

sued or may issue, shall upon appearance of the parties, or on default being made, proceed to examine the title and quantity of the parts or purparts of the respective defendants as well as of the plaintiff, and accordingly as they shall find the said titles or purparts to be they shall give judgment, and award a writ to make partition whereby such purparts shall be set out in severalty, and the like proceedings as to judgment, and in all other respects shall and may take place and be had as are now required or authorised where the purpart of the plaintiff is alone set out in severalty: *Provided always*, That if all the said defendants shall on or before the return day of the said writ, by writing filed in the said court, declare their wish that their interest in the premises whereof the plaintiff seeks partition may remain undivided, then and in such case the plaintiffs purpart shall alone be set out, any thing herein to the contrary notwithstanding.

JOHN GILMORE, *Speaker*
of the *House of Representatives*,

WILLIAM MARKS, Junior,
Speaker of the Senate.

APPROVED—February the fifth, one thousand eight hundred and twenty-one.

JOSEPH HIESTER.

CHAPTER XXI.

A FURTHER SUPPLEMENT

To an act, entitled "An act to enable the executors and administrators by leave of court, to convey lands and tenements contracted for with their decedents, and for other purposes therein mentioned," passed the thirty-first of March, one thousand seven hundred and ninety-two.

SECT. 1. *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 in any case which hath occurred or may occur within this commonwealth where lands, lots, tenements or other real estate have been, or may hereafter be granted by deed or other assurances in the law, whereby the grantor or grantors has or have reserved, or may reserve to him, her, or themselves, his, her, or their heirs and assigns, any ground

Where real estate is or may be granted reserving ground rent.

With privilege of extinguishing the same.

And the right vests in a person not authorised to release.

Executors, &c. to grant such release with leave of court.

Bond to be conditioned for the legal appropriation of the money.

rent or other rent, and whereby there was granted, or may be granted the privilege of demanding a release or extinguishment of the same, on payment of a sum of money or other equivalent specified in such deed or other assurance, and where such grantor or other owner of such rents hath died, or may die, and by which event, or in any other manner the right to the same rents reserved as aforesaid, is, or shall become vested in minors, trustees or other persons not authorised to release or extinguish the rents aforesaid, it shall and may be lawful for the executors or administrators of such grantors, or other owners of the rents aforesaid, the guardian of such minor or trustee, or other person or persons authorised for the time being to receive such rents, or for the grantee, or the heirs or assigns of the grantee of the lands, lots, tenements or other real estates, on which the said ground rents have been, or may be reserved, to present a petition to the supreme court of this commonwealth, or to the court of common pleas of the county where the lands, lots, tenements, or real estates on which the said ground rents are or may be chargeable shall lie, praying that a release or discharge of said ground rents may be executed by the executors or administrators of such grantors, or other owners of the rents aforesaid, the guardian of such minor or trustee, or other person or persons authorised for the time being to receive such rents, in such manner and form as the said court shall judge to be consistent with the true intent and meaning of the parties, to the deed or other assurance by which the rents aforesaid have been, or may be reserved; and the said court having considered the prayer of the said petition, and the contract or evidence of contract whereupon it is founded, and having adjudged the same to be obligatory between the parties, shall make an order authorising and requiring the said executors or administrators, and such grantors or other owners of the rents aforesaid, the guardian of such minor or trustee, or other person or persons authorised for the time being to receive such rents, on payment being made to him, her or them, of all arrearages of rent and interest due thereon, if any, and of the additional sum of money or other equivalent specified in the deed or other assurance, by which the rents aforesaid were originally reserved, to make and execute a sufficient release or discharge of such yearly ground rents; and the same being made and executed, and proved or acknowledged, and recorded according to law, shall be of like force and effect in extinguishing said ground rents, as if the same had been executed by the grantor or grantors of the said lands, lots, tenements or real estates, in his, her or their life time: *Provided*, That the court in which the proceedings aforesaid shall be had, may in their discretion require that the executor or executors, administrator or administrators, guardian or guardians, trustee or trustees aforesaid, shall before execution of the release and perfecting the

title as aforesaid, give a bond to the commonwealth with one or more sufficient securities, in such penalty as the court may direct, conditioned for the proper and legal appropriation of the money or other equivalent; which bond shall be filed with the clerk of the court aforesaid for the use of the persons interested.

SECT. 2. *And be it further enacted by the authority aforesaid,* That where any person or persons shall apply to the supreme court, or court of common pleas of the county wherein any lands or tenements contracted for shall lie, in order to have the contract of any deceased person or persons proved, in pursuance of the provisions of the first section of the act to which this is a supplement, and it shall appear that the witness or witnesses necessary to prove such contract, reside out of the county wherein the lands lie, it shall be lawful for such court to issue a commission to any judge, justice of the peace or other competent person of the county, in which the witness or witnesses reside, to take the testimony of such witness or witnesses at a time and place therein mentioned, which testimony when so taken, shall be returned to the court issuing the commission; and the same being adjudged sufficient, such further proceedings shall be had thereon as are authorised by the act to which this is a supplement.

Court authorised to issue a commission to take testimony in certain cases.

JOHN GILMORE, *Speaker*
of the House of Representatives.

WILLIAM MARKS, Junior,
Speaker of the Senate.

APPROVED—February the fifth, one thousand eight hundred and twenty-one.

JOSEPH HIESTER.

CHAPTER XXII.

AN ACT

Authorising the Governor to issue process for the sale of certain real estate late the property of John Nicholson, deceased.

WHEREAS it has been represented to the legislature that Samuel Meredith and George Olymer, did on the thirteenth day of May, one thousand eight hundred and seven, purchase of Cadwallader Evans, junior, and Joseph Hiestler, Esquires,