before the making of such will, except where such person shall be surprised by sickness, being from his own house, and shall die before returning thereto.

Witnesses to bequests.

II. Where the sum or value bequeathed shall exceed one hundred dollars, it shall be proved that the testator, at the time of pronouncing the bequest did bid the persons present, or some of them, to bear witness that such was his will, or to that effect; and in all cases the foregoing requisites shall be proved by two or more witnesses who were present at the making of such will.

This act not to affect mariners at sea, or soldiers in service.

SECT. 8. *Provided*, That notwithstanding this act, any mariner being at sea, or any soldier being in actual military service, may dispose of his moveables, wages and personal estate as he might have done before the making of this act.

Devise of real estate to pass the whole without words of perpetuity.

SECT. 9. That all devises of real estate shall pass the whole estate of the testator in the premises devised, although there be no words of inheritance or of perpetuity, unless it appear by a devise over or by words of limitation or otherwise, in the will, that the testator intended to devise a less estate.

Estate acquired after making will.

SECT. 10. That the real estate acquired by a testator after making his will, shall pass by a general devise, unless a contrary intention be manifest on the face of the will.

Devise to wife to bar dower unless otherwise declared. Proviso.

SECT. 11. That a devise or bequest by a husband to his wife of any portion of his estate or property, shall be deemed and taken to be in lieu and bar of her dower in the estate of such testator, in like manner as if it were so expressed in the will, unless such testator shall in his will declare otherwise; *Provided*, That nothing herein contained shall deprive the widow of her choice either of dower, or of the estate or property so devised or bequeathed.

No bar to choice of dower or bequest.

SECT. 12. That no devise or legacy in favor of a child or other lineal descendant of any testator, shall be deemed or held to lapse, or become void, by reason of the decease of such devisee or legatee, in the life time of the testator, if such testator not to devisee or legatee shall leave issue surviving the testator, but such devise or legacy shall be good and available in favor of such surviving issue, with like effect as if such devisee or legatee had survived the testator, saving always to every testator the right to direct otherwise.

Death of lineal legatee in life time of testator not to deprive living issue of bequest.

Of repeals and codicils.

SECT. 13. That no will in writing concerning any real estate shall be repealed, nor shall any devise or direction therein be altered, otherwise than by some other will or codicil in writing, or other writing declaring the same executed, and proved in the same manner as is hereinbefore provided; or by burning, cancelling, or obliterating or destroying the same by the testator himself, or by some one in his presence, and by his express direction.

SECT. 14. That no will in writing concerning any personal estate shall be repealed, nor shall any bequest or direction therein be altered, otherwise than as is herein before provided

in the case of real estate, except by a nuncupative will, made under the circumstances aforesaid, and also committed to writing in the life time of the testator, and after the writing thereof read to or by him, and allowed by him, and proved to be so done by two or more witnesses.

Nuncupative not to repeal written wills, unless committed to writing, read, allowed and proved.

SECT. 15. That when any person shall make his last will and testament, and afterwards shall marry or have a child or children not provided for in such will, and die leaving a widow and child, or either a widow or child or children, although such child or children be born after the death of their father, every such person, so far as shall regard the widow, or child or children after born, shall be deemed and construed to die intestate, and such widow, child or children, shall be entitled to such purparts, shares, and dividends of the estate, real and personal, of the deceased, as if he had actually died without any will.

Widow and children of testator married and born after making will to inherit as of an intestate.

SECT. 16. That a will executed by a single woman shall be deemed revoked by her subsequent marriage, and shall not be revived by the death of her husband.

Wills of spinsters annulled by marriage.

SECT. 17. *Provided*, That nothing in this act contained shall be construed to apply to the disposition of personal estate by a testator whose domicil is out of this Commonwealth.

Testators, non residents.

SECT. 18. That this act shall take effect from and after the first day of October next, and so much of any act or acts of Assembly as is hereby altered or supplied, is repealed from and after the said day, except so far as may be necessary to complete any proceeding commenced before that time.

Time of operation. Repealing clause, &c.

SAM'L. ANDERSON,

*Speaker of the House of Representatives.*

THO'S. RINGLAND,

*Speaker of the Senate.*

APPROVED—The eighth day of April, Anno Domini, eighteen hundred and thirty-three.

GEO. WOLF.

No. 129.

AN ACT

To enable John Christ to exchange certain real estate, and for other purposes.

SECT. 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That John Christ of the city of Lancaster, guardian