

a warrant drawn by the burgess of said borough upon the treasurer thereof.

JAMES COOPER,
Speaker of the House of Representatives.

WM. WILLIAMSON,
Speaker of the Senate.

APPROVED—The sixteenth day of March, one thousand eight hundred and forty-seven.

FRS. R. SHUNK.

No. 355.

AN ACT

Relating to the estate of Henry Heermans.

WHEREAS, Henry Heermans, of Luzerne, died, leaving a will and testament, which provides among other things, for the appointment of three judicious men to value and appraise his real estate, and to make partition of the same into as many shares as it conveniently can be divided; and that such of his devisees as are entitled to take, shall take the same at the appraisement, securing the amount over their respective shares by bond and mortgage, to be paid in five equal annual payments: Preamble.

And whereas, In pursuance of said will partition has been made, and some of the devisees have made choice of some of the portions, but as some of the devisees are minors, the intentions of said will in executing releases and securing the overplus by bond and mortgage, cannot be carried out:

And whereas, Portions of said real estate will not be taken under the will by any of the devisees; therefore,

SECTION 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 it shall be lawful for the guardians of each of the minor children of Henry Heermans, deceased, under the provisions of the said will, to execute and deliver a release or releases to the other heirs for the portions not taken by such ward or wards, which said release or releases shall be as binding and valid in law, as if such ward or wards had been of full age, and had executed the same according to existing laws. Guardians to execute releases.

SECTION 2. The orphans' court of the county of Luzerne shall have jurisdiction over all the proceedings under the partition made in pursuance of the said will, and the choices of real estate which have been heretofore made by any of the devisees, under the said will, shall be entered upon the records of the said court, and be deemed good and valid in law. Jurisdiction given to orphans' court.

SECTION 3. The orphans' court of the county of Luzerne is hereby authorized and vested with jurisdiction to grant a rule upon the heirs of said court. Further powers

and legal representatives of the said Henry Heermans, deceased, under the will aforesaid, to come into court upon a day certain, to accept or refuse the remaining shares of said estate not heretofore taken at the valuation and appraisement, or show cause why the same shall not be sold; and thereupon, it shall be lawful for the said guardian or guardians, and the other devisees under the will electing to take purparts or shares under the partition in lieu of the bond and mortgage required by the will, to enter into recognizances, respectively, in the orphans' court aforesaid, to the commonwealth of Pennsylvania, in such penal sum, and under such conditions, and for such uses as the said orphans' court may direct, having regard to the provisions of the said will; said recognizances to embrace the charge of the widow's dower in said will specified, and to be liens upon the real estate taken as aforesaid, and to be recoverable at law in the same manner, and with the same effect, as now provided by the intestate laws of this commonwealth, relative to the partition of estates in the orphans' court: *Provided however*, That on entering into the recognizances aforesaid, the guardian or guardians shall be responsible only in their representative capacity.

Proviso.

Court may order a sale of the premises.

SECTION 4. As to such portions of the real estate aforesaid, as have not or may not be taken by any of the devisees aforesaid, upon the hearing of the said rule under the partition and valuation, it shall then be lawful for the orphans' court aforesaid, to make an order for sale thereof by the executor of said will, under the provisions of the existing laws concerning the estates of intestate persons in like cases, directing the purchaser or purchasers at such sale or sales to enter into a bond and mortgage, respectively, to be approved by the said court, for the payment of the purchase money and the widow's dower in the mode, and to the devisees mentioned in the said will; said bonds and mortgages to be given to the executor aforesaid, for the uses mentioned in said will: *Provided however*, That upon granting an order of sale, the executor shall give a bond with sufficient security, to be approved of by the orphans' court aforesaid, conditioned for the faithful and proper appropriation of the proceeds of such sale or sales when collected, under the directions of said orphans' court.

Proviso.

Force and effect of the partition had under the will.

SECTION 5. That the partition of said estate heretofore made under the provisions of the said will, having been duly proved and recorded in the recorder's office of Luzerne county, shall be of itself, and the record thereof, shall also be evidence of the partition required by the said will for legal purposes, and in all legal proceedings; and a copy of said record, duly certified under the hand and seal of office of the recorder of deeds in and for said county, shall also be evidence in like manner, precisely, as the copy of a deed thus certified is evidence under existing laws.

Repeal.

SECTION 6. That the act "concerning certain real estate" of twenty-first March, Anno Domini one thousand eight hundred and forty-six, so far as the same relates to the estate of the said Henry Heermans, deceased, shall be and the same is hereby repealed.

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