

obligations, bills penal, and protested bills of exchange; eighthly, single bills; ninthly, servants' and workmen's wages; tenthly, merchants and traders' book-debts, and promises by word, arrears of accounts, and such like. Which said payments shall be good and available in law against all persons whatsoever.

[Section II.] Provided always, and be it further enacted by the authority aforesaid, That nothing in this act contained shall prevent or damnify any executor or administrator for discharging the decedent's just debts, as the same shall come to his, her or their knowledge, without regard to the priority of the same in payment, after the expiration of twelve months from the time of the said decedent's decease.

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 Act of Assembly passed April 19, 1794, Chapter 1751.

CHAPTER CXXXV.

AN ACT FOR THE BETTER SETTLING OF INTESTATES' ESTATES.

[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 the register-general and his deputies, having power to grant letters of administration of the goods and chattels of persons dying intestate within this province, shall upon their granting of such letters of administration, take sufficient bonds, with two or more able sureties (respect being had to the value of the estate) in the name of the register-general, with the conditions in manner and form following, *mutatis mutandis*, 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 administrator's 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 in the respective county 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 and enacted to be good to all intents and purposes, and pleadable in any courts of justice; and also, that 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, funeral and just

expenses of every sort first allowed and deducted) among the wife and children or children's children (if any such be) or otherwise to the next of kindred to the dead person, in equal degree or legally representing their stocks, to every one his right, according to the laws in such cases and 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 province; saving to every one (supposing him or themselves aggrieved) their right of appeal to the Provincial or Supreme court of this province.

Provided always, That the said Orphans' court in each county, which is by this act enabled to make distribution of the surplusage of the estate of any person dying intestate, shall distribute the whole surplusage of such estate or estates in manner and form following: (That is to say) one-third part of the said surplusage to the wife of the intestates, and all the residue, by equal portions, to and among the children of such persons dying intestate (allowing the eldest son two shares): and to such persons as legally represent such children, in case any of the said children be then dead (other than such child or children who shall have any estate by the settlement of the intestate, or shall be advanced by him in his lifetime by portion or portions equal to the share which shall, by such distribution, be allotted to the other children) to whom such distribution is to be made. And in case any child who shall have any estate by settlement from the intestate, or shall be advanced by the said intestate in his lifetime by portion not equal to the share which will be due to the other children by such distribution as aforesaid, then so much of the surplusage of the estate of such intestate to be distributed to such child or children as shall, have any land by settlement from the intestate, or were advanced in the lifetime of the intestate, as shall make the estate of all the said children to be equal as near as can be estimated, the eldest son being allowed two shares as aforesaid. And in case there be no children nor any legal representatives of them, then one moiety of the said estate to be allotted to the wife of the intestate, and

the residue of the said estate to be distributed equally to every of the next kindred of the intestate who are in equal degree and those who legally represent them. Provided, That there be no representatives admitted amongst collaterals after brothers' and sisters' children. And in case there be no wife, then all the said estate to be distributed equally to and amongst the children, the eldest son to have two shares as aforesaid. And in case there be no child, then to the next of kindred in equal degree of or unto the intestate, and their legal representatives as aforesaid, and in no other manner whatsoever.

Provided also, and to the end that a due regard be had to creditors, That no such distribution of the goods of any person dying intestate be made till after one year be fully expired after the intestate's death. And that such and every one to whom any distribution and share shall be allotted, shall give bond with sufficient sureties in the said Orphans' court, that if any debt or debts truly owing by the intestate shall be afterwards sued for and recovered, or otherwise duly made to appear, that then and in every such case, he or she shall respectively refund and pay back to the administrator his or her ratable part of that debt or debts, and of the costs of suit and charges of the administrator by reason of such debts, out of the part and share 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 II.] Provided always and be it further enacted by the authority aforesaid, That in all cases where the register-general 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.

Provided also, 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.

[Section III.] And be it further enacted by the authority afore-

said, That if any person or persons shall die intestate, being owners of lands or tenements within this province at the time of their death, and leave lawful issue to survive them, 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 to sell and convey such part or parts of the said lands or tenements, for defraying their just debts, maintenance of their children, and for putting them apprentices, and teaching them to read and write, and for improvement of the residue of the estate (if any be) to their advantage, as the Orphans' court of the county where such estate lies shall think fit to allow, order and direct from time to time.

Provided always, 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; nor shall any Orphan's court allow or order any intestates lands or tenements to be sold before the administrator requesting the same doth exhibit one or more true and perfect inventories and conscionable appraisements of all the intestate's personal estate whatsoever, as also a just and true account, upon his or her solemn affirmation, of all the intestate's debts which shall be then come to his or her knowledge; and if thereupon it shall appear to the 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 to the age of twenty-one years, or to put them out to be apprentices, and teach them to read and write; then and in every such case, and not otherwise, the court shall allow such administrator to make public sale of so much of the said lands as the 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 court shall order so many writings to be made by the clerk upon parchment or good paper, as the 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 so 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 sheriffs or constables are hereby required to make publication accordingly; and the administrator that makes such sale shall bring his or her 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 court's computation of the value thereof, then the administrator shall be accountable for the same, as by this act is required for intestate's personal estates.

[Section IV.] And be it further enacted by the authority aforesaid, That the surplusage or remaining part of the intestate's lands, tenements and hereditaments not sold or ordered to be sold by virtue of this act, and not otherwise limited by marriage-settlement, shall be divided between the intestate's widow and children, or the survivors of them, who shall equally inherit and make partition as tenants in common may or can do. But if the intestate leaves a widow and no child, then such widow or relict shall inherit one moiety or half part of the said lands and tenements, and the other moiety shall descend and come to the intestate's next heir, according to the course of the common law. But if the intestate leave no widow nor child living at the time of his death, or if the children all die in their minority without issue, then the said lands and tenements shall descend and come to the intestate's heir-at-law, according to the course aforesaid. But if any of the intestate's children dying before the intestate shall leave lawful issue, such issue shall equally inherit the intestate's lands and tenements, with their uncles or aunts, and make partition as aforesaid.

Provided always, That no widow or child of any intestate having so much land by settlement from the said intestate as by the said court's computation of the value thereof shall be equal to the share or purpart of the intestate's lands, which by this act are to be allotted to any of the other children in manner aforesaid; then such widow or child, so provided for, shall have no share of the said surplusage of the intestate's other lands. But if the value of the lands so settled by the intestate, shall not, by the computation aforesaid, amount to an equal share, then the said court shall allot to the party so much of the

said other lands as shall make the shares or estate of the widow and all the said children equal, as near as can be estimated, the eldest son having a double share as aforesaid.

Provided also, That nothing in this act contained shall give any widow a right or claim to any part of such lands or tenements for her dower or thirds as shall yield yearly rents or profits whereof her husband died seized, for any longer time than the term of her natural life; which dower she shall hold as tenants-in-dower do in England. And the said profitable lands or tenements, and the unimproved or rough land next adjacent thereto, shall not be sold but for payment of the intestate's debts.

Provided also, That no partition of the lands or tenements which are to be divided by this act shall be made by or for the relict or younger children of the intestate, if the heir-at-law will within the space of twelve months pay so much money or other effects to the person or persons demanding such partition as their respective shares or purparts shall amount unto, by the valuation of four or more persons indifferently chosen by both parties, or by an inquest appointed by the Orphans' court to value the same where the parties cannot otherwise agree. And the person or persons (whether minors or others) to whom, or for whose use, payment or satisfaction shall be made for their respective purparts by the heir-at-law in manner aforesaid, shall be forever debarred of all the right, title and demand which he or they can or may have of, in or to such share or purparts by virtue of this act; but the same shall be held and enjoyed by the heir-at-law as freely and fully as the intestate held the same.

And in case such intestate shall have no known kindred, then all his lands, tenements and hereditaments shall escheat or go to the immediate landlord of whom such lands are held, his heirs and assigns; and if immediately held of the proprietary, then to the proprietary, his heirs and assigns; and all the goods, chattels and personal estate whatsoever of such person dying intestate, and without kindred as aforesaid, shall go to the proprietary and governor, his executors or administrators. But

if any of the said intestate's relations shall appear and make their claims to such intestate's personal estate within seven years after the decease of the intestate, they shall be restored thereunto.

And if the lawful heir to any such lands or tenements, shall at any time within twenty-one years after the intestate's decease, appear, he may traverse the inquisition or office found for the land so escheated, and recover the same, paying the lord or person in possession for the improvements made thereupon, according to the valuation of twelve men.

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 March 27, 1712-13, Chapter 197; February 4, 1748-9, Chapter 374; June 20, 1759, Chapter 445; March 23, 1764, Chapter 512; March 21, 1772, Chapter 669, and the two Acts passed August 31, 1778, Chapter 803 and 804. Repealed by the Act of April 19, 1794, Chapter 1751.

CHAPTER CXXXVI.

AN ACT FOR THE ACKNOWLEDGMENT AND RECORDING OF DEEDS.

[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 every deed of feoffment, bargain and sale, or other conveyance hereafter to be made and executed for lands, tenements and hereditaments in this province (except leases for twenty-one years or under) shall be within six months after the date thereof acknowledged by the party or parties that grant the same, or be duly proved by two of the witnesses thereto before one or more of the justices of the peace (the recorder or enroller of deeds or his deputy, in any of the counties within this pro-