

are by this act directed and permitted to be laid out and applied.

[Section XXVII.] And be it further enacted by the authority aforesaid, That this act shall continue for the space of three years and from thence to the end of the next sitting of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Repealed by the act of Assembly passed February 8, 1766, Chapter 541.

CHAPTER DXXIX.

AN ACT FOR THE MORE EASY RECOVERY OF LEGACIES.

Forasmuch as the laws of this province relating to the recovery of legacies are some time since expired, and as the said laws when in force were found necessary and beneficial:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act it shall and may be lawful for any person or persons to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made, to commence, sue and prosecute an action of debt, detinue or account render, as the case may require, for such legacy after it becomes due in any of the county courts for holding of pleas in any of the counties within this province; and if it shall appear that the legacy or legacies is or are due and there be sufficient assets in the hands of the ex-

ecutors or administrators with testaments annexed to discharge the just debts of the testator and the legacy or legacies bequeathed, the plaintiff or plaintiffs shall recover, with costs of suit, any law, usage or custom to the contrary notwithstanding.

Provided always, That where it shall so happen that there are assets in the hands of any executors or administrators with testaments annexed to discharge all the debts of the testator, with an overplus not sufficient to discharge all the legacies which may be given, then an abatement shall be made in proportion to the legacies so given unless it shall otherwise be provided by the will; and where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies by guardian or next friends, as fully, amply and largely as by law they may do in any other actions whatsoever.

[Section II.] And be it further enacted by the authority aforesaid, That the respective courts where the said actions shall be commenced upon the plea of the want of assets to pay all the debts and legacies shall appoint auditors to examine the accounts of the executors and administrators with testaments annexed, who, after full hearing of the parties at such times and places as by them the said auditors shall be appointed with notice to the parties, shall report how the accounts of the executors or administrators do stand, what assets will remain after payment of all the debts and what part of the remainder is the proportion that ought to go towards paying the plaintiffs' legacies; for which proportion only, unless it shall be otherwise provided by the will, the court shall then award execution upon the judgment to be had in the said suit, which judgment shall remain a security for the payment of the remainder of the said legacies and costs when sufficient assets for the payment thereof come to the executors' or administrators' hands; and where any exceptions shall be taken by either of the parties to the report of the auditors it shall and may be lawful for the court in which the action shall be depending on hearing of the parties to correct and amend any mistakes or errors which may happen in the accounts so to be reported.

Provided always, That no such suit shall be maintained for any such legacy until reasonable demand made of the executor or executors or administrators with wills annexed who ought to pay the same and an offer made of two sufficient sureties to the said executor or executors, administrator or administrators aforesaid, who, if they think proper to accept thereof, shall become bound to them the said executor or executors, administrator or administrators aforesaid in double the sum of the legacy given with condition underwritten that if any part or the whole thereof shall at any time after appear to be wanting, to discharge any debt or debts, legacy or legacies, which the said executor or executors, administrator or administrators shall not have other assets to pay, that then he, the said legatee, will return his said legacy or such part thereof as shall be necessary for the payment of the said debts or the payment of a proportional part of the said legacies; and if the said executors or administrators shall not think proper to accept of such bond, then the said legatees shall file the same with the clerk of the court before obtaining any process against the executor or executors, administrator or administrators, otherwise and in default thereof the process [issued] shall abate.

[Section III.] And be it further enacted by the authority aforesaid, That the justices of the courts aforesaid respectively, upon consideration of the report of the accounts of the executors or administrators, shall, according to justice and equity, either award no costs or costs out of the testator's estate, or in case the executors or administrators have been faulty in delaying to pay the legacy demanded or a proportional part thereof without sufficient excuse, then out of the proper estate of the executor or executors, administrator or administrators, anything herein contained to the contrary notwithstanding.

Provided also, That where there are or may be several legatees and a return of part of the said legacy sued for appear necessary, in such case each legatee shall only be compelled to return a proportionable part of his legacy so as to make up the whole sum wanting.

Provided also, That where no time in and by any last will and testament is limited for the payment of any such legacies,

that then and in such case the said executors or administrators shall have the space of one year to discharge the same.

[Section IV.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next sessions of assembly and no longer.

Passed September 20, 1765. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII. Repealed by the Act of Assembly passed March 21, 1772, Chapter 654.

CHAPTER DXXX.

AN ACT TO ENABLE THE COMMISSIONERS HEREINAFTER NAMED TO SETTLE THE ACCOUNTS OF THE MANAGERS AND TO SUE FOR AND RECOVER FROM SEVERAL PERSONS SUCH SUMS OF MONEY AS ARE NOW DUE AND UNPAID ON ACCOUNT OF A LOTTERY SET UP AND DRAWN FOR ERECTING A BRIDGE OVER SKIPPACK CREEK, IN THE COUNTY OF PHILADELPHIA, AND TO RECEIVE THE VOLUNTARY DONATIONS AND SUBSCRIPTIONS OF THE INHABITANTS TOWARDS THE BETTER PERFECTING THE SAID BRIDGE.

Whereas although it is now a considerable time since a lottery was drawn for erecting a bridge over Skippack creek, in the county of Philadelphia, the money arising thereon is not yet by a great part collected, and through the neglect of particular managers to collect and account for the sums due on the tickets by them respectively sold the execution of the design for which the money was intended is unnecessarily delayed and the public deprived of its advantage.

To the end thereof that the money may be speedily collected and the bridge built over the creek aforesaid:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in