

tures of the states of Maryland and Delaware, for the purpose of effecting the said communications with the waters of the Delaware and Chesapeake Bays, by means of a canal; and any individual or company who shall, without proper authority from the governor of this commonwealth, remove or attempt to remove the obstructions in the river Susquehanna between Wright's ferry and the Maryland line, shall be fined in a sum not less than two hundred dollars nor more than two thousand dollars, with such imprisonment, as the court before whom they are prosecuted in their discretion may direct, not exceeding six months.

Passed April 11, 1799. Recorded L. B. No. 7, p. 19, etc.

CHAPTER MMXC.

AN ACT CONCERNING WRITS OF PARTITION.

[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 supreme court shall have original jurisdiction over the whole commonwealth, as to the granting and proceeding upon writs of partition, at the suit of any tenant in common, joint tenant or copartner, and that such writs may be directed to and executed by the sheriff of any one county, wherein any part of the lands and tenements intended to be divided are situate, who shall have power, in cases where lands lie in different adjacent counties, or where the lands lie partly in one county and partly in another, to summon a proportionable number of jurymen of the freeholders of each of the said counties, to form an inquest for making a just and equal partition between the parties; and that such sheriff shall hold the inquisition either in his own county or [any] such adjacent county, and make return thereof to the court, as in ordinary

cases; and that such proceedings shall be as good and available in law, as if the partition had been made by the sheriff and inquest of each respective county.

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That where any writs of partition shall issue from the supreme court, or from any court of common pleas in this state, having jurisdiction and power to issue such writs, if the inquest who are directed to make such partition shall be of opinion that the lands or tenements cannot be divided, according to the command of the writ, without prejudice to or spoiling the whole, the said inquest shall then make and return to the court a just valuation and appraisement of such lands and tenements, whereupon, if the said court shall approve of the said return, and if any one or more of the parties shall elect to take the said lands and tenements at the appraised value, the same shall be adjudged to him or them, he or they paying, or securing to be paid, to the other parties, their proportions of the appraised value, according to their respective rights; but in case each of the persons interested, or more than one of them, shall be willing to take the lands and tenements at the appraised value, then, in that case, the court shall determine to whom the lands and tenements shall be conveyed, and the sheriff and his successor in office shall, according to the said order of court, make and execute conveyance to the party or parties electing to take the same, subject, nevertheless, to a lien thereon, in favor of the others of the said parties, until payment be made to them of their respective shares of the money as aforesaid; and in case none of the said parties shall agree to take the said lands and tenements on the terms aforesaid, then the said court shall and may, at the instance of the demandant in the said partition, make an order for the sale of the said lands and tenements at public auction, by the sheriff, who shall have holden the said inquisition, or his successor in office, after due and fair notice of the time and place of such sale, by advertisements published and set up in the several counties where the lands lie, and also in such public newspapers as shall be most likely to give fair and full notice of such sale to all the parties concerned and others,

which public notice shall be given at least twenty days before the time of sale, in cases where the lands all lie in the same county, and at least sixty days, where the lands lie in different counties; and the said sheriff is hereby empowered and ordered to execute deeds to the purchasers for the lands and tenements so as aforesaid sold, on receiving payment of the consideration money, or taking sufficient security therefor, to the satisfaction of all the parties concerned, which money or securities shall be brought into court, before or at the time of the said sheriff's acknowledging the deed in open court, to be distributed and paid by order of the said court, to and amongst the several parties entitled to receive the same, in lieu of their respective parts and purparts of the said lands and tenements, according to their just rights and proportions.

(Section III, P. L.) And whereas divers persons, having an interest in large tracts of unimproved lands in this commonwealth, jointly, or in common with others, may be desirous of obtaining a partition of such lands, but from the unavoidable expense attending the execution of writs of partition in the ordinary way, as well as by the absence or minority of some of the owners thereof, are prevented from obtaining such partition, to the great injury of such persons, and to the manifest discouragement of persons wishing to improve the land.

[Section III.] Be it [further] enacted by the authority aforesaid, That in all cases where the lands are not seated or improved, but remain in their natural state, any person or persons, holding at least one-fourth part of such lands, jointly or in common with others, may exhibit his, her or their petition to the supreme court, or to the court of common pleas of the county where the lands lie, praying for a valuation and sale thereof; and it shall be lawful for the justices of either of the said courts to order a writ, directed to the sheriff of the county where the lands lie, commanding him to summon an inquest for that purpose, who shall make and return a just valuation and appraisement of the land, due notice first being given to the several parties concerned or interested in the said lands, or to the guardians of such of them as are minors, to appear, if they think proper,

at the time and place of holding the [said] inquisition; and on the return of the said inquisition, if the several persons concerned in interest, and the guardians of such of them who are under age, shall refuse to take and pay for the lands at such valuation, it shall be in the power of the court, in case they approve of the said return of the appraisers, to order that sale be made of such lands, in manner aforesaid, and to make distribution of the produce of such sale to and amongst the several persons interested in the said lands, according to their several rights. Provided always, That every deed or conveyance made by any sheriff or sheriffs, by virtue of this act, shall be acknowledged in open court, and entered on the records thereof, and shall also be recorded, within six calendar months next after the execution thereof, in the county or counties where the said lands and tenements shall lie.

Passed April 11, 1799. Recorded L. B. No. 7, p. 10, etc.

CHAPTER MMXCI.

AN ACT TO SUPPLY CERTAIN DEFECTS IN THE ACTS INCORPORATING THE CITY OF PHILADELPHIA AND SUNDRY TOWNS AND BOROUGHES WITHIN THIS COMMONWEALTH, AND TO EXPLAIN AND AMEND AN ACT, ENTITLED, " AN ACT TO ALTER AND AMEND THE SEVERAL ACTS OF THE GENERAL ASSEMBLY OF THIS COMMONWEALTH, INCORPORATING THE CITY OF PHILADELPHIA,"¹ AND FOR OTHER PURPOSES.

Whereas the ordinances and by-laws of the city of Philadelphia, and of sundry other incorporated towns and boroughs within this commonwealth, impose, in certain cases, fines, penalties and forfeitures, which inure to the benefit of the said corporations, respectively, by reason whereof it has been held that none of the freemen of the said corporations are competent to prove the breach of the said ordinances and by-laws, and [the] accruing of such fines, forfeitures and penalties, or to hear, judge and determine respecting the same, inasmuch as the same would