

paid to the state treasurer, as soon as conveniently may be after the same shall be received by the said county treasurers respectively.

Passed April 18, 1794. Recorded L. B. No. 5, p. 227, &c.
 1Chapter 1697.

CHAPTER MDCCLI.

AN ACT DIRECTING THE DESCENT OF INTESTATES' REAL ESTATES, AND DISTRIBUTION OF THEIR PERSONAL ESTATES, AND FOR OTHER PURPOSES THEREIN MENTIONED.

[Section I.] (Section I, P. L.) 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 the register for the probate of wills and granting letters of administration for the city and county of Philadelphia, and of the several counties of this state, respectively, and their deputies, having power to grant letters of administration of the goods and chattels of persons dying intestate within this commonwealth, shall upon their granting letters of administration, take bonds, with two or more sufficient sureties, respect being had to the value of the estate, in the name of the register, with the conditions in manner and form following, viz: "The condition of this obligation is such, that if the within bounden A. B., administrator of all and singular the goods, chattels and credits of C. D., deceased, do make, or cause to be made, a true and perfect inventory of all and singular the goods, chattels and credits of the said deceased, which have or shall come to the hands, possession or knowledge of him, the said A. B., or into the hands and possession of any other person or persons for him, and the same so made, do exhibit, or cause to be exhibited into the register's office in the county of..... at or before the.....day of..... next ensuing, and the same goods, chattels and credits, and all other the goods, chattels and credits of the said deceased, at the time of his death,

which at any time after shall come to the hands or possession of the said A. B., or into the hands and possession of any other person or persons for him, do well and truly administer, according to law; and further, do make, or cause to be made, a true and just account of his said administration, at or before the day of and all the rest and residue of the said goods, chattels and credits, which shall be found remaining upon the said administrators account, the same being first examined and allowed of by the orphans' court of the county where the said administration is granted shall deliver and pay unto such person or persons respectively, as the said orphans' court, by their decree or sentence pursuant to the true intent and meaning of this act shall limit and appoint; and if it shall hereafter appear that any last will and testament was made by the said deceased, and the executor or executors therein named do exhibit the same into the [said] register's office, making request to have it allowed and approved accordingly, if the said A. B. within bounden, being thereunto required, do render and deliver the said letters of administration, approbation of such testament being first had and made in the [said] register's office, then this obligation to be void and of none effect, or else to remain in full force and virtue"; which bonds are hereby declared to be good to all intents and purposes, and pleadable in any courts of justice, and the said orphans' court in the respective counties, shall and may, and are hereby enabled to, proceed and call such administrators to account for and touching the goods of any person dying intestate, and upon hearing and due consideration thereof, to order and make just and equal distribution of what remaineth clear, after all debts and funeral and just expenses of every sort first allowed and deducted, amongst the wife and children, or childrens' children, if any such be, or otherwise to the next kindred to the person deceased, in equal degree, or legally representing their stocks, to every one his right, according to the rules and limitations hereafter set down, and the same distributions to decree and settle, and to compel such administrators to observe and pay the same by the due course of the laws of this commonwealth, saving to every person or persons supposing him or themselves aggrieved, their right of appeal.

Provided, That the administrators be bound to furnish the inventory within one month, and [to] adjust and settle his accounts within one year.

(Section II, P. L.) Whereas inconveniences may arise from the debts of deceased persons remaining a lien on their lands and tenements an indefinite period of time after their decease whereby bona fide purchasers may be injured and titles become insecure. Therefore:

[Section II.] Be it enacted by the authority aforesaid, That no such debts, except they be secured by mortgage, judgment, recognizance, or other record, shall remain a lien on said lands and tenements longer than seven years after the decease of such debtor, unless a demand thereof shall be made, or an action for the recovery thereof commenced and duly prosecuted, against his or her executors or administrators, within the said period of seven years, or a copy or particular written statement of any bond, covenant, debt or demand, where the same is not payable within the said period of seven years, shall be filed within the said period in the office of the prothonotary of the county where the lands lie:

Provided always, That a debt due and owing to a person, who at the time of the decease of such debtor is a *feme covert*, in his minority, *non compos mentis*, in prison, or out of the limits of United States, shall remain a lien on the said lands and tenements (notwithstanding the said term be expired) until seven years after discoverture, or such person shall have arrived at the age of twenty-one years, be of sound mind, enlargement out of prison, or return into some one of the United States of America.

[Section III.] (Section III, P. L.) And be it enacted by the authority aforesaid, That the remaining part of any lands, tenements and hereditaments, and personal estate of any person deceased, not sold, or disposed of by will, nor otherwise limited by marriage settlement, shall be divided and be enjoyed in manner following, to wit: If the intestate leaves a widow and lawful issue, the widow shall be entitled to one-third part of the real estate for and during her natural life, and to one-third of the personal estate absolutely; and the remaining two-thirds of

the said estate, real and personal, shall immediately descend and be distributed to the lawful children of the intestate, such children always to inherit and enjoy, as tenants in common, in equal parts. And in case the person dying intestate shall leave several persons lawful issue in the direct line of lineal descent, and all of equal degree of consanguinity, to the person so dying intestate, the said two-thirds of such estate shall descend and be distributed to the said several persons, as tenants in common, in equal parts, however remote from the intestate the common degree of consanguinity may be, in the same manner as if they were all daughters of the person so dying intestate. And in case the intestate shall leave lawful issue of different degrees of consanguinity to him or her, the said two-thirds of such estate shall descend, and the personal estate be distributed, to the lawful child or children of the intestate, if either or any of them be then living, and to the lawful issue of such of the children as shall be then dead leaving lawful issue, as tenants in common, such issue always to inherit, if one person, solely, and if several persons, as tenants in common, in equal parts, such share only as would have descended to his, her or their parent, if such parent had been then living, and each of the lawful children of the intestate always to inherit and to receive such share as would have descended or been distributed to him or her if all the children of the intestate, who shall be [then] dead, leaving lawful issue, had been living at the death of the intestate. And if there be no child of the intestate living at the death of the intestate, and only a grandchild or grandchildren, and the lawful issue of a grandchild or grandchildren who shall be then dead, leaving lawful issue, then the real estate shall descend, and the personal estate be distributed, to such grandchild or grandchildren of the intestate, and to the lawful issue of such of the grandchildren of the intestate as shall be then dead, leaving issue, as tenants in common, such issue always to inherit, if one person solely, and if several persons, as tenants in common, in equal parts such share only as would have descended to his, her or their parent, if such parent had been then living. And each of the grandchildren of the person so dying intestate, who shall be living at the time of the death of the intestate, always to inherit and receive such share as would have descended or been distributed to him

or her, if all the grandchildren of the intestate, who shall be then dead, leaving lawful issue, had been living at the time of the death of the intestate. And the same law of inheritance, descent and distribution, shall be observed in case of the death of the grandchildren and other descendants to the remotest degree.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That in case the intestate leaves no widow, the whole real and personal estate shall descend and be divided, as is directed in the preceding section, with respect to the estate not disposed of in favor of the widow, and if the intestate shall leave a widow, and no lawful issue, the said widow shall have one moiety or half part of the real estate, including the mansion house, during her natural life, except in cases, where in the judgment of the orphans' court the estate cannot with propriety be divided, and in that case she shall have and receive the rents and profits of one moiety of the real estate during her natural life, and one moiety of the personal estate absolutely, the remaining moiety to descend and be disposed of as is provided with respect to the whole estate in case the intestate leaves no widow, and the real estate, so as aforesaid to be enjoyed by the widow during her natural life, shall descend and be disposed of as is by this act provided with respect to the whole estate, in case the intestate leaves no widow.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That in case any person so as aforesaid seized or possessed shall die, leaving neither widow nor lawful issue, but leaving a father, the whole of the said real estate shall be enjoyed by the father of the intestate for and during the natural life of such father, and the personal estate of the said intestate shall pass and be vested in the said father absolutely, unless the said real and personal estate, or either of them, came to the person so dying, seized or possessed from the part of his or her mother, in which case the said estate, or such part thereof as shall have come from the part of his or her mother shall descend, pass and be enjoyed or possessed, as if such person so dying seized or possessed had survived his or her father.

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That if any person so dying seized shall leave neither widow nor lawful issue, but shall leave a father and brothers and sisters, the said real estate shall descend to and be enjoyed by the brothers and sisters of the intestate, after the decease of the father, as tenants in common, in equal parts, and if any of the brothers or sisters of the intestate shall be then dead, leaving lawful issue, then it shall descend to and be enjoyed by the surviving brothers and sisters, and the lawful issue of such brothers or sisters as shall be then dead, leaving lawful issue, such issue always to inherit, if one person, solely, if several persons, as tenants in common, in equal parts, such share only as would have descended to his, her or their parent, had such parent been then living, and each of the brothers and sisters of the person so dying intestate, who shall be living at the time of the death of the intestate, always to inherit and enjoy such [share] as would have descended and been distributed to him or her, if all the brothers and sisters leaving lawful issue had been living at the time of the death of the intestate, but if the intestate shall leave no brothers or sisters, nor their representatives, then the estate shall go to the father in fee simple, unless where the estate has descended from the part of the mother as aforesaid.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That in case any person so as aforesaid seized or possessed shall die, leaving [no] widow nor lawful issue, nor father, but leaving a mother, the whole of the real estate shall be enjoyed by the mother of the intestate for and during the natural life of such mother, and the personal estate of the said intestate shall pass and be vested in the said mother absolutely, unless the said real and personal estates, or either of them, came to the person so dying seized or possessed from the part of his or her father, in which case the said estate, or such part thereof as shall have come from the part of his or her father, shall descend, pass and be enjoyed or possessed, as if such person so dying seized or possessed had survived his or her mother.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That if the person so dying.

seized shall leave neither widow nor lawful issue, but shall leave a mother, and brothers and sisters, the said real estate shall descend to and be enjoyed by the brothers and sisters of the intestate, or their representatives, after the decease of the mother, as tenants in common, in equal parts, and if any of the brothers or sisters of the intestate shall be then dead, leaving lawful issue, then it shall descend to and be enjoyed by the surviving brothers and sisters, and the lawful issue of such brothers or sisters as shall be then dead, leaving lawful issue, such issue always to inherit, if one person, solely, if several persons, as tenants in common, in equal parts, such share only as would have descended to his, her or their parent had such parent been then living, and each of the brothers and sisters of the persons so dying intestate, who shall be living at the time of the death of the intestate, always to inherit and enjoy such share as would have descended and been distributed to him or her, if all the brothers and sisters leaving lawful issue had been living at the time of the death of the intestate.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That in case any child shall have any estate by settlement of the intestate, or shall be advanced by the intestate, in his or her life-time, by portion or portions, equal to the share which shall be divided and allotted to the other children, and other descendants, whether the same be by lands or personal estate, such person shall have no share of the estate of which the said person died seized or possessed; and in case any child shall have any estate by settlement from the intestate, or shall have been advanced by the said intestate in his or her lifetime, whether the said portion or advancement be in real or personal property, but not equal to the share which will be due to the other children or descendants, then so much of the surplusage of the said estate of the intestate to be distributed to such child or children, as shall make the estate of all the said children or descendants to be equal, excepting nevertheless, that where the issue to take shall not be of equal degree to the person dying seized or possessed, the several descendants taking by representation to inherit and enjoy, the one person, solely, and several persons, as tenants in common, in equal parts,

such share only as would have descended or been distributed to his, her or their parent or ancestor, if such parent or ancestor had then been living.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That all posthumous children shall, in all cases whatsoever, inherit in like manner as if they were born in the lifetime of their respective fathers.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That where any person shall die seized as aforesaid, leaving no children or lawful issue, father or mother, brothers or sisters, or their lawful issue of the whole blood, then brothers and sisters of the half-blood, and their lawful issue, shall inherit the same as aforesaid, in preference to more remote kindred of the whole blood, unless where such inheritance came to the said person so seized by descent, devise or gift, of some one of his or her ancestors, in which case, all those who are not of the blood of such ancestor shall be excluded from such inheritance.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That the real and personal estate of any person dying intestate, in case such person leaves neither widow nor lineal descendant, nor father or mother, or brothers or sisters, of the whole or half blood, or lawful issue of any brother or sister of the whole or half blood, shall descend to and be divided among the next of kin of equal degree, and if any such kindred shall be then dead, leaving lawful issue, then it shall descend to and be enjoyed by such surviving kindred, and the lawful issue of such kindred as may be then dead, leaving issue, as tenants in common, such issue always to inherit, if one person, solely, and if several persons, as tenants in common, in equal parts, such share only as would have descended to his, her or their parent, if such parent had been then living, and each of the kindred in equal degree to the person so dying intestate, who shall be living at the time of the death of the intestate, always to inherit and receive such share as would have descended to him or her, if all such kindred leaving lawful issue had been living at the time of the death of the intestate.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the share of the estate

of the intestate, in this act directed to be allotted to the widow, shall be in lieu and satisfaction of her dower at common law.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That all debts owing by any person within this state, at the time of his or her decease, shall be paid by his or her executors or administrators so far as they have assets, in the manner and order following: First, physic, funeral expenses and servants' wages. Second, rents not exceeding one year. Third, judgments. Fourth, recognizances. Fifth, bonds and specialties; and that all other debts shall be paid without regard to the quality of the same, except debts due to the commonwealth, which shall be last paid; but if there shall be not assets sufficient to discharge and pay such bonds and specialties, and other debts, then and in such case, the same shall be averaged, and the said creditors paid *pro rata* or an equal sum or proportion in the pound, as far as the assets will extend, first paying the bonds and specialties aforesaid; for which purpose the executors or administrators of such deceased person shall and may apply to the orphans' court of the proper county, which is hereby empowered to appoint three or more auditors, to settle and adjust the rates and proportions of the remaining assets due and payable to such respective creditors, whose report thereupon, if approved by the court, shall be confirmed, and the executors or administrators shall pay such creditors accordingly. Provided nevertheless, That no creditor, who shall neglect to exhibit his account to the executors or administrators, within twelve months after public notice given in one or more of the public newspapers of this state, and continued in such public newspapers for four weeks, shall be entitled to demand or receive any dividend of such remaining assets.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That to the end that [a] due regard be had to creditors, no administrator shall be compelled to make such distribution of the goods of any person dying intestate, until one year be fully expired after the intestate's death, and that each and every one to whom any distribution and share shall be allotted, shall give bond, with sufficient securities, in the said orphans' court, that if any debt or debts truly owing by

the intestate shall be afterwards sued and recovered, or otherwise duly made to appear, that then, and in every such case, he or she shall respectively refund and pay to the administrator his or her ratable part of that debt or debts, and of the costs of suits, and charges of the administrator by reason of such debts, out of the part and shares so as aforesaid allotted to him or her, thereby to enable the said administrator to pay and satisfy the said debt or debts, so discovered after the distribution made as aforesaid.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That in case distributions shall be made as aforesaid by the administrator, of all and singular the goods and chattels, rights and credits of the intestate, without making application to the orphans' court, each and every one to whom any distribution and share shall be allotted shall give bond, with sufficient sureties, to the said administrator, the condition of which bond shall be the same as is before directed, in case distribution is made by the orphans' court.

[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That in all cases where the register hath used heretofore to grant administration, with a testament annexed, he shall continue so to do, and the will of the deceased in such testament expressed, shall be performed and observed in such manner as it should have been if this act had never been made.

[Section XVIII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That all such of the intestate's relations, and persons concerned, who shall not lay legal claim to their respective shares within seven years after the decease of the intestate, shall be debarred from the same forever. Provided always, That if any such relation or person shall, at the time of such title accrued, be within the age of twenty-one years, covert, *non compos mentis*, in prison, or out of the limits of the United States of America, that then such person, his or her heirs, executors or administrators (notwithstanding the said term shall have expired) shall and may recover, hold and enjoy the same, if he or she shall lay a legal claim thereto within seven years after his or her coming to full age, discovery, coming to

sound mind, enlargement out of prison, or return into some one of the said United States; and if any such relation or person concerned shall, at the time of the decease of the intestate, be *feme sole*, of sound mind, not in prison and within the said United States, and shall afterwards, and within the said term of seven years be covert, *non compos mentis*, in prison, or out of the said United States, then such person shall not be barred his or her claim, notwithstanding the said term of seven years may have expired, provided the time which may have elapsed previously to such disability, together with the time subsequent thereto, and before such claim is made, does not exceed the said term of seven years.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That if any person or persons shall die intestate, being owner or owners of lands or tenements within this state at the time of his, her or their death and [leave] lawful issue, but not a sufficient personal estate to pay their just debts and maintain their children, in such case it shall be lawful for the administrator or administrators of such deceased person or persons to borrow on mortgage, giving the premises for security, any sum of money, not exceeding one-third of the value thereof, or to sell, and convey such part or parts of the said lands or tenements, as the orphans' court of the county where such estate lies shall in either case, from time to time, think fit to allow, order and direct, for defraying their just debts, maintenance of their children and for putting them apprentices, and teaching them to read and write, for the improvement of the residue of the estate, if any be, to their advantage.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That no lands or tenements contained in any marriage settlement shall, by virtue of this act, be sold or disposed of, contrary to the form and effect of such settlement, or shall any orphans' court allow or order any intestate's lands or tenements to be sold, before the administrator or administrators requesting the same shall exhibit a true and perfect inventory, and a conscionable appraisement of all the intestates personal estate whatsoever, as also a just and true account, upon his, her or their solemn oath or affirmation, of all

knowledge; and if thereupon it shall appear to the said orphans' court that the intestate's personal estate will not be sufficient to pay the debts and maintain the children, until the eldest of them attains the age of twenty-one years, or to put them out to be apprentices, and to teach them to read and write, then and in every such case, and not otherwise, the said orphans' court shall allow such administrator or administrators to make public sale of so much of the lands, as the said orphans' court, upon the best computation they can make of the value thereof, shall judge necessary for the purposes aforesaid, reserving the mansion house and most profitable part of the estate till the last; but before any such sale be made, the said orphans' court shall order so many writings to be made by the clerk, upon parchment or on good paper, as the said orphans' court shall think fit, to signify and give notice of such sales, and of the day and hour when, and the place where, the same will be, and what lands are to be sold, and where they lie, which notice shall be delivered to the sheriff or constables, in order to be fixed in the most public places of the county or city, at least ten days before sale, and the sheriff or constables are hereby required to make publication accordingly, and the administrator or administrators that make such sale shall bring his, her or their proceedings therein to the next orphans' court after the sale made, and if it shall happen that any lands be sold, by virtue of this act, for more than the said orphans' court computation of the value thereof, then the administrator or administrators shall distribute the same, as by this is required for intestate's real estates.

[Section XXI.] (Section XXI, P. L.) And be it further enacted by the authority aforesaid, That no lands, tenements and hereditaments, so as aforesaid sold by order of the orphans' court, shall be liable in the hands of the purchaser for the debts of the intestate.

(Section XXII, P. L.) And to prevent any doubts which may hereafter arise, concerning the manner in which the partition of the intestate's estate may be made.

[Section XXII.] Be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the justices of the orphans' court of the county in which the lands of the intestate shall be, upon a petition to them presented by the widow

or relict, or by any child or children of such intestate, if of age, or by his or her, or by their guardian or guardians, or next friends, if under age, to appoint seven or more persons, indifferently chosen, on behalf and with consent of the parties, or, where the parties cannot agree to award an inquest to make partition, according to the purport and true meaning of this act; and upon the return made by the persons so to be appointed, or of the inquisition so to be taken, to give judgment that the partition thereby made do remain firm and stable forever, and that the costs arising on such suit or suits be paid by the parties concerned. Provided nevertheless, That where any estate in lands, tenements and hereditaments, cannot be divided amongst the children, or widow and children of the intestate, without prejudice to or spoiling of the whole, the said seven or more persons, or the said inquest, as the case may be, shall make a just appraisement thereof to the orphans' court of the county where the same lands or tenements shall be, and thereupon the said court may, but not otherwise, order the whole to the eldest son, if he shall accept it, or any of the other sons successively, upon the eldest son's neglect or refusal, or if there be no son, or all the sons neglect or refuse, then to the eldest daughter of the said intestate, and on her neglect or refusal, to any other of the said daughters in the same manner, successively, he, she, or they, or some friend legally authorized for him, her or them, paying to the other children of the intestate their equal and proportionable part of the true value of such lands, tenements and hereditaments, as upon a just appraisement thereof, made as aforesaid, or giving good security for the payment thereof in some reasonable time, not exceeding twelve months, as the said orphans' court shall limit and appoint, and the person or persons to whom, or for whose use, payment or satisfaction shall be so made for their respective parts or shares of the deceased's lands, in manner aforesaid, shall be forever barred of all right, title or demand of, in, to or out of the intestate's lands and tenements aforesaid; but where the widow is living, and the whole premises shall be adjudged and ordered to the eldest son, or any of the children, the wife of the person so deceased shall not be entitled to the sum at which her purpart or share of the estate so as aforesaid

ordered to the eldest son, or any of the children, shall be valued, but the same, together with the interest thereof, shall be and remain charged upon the premises, and the interest thereof shall be annually and regularly paid by the eldest son, or such other child, to whom the said lands shall be adjudged, his or her heirs or assigns, holding the said lands, to be recovered by such mother by distress, or otherwise, as rents in this commonwealth are usually recovered, to his or her said mother, during her natural life, which the said mother shall accept and receive in lieu and full satisfaction for her dower at common law; and at the decease of the said mother, the said principal sum, so as aforesaid valued and adjudged, shall be paid by the said eldest son, or other child aforesaid, to whom the said lands shall be adjudged, his or her heirs or assigns, holding the premises, and shall be distributed and divided by the said court to and amongst the said children of her husband, and their representatives according to the direction of this act. Provided also nevertheless, That when it shall appear by the report of seven or more persons, chosen by the parties, or where they cannot agree, by an inquest appointed as aforesaid, that the real estate of any intestate will conveniently accommodate more than one child, the said court may settle the same on as many of the children (preference being always given to the eldest sons) as it will accommodate, without prejudice to or spoiling the whole, or in case the intestate left no issue, the same may be assigned to so many of the next of kin to the intestate in equal degree, as such estate will conveniently accommodate, without prejudice to or spoiling the whole (preference being given to the male heirs among such as are of kin in equal degree) and if there be no sons, then to so many of the daughters as the same will accommodate as aforesaid, the said children or next of kin to whom the said estate shall be so assigned, or some friend for them, paying, or securing to be paid, to the other children of the intestate, their respective parts of the value thereof, in the same manner as is hereinbefore directed, where one of the children takes the whole of the real estate, and the said court, in directing the said payments to be made, or securities to be given, having regard to the value of the estate so assigned to the children or next of kin respectively.

[Section XXIII.] (Section XXIII, P. L.) And be it further enacted by the authority aforesaid, That where any person, from and after the passing of this act shall make his or her last will and testament, and afterwards shall marry or have a child or children not provided for in any such will, and [die] leaving a widow and child, or either widow or child, 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 child or children shall be entitled to such purparts, shares and dividends of the estate, real and personal, of the deceased, as if he or she had actually died without any will, and in such cases the judges of the respective orphans' courts, so far as regards the wife after married, or child or children after born, shall have the same power and authority to make partitions, or where partitions cannot be made without prejudice to or spoiling the whole of that part of the estate devised to any child or children aforesaid, in that case to value, adjudge and order the premises to the devisee or devisees of such part of the estate as cannot be divided as aforesaid, and on the refusal of such devisee or devisees, to the children successively, as they may or can do where a person dies wholly intestate, and the devisee or devisees, or the child or children, to whom the premises shall be adjudged, shall pay the money, or give sufficient security for the same, as is herein directed, where the person dies intestate as aforesaid.

[Section XXIV.] (Section XXIV, P. L.) And be it further enacted by the authority aforesaid, That when any final decree or sentence shall be pronounced by any register's court, the party or parties, his, her or their heirs, executors or administrators, against whom such decree or sentence or judgment shall be given, may appeal therefrom, to the supreme court, in all cases and instances where the sum mentioned in the said decree, sentence or judgment, or the sum or other matter in controversy, shall exceed the sum of fifty pounds.

[Section XXV.] (Section XXV, P. L.) And be it further enacted by the authority aforesaid, That the act entitled "An act for the better settling of intestates' estates"¹ and the act entitled "A supplement to the act entitled 'An act for the better settling

¹Passed January 12, 1705-06. Chapter 135.

intestates' estates, and for repealing one other act of general assembly of this province entitled, 'An act for amending the laws relating to the partition and distribution of intestates estates,'" (except the repealing clauses thereof) be, and the same are hereby repealed and made null and void.

[Section XXVI.] Provided always, that nothing herein contained shall in any degree affect the right or claim of any person or persons, which they may have acquired, or to which they may be entitled under any former laws, or prevent them [from] commencing any suit or suits or carrying on and prosecuting any that may have been commenced in the same manner and with the same effect, as if this act had not been passed.

Passed April 19, 1794. Recorded L. B. No. 5, p. 249, &c.

²Passed March 23, 1764. Chapter 512.

CHAPTER MDCCLII.

AN ACT TO SUSPEND FOR THE TIME THEREIN MENTIONED PART OF AN ACT ENTITLED "AN ACT TO APPROPRIATE CERTAIN SUMS OF MONEY FOR THE LAYING OUT, OPENING AND IMPROVING SUNDRY ROADS WITHIN THIS COMMONWEALTH, AND FOR OTHER PURPOSES THEREIN MENTIONED" AND TO CONFIRM PART OF A ROAD LAID OUT IN PURSUANCE OF SAID ACT.

Whereas in and by the act entitled "An act to appropriate certain sums of money for the laying out, opening and improving sundry roads within this commonwealth, and for other purposes therein mentioned"¹ passed the eleventh day of April, one thousand seven hundred and ninety-three, it is, among other things, enacted that the sum of four hundred dollars be appropriated for viewing and laying out a road, from Philadelphia to the borough of York, in York county, through West Chester and Strasburg, and crossing the Susquehanna at the place commonly called the Blue Rock. And whereas it appears, as well from the representations of a great number of the inhabitants of the

¹Chapter 1694.