

when such deeds or conveyances were sealed and delivered, so as they do pursue their said rights, titles, claims or interests by way of action or lawful entry before the first day of October which shall be in the year of our Lord one thousand seven hundred and ten.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III. This act is retrospective except the proviso to Section I, the provisions of which are made general by the Act of Assembly passed March 31, 1812, P. L. 259.

CHAPTER CXXXIII.

AN ACT CONCERNING THE PROBATES OF WRITTEN AND NUNCUPATIVE WILLS AND FOR CONFIRMING DEVICES OF LANDS.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all wills in writing, wherein or whereby any lands, tenements or hereditaments within this province have been, are or shall be devised (being proved by two or more credible witnesses upon their solemn affirmation, or by other legal proof, in this province, or being proved in the Chancery in England, and the bill, answer and depositions transmitted hither under the seal of that court, or being proved in the hustings or mayor's court in London, or in some manor-court, or before such as have or shall have power in England or elsewhere to take probates of wills and grant letters of administration, and a copy of such will, with the probate thereof annexed or endorsed, being transmitted hither under the public or common seal of the courts or officers where the same have been or shall be taken or granted, and recorded or entered in the register-general's office in this

province), shall be good and available in law for the granting, conveying and assuring of the lands or hereditaments thereby given or devised, as well as of the goods and chattels thereby bequeathed; and that the copies of all wills and probates, under the public seals of the courts or offices where the same have been or shall be taken or granted respectively (other than copies or probates of such wills as shall appear to be annulled, disproved or revoked) shall be judged and deemed, and are hereby declared and enacted, to be matter of record, and shall be good evidence to prove the gift or devise thereby made; and that all such probates, as well as all letters of administration granted out of this province, being produced here, under the seals of the courts or offices granting the same, shall be as sufficient to enable the executors or administrators, by themselves or attorneys, to bring their actions in any court within this province as if the same probates or letters testamentary or administrations were granted here and produced under the seal of the register-general's office of this province.

Provided always, That if any of the wills whereof copies or probates shall be so as aforesaid produced and given in evidence shall, within seven years after the testator's death, appear to be disproved or annulled before any judge or officer having cognizance thereof, or shall appear to be revoked or altered by the testator, either by a later will or codicil in writing, duly proved as aforesaid; then, and in every such case, it shall and may be lawful for the party aggrieved, or his or their heirs, executors or assigns, to have their action for what shall be taken or detained from them by occasion of such wills, or have their writ or writs of error for reversing the judicial proceedings thereupon, as the case shall require, anything herein contained to the contrary notwithstanding.

[Section II.] And be it further enacted by the authority aforesaid, That from henceforth no nuncupative will be good where the estate thereby bequeathed shall exceed the value of thirty pounds, that is not proved by two or more witnesses who were present at the making thereof, nor unless it be proved that the testator, at the time of pronouncing the same, did bid the persons present, or some of them, bear witness, that such was his

will, or to that effect; nor unless such nuncupative will be made in the time of the last sickness of the deceased and in the house of his or their habitation or dwelling, or where he or she hath been resident for the space of ten days or more next before the making of such will, except where such person was surprised or taken sick, being from his own house and died before he returned to the place of his or her dwelling.

[Section III.] And be it further enacted by the authority aforesaid, That after six months passed, after speaking of the pretended testamentary words, no testimony shall be received to prove any will nuncupative, except the said testimony or the substance thereof were committed to writing within six days after the making of the said will.

[Section IV.] And be it further enacted by the authority aforesaid, That no letters testamentary, or probate of any nuncupative will shall pass the seal of the register-general's office in the respective counties of this province till fourteen days at the least, after the death of the testator, be fully expired; nor shall any nuncupative will be at any time received to be proved, unless process have first issued out to call in the widow or next of kindred to the deceased, to the end they may contest the same if they please.

[Section V.] And be it further enacted by the authority aforesaid, That no will in writing, concerning any goods or chattels or personal estate, shall be repealed, nor shall any clause, devise or bequest therein be altered or changed by any words or will by word of mouth only, except the same be in the life of the testator committed to writing, and, after the writing thereof, read unto the testator and allowed by him and proved to be so done by two or more witnesses.

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

[Section VI.] And be it further enacted by the authority aforesaid, That there shall be an officer called register-general, to be commissioned by the governor from time to time for the pro-

bate of wills and granting letters of administration in this province; which register-general shall keep his office at Philadelphia, and shall from time to time constitute a sufficient deputy to officiate for him in each of the other counties of this province; who, being by him deputed, shall be, and are by this act empowered to take probates of wills and grant letters of administration in the respective counties, as fully and amply as the register-general himself ever could or can do according to the powers granted by the royal charter of the late King Charles the Second. Which deputies shall have and use a common seal, to be provided at the charge of the respective counties where they serve, with the like inscriptions as is or shall be upon the seal of the register-general's office at Philadelphia.

Provided, That no person who shall prove any will or take letters of administration in any one of the counties of this province, shall be obliged to prove the same will or take letters of administration in any other of the said counties, wherever such testator's or intestate's estates may lie or be. But before any register-general or his deputies shall enter upon their respective offices, they shall be duly qualified, either before the governor or in the Orphans' court of the county where they respectively officiate. And every register-general and every of his deputies shall find one or more sufficient sureties with himself to become bound to the governor for the time being, in a bond of two hundred pounds, for the true and faithful execution of his office, and for the delivering up the records and other writings belonging to the said office, by him, his heirs, executors or administrators, to his successor in the said office, whole and undefaced; which said bond shall be recorded in the Orphans' court, and be kept by one of the justices of the same court, as the majority of the justices for the time being shall order; to be made use of for making satisfaction to the parties that shall be damnified or aggrieved, as is or shall be directed by the laws of this province in such cases. And if the register-general or his deputies or any of them shall officiate in the said office before he has given such security, or if the register-general for the time being shall refuse or neglect to constitute a deputy-register in each county according to the direction[s] of

this act, then, and in every such case, he or they so offending shall forfeit the sum of two hundred pounds, to be recovered in any court of record in this province; and the one-half thereof shall go to the governor for support of government, and the other half to him or them that shall sue for the same.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed June 7, 1712, Chapter 187; March 27, 1712-13, Chapter 197; March 23, 1764, Chapter 512; the Constitution of 1776; the Acts of Assembly passed March 14, 1777, Chapter 748; August 31, 1778, Chapter 804; Constitution of 1790; the Acts of Assembly passed April 6, 1791, Chapter 1547; April 13, 1791, Chapter 1575; September 30, 1791, Chapter 1601; March 31, 1792, Chapter 1618; April 19, 1794, Chapter 1751; April 1, 1797, Chapter 1946; April 4, 1797, Chapter 1949; March 20, 1799, Chapter 2032; March 12, 1800, Chapter 2131; April 7, 1807, P. L. 155; March 26, 1808, P. L. 144; March 15, 1832, P. L. 135; April 8, 1833, P. L. 249, and April 22, 1856, P. L. 532.

CHAPTER CXXXIV.

AN ACT DIRECTING THE ORDER OF PAYMENT OF DEBTS OF PERSONS DECEASED.

For preventing disputes and contests at law, or otherwise concerning the order of payment of debts of persons deceased within this province:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That all debts owing by any person within this province 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 manner and order following: (That is to say) first, physick and funeral expenses; secondly, debts and duties [due] to the Queen; thirdly, debts due to the proprietary and governor; fourthly, judgments; fifthly, debts due by recognizances; sixthly, rents; seventhly,