

CHAPTER MCCCXVI.

AN ACT TO REGULATE AND DECLARE ESCHEATS.

(Section I. P. L.) Whereas the due cultivation and improvement of every country greatly depends on the certainty of titles to real estates and no regular course of proceeding hath been heretofore provided in Pennsylvania for distinguishing and bringing into the public treasury the value of the real and personal property of such persons who being possessed thereof within the same, die intestate and without any known kindred, whereby the commonwealth is prevented of her rights and the real estates which were of such intestates are holden by the possessors of the same without any legal title and the improvement thereof is consequently greatly hindered:

Wherefore:

[Section I.] (Section II. P. L.) Be it enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That from and after the publication of this act if any person who at the time of his or their death was seized or possessed of any real or personal estate within this commonwealth, die intestate without heirs or any known kindred, such estate shall escheat to the commonwealth, subject to all legal demands on the same. Provided, That no escheat of real estate for want of heirs shall be where brothers or sisters of the half blood or father or mother or grandfather or grandmother of the deceased survive to take the same, but that such brother and brothers, sister and sisters by equal portions if there be more than one or in default thereof, such father or in default of him such mother or in default thereof such grandfather, or in default of him such grandmother, shall inherit and hold the same estate in fee simple.

[Section II.] (Section III. P. L.) And be it further enacted by the authority aforesaid, That the supreme executive coun-

eil may and shall commissionate a person of integrity and ability to be escheator general of this commonwealth (who shall hold his office for the term of seven years if he shall so long behave himself well) and shall be empowered to appoint a deputy in each county within the same, for whom he shall be accountable. And so often as information shall be given to the escheator general to the deputy escheator of the proper county of any person dying intestate or without heirs or any known kindred as aforesaid, and who was at the time of his or her death seized or possessed of any real or personal estate within such county, the said escheator general shall forthwith issue his precept directed to the sheriff or the coroner of the county as the case may require thereby commanding such sheriff or coroner to impanel and summon twenty-four good and lawful men of the same county to come before the said escheator or the deputy to be named therein at some public and convenient place within the said county no less than ten nor more than twenty days thereafter to enquire whether (as shall be alleged) the said person hath died without heirs or known kindred as aforesaid and whether such decedent was at the time of his or her death seized or possessed of any and what estate, real or personal in the same county, and also in whose hands or possession the same shall be. And when the said twenty-four persons so empanelled as aforesaid or any sixteen or more of them shall appear according to the summons aforesaid, they (not exceeding twenty-three in number) be sworn or affirmed as an inquest to inquire concerning the matters in the said precept set forth, and the said escheator or his deputy and the said inquest shall thereupon proceed to inquire by the testimony of competent witnesses duly sworn or affirmed and other lawful evidence concerning the matter in the said precept set forth, and shall permit witnesses upon oath or affirmation made before him (which he is hereby empowered to administer) and other lawful evidence to be heard and adduced. And if any twelve or more of the said inquest shall find that any such estate, real or personal within the said county have escheated to the commonwealth an inquisition thereof shall be made, signed and sealed by the escheator or his deputy and twelve or more of the in-

quest that find the same setting forth, that the intestate person in the same writ named, hath died without heirs or any known kindred and specifying the estate, real or personal (if any) of which such intestate died seized or possessed and also the person or person in whose hands or possession the same estate shall be, which inquisition to be taken as aforesaid shall be certified and transmitted to the escheator-general as soon as conveniently may be after the holding of such inquiry into the office of the prothonotary of the supreme court.

[Section III.] (Section IV. P. L.) And be it further enacted by the authority aforesaid, That immediately upon the finding of such inquisition the escheator-general shall issue his writ directed to the coroner or sheriff of the county as the case shall require commanding him to seize, attach and secure the goods and chattels so found to be escheated as aforesaid in whose hands soever the same shall be found or if it be found by the said inquest that the said goods or chattels be eloiigned, then to seize and attach so much of the goods and chattels of the person or persons who shall have eloiigned the same as shall be equal in value to the goods and chattels which be eloiigned, unless the person or persons in whose hands or possession such goods and chattels be found give bond to the commonwealth with sufficient security to appear at the next supreme court thereafter to traverse the said inquisition, and likewise in case the same be confirmed to render to the commonwealth the same goods and chattels found to be in his or her hands, which writ so to be issued shall be duly returned to the escheator-general, together with an inventory and appraisement of the goods and chattels (if any) which be seized and attached by virtue thereof, and the said sheriff or coroner shall thereupon sell the same goods and chattels at public auction after ten days public notice of such sale and shall without delay pay over the moneys arising therefrom to the treasurer of the commonwealth, a copy of which return, inventory and appraisement, together with the account of sale of the same goods and chattels shall without delay be transmitted to the escheator-general of the commonwealth, and the same sheriff shall be accountable to the said comptroller-general as in other cases for the moneys which by

virtue of this act shall come to his hands, and in case of lands or hereditaments which may be found to be escheated to the commonwealth, the said escheator-general shall lease the same for any term not exceeding two years to the person or persons who at the time of finding the inquisition concerning the same shall be in possession thereof, provided he give a reasonable rent therefore, and if the person or persons so in possession claim title thereto, he, she or they shall give bond as aforesaid to prosecute his, her or their claim before the supreme court in the manner hereinafter directed and also pay to the commonwealth a reasonable rent for the annual profits of the same land and hereditaments in case the judgment of the said court shall establish the title of the commonwealth and in case such tenant or tenants in possession will not accept of a lease as aforesaid and give such bond as aforesaid the escheator-general shall lease the same lands and hereditaments during the term aforesaid to some other tenant or tenants of sufficient ability and issue his writ in the nature of an habere facias possessionem directed to the sheriff or coroner of the county as the case may require commanding such officer to remove the tenant or tenants off the premises out of possession and to deliver possession thereof to such lessee or lessees.

[Section IV.] (Section V. P. L.) And be it further enacted by the authority aforesaid, That after the return of such inquisition as aforesaid into the office of the prothonotary of the supreme court as aforesaid, if there be any that claim the estate, real or personal, so as aforesaid found to be escheated, he, she or they shall be heard without delay upon a traverse to the office, monstrans de droit, or petition of right, and the testimony taken in writing on finding of the inquisition concerning the same land shall be admitted as legal testimony on the part of the commonwealth, but if no such claim be made to lands so found to be escheated as aforesaid within seven years next after the inquisition concerning the same be returned into the office of the prothonotary of the supreme court, or if upon claim, the title of the commonwealth be established to any lands which be found to be escheated as aforesaid, in such case the prothonotary of the supreme court shall certify to the escheator

general that no claim had been made or that if such claim had been made, judgment thereupon had been rendered against the same, and the title of the commonwealth to the same land established, whereupon the said escheator shall proceed to make sale by public auction of the premises to him, her or them that will offer the best and highest price for the same, such sale to be after public notice of the time and place of holding thereof advertised at least one month in two or more of the public newspapers of this commonwealth, and also by writings affixed on the door or doors of the court house of the county wherein the lands lie, and immediately after the sale as aforesaid shall be made, the escheator shall certify the name, surname and addition of the purchaser of the lands sold by him as hereinbefore directed to the president or in his absence the vice-president in council, who on the filing of such certificate in the office of their secretary, together with an acquittance from the treasurer of this commonwealth for the price bidden and offered as aforesaid shall by deed under the great seal, grant the same lands and hereditaments to the purchaser thereof to hold to him or her, his or her heirs and assigns forever, subject, nevertheless to any reversion, remainder, lease, rent, common mortgage, encumbrance, office or other profits issuing out of the same lands as the same lands respectively were subjected to, before the finding of the inquisition touching the particular lands so sold. Provided always, That the person or persons who were entitled to such reversion, remainder, lease, rent, common mortgage, lien, office or other profit, had previously to the sale of the said lands, exhibited his, her or their title to the supreme court, and established his, her or their title to the same, in default of which they shall be forever debarred from recovering the same.

[Section V.] (Section VI. P. L.) And be it further enacted by the authority aforesaid, That if any person shall within seven years next after the sale of any lands as hereinbefore directed appear and make claim thereto in manner aforesaid and establish his, her or their title to the same as hereinafter directed, in such case and not otherwise such person shall be entitled to receive from the treasurer of this state by virtue of a warrant

for the same signed by the president or in his absence by the vice-president in council all such moneys as the commonwealth shall have received on the sale of such lands after all charges thereon be deducted, and if any person within five years next after the sale of such goods and chattels aforesaid shall make his or her claim in manner hereinbefore directed and establish his or her right thereto as hereinafter provided he or she shall in like manner as in the case of real estate by warrant of the president or vice-president in council receive such moneys as had been received by the commonwealth for the same goods and chattels after all charges thereon be deducted.

(Section VII. P. L.) Provided always, That if at the time of sale as aforesaid any person having claim to the goods and chattels or to the lands so sold as aforesaid be out of this state, covert baron, imprisoned, an infant or insane, such person, if an inhabitant of this state, shall be allowed in the case of goods and chattels two years, and in case of real estate, four years, to be computed from and after the return of such claimant into this state, becoming discoverd at large, attaining to full age or recovering sound mind and memory as the case may be, to make his, or her claim to such estate respectively, and that any person having claim to such real or personal estate, who, at the time of such sale shall not be an inhabitant of this state, yet be of full age and of sane mind and memory, such person continuing to reside elsewhere shall be allowed to make his or her claim as aforesaid within five years, to be computed from and after the sale of the goods and chattels and seven years to be computed from and after the sale of the land by such person so claimed.

[Section VI.] (Section VIII. P. L.) And be it further enacted by the authority aforesaid, That if any person at the time of the death of any intestate as aforesaid shall be indebted to such intestate, or if any part of the estate, real or personal which was of such intestate and not mentioned and included in such inquisition be in the hands or possession of any person dwelling within this state, the same shall be recovered to the use of the commonwealth by information of debt, intrusion or action in the nature of trover and conversion, or upon the case for money

received to the use of the commonwealth, as the case may require, in which proceedings respectively the inquisition touching the estate of such intestate shall be admissible evidence to prove that the same intestate died without heirs or known kindred as hereinbefore described.

(Section IX. P. L.) And with intent that all estates, real and personal which shall escheat to the commonwealth from and after the publication of this act may be discovered so that the commonwealth may be secured of the public right to the same and that the titles to such lands which shall so escheat may be re-established and industry and improvement thereupon exerted by the future possessors thereof with full confidence.

[Section VII.] Be it therefore enacted by the authority aforesaid, That the person who shall first inform the president or vice-president in council by writing signed by such person in the presence of two subscribing witnesses of any escheat happening within this commonwealth from and after the publication of this act and who shall procure necessary evidence to substantiate the title of the commonwealth to the same and shall prosecute the right of the commonwealth thereto with effect, such person shall be entitled to one-third part of the price which such goods and chattels or one-fifth part of the price which such lands respectively shall have produced after all costs of prosecution and charges of sale be deducted therefrom.

(Section X. P. L.) Provided nevertheless, That before such [third] part be paid to the person who shall first give information as aforesaid, his or her heirs or representatives (which payment shall be by warrant for the same, signed by the president or vice-president in council on the treasurer of the commonwealth) bond with sufficient freehold security shall be given to the commonwealth, conditioned to refund the same or any part thereof as the case may be if any claimant to the estate upon which such one-third or one-fifth part shall become payable appear within the time hereinbefore limited touching such estate and establish his or her title to the goods and chattels or lands respectively which shall have been sold as aforesaid.

[Section VIII.] (Section XI. P. L.) And be it further enacted

by the authority aforesaid, That in every case wherein goods or chattels or lands be holden in common with any person whose estate shall escheat as aforesaid, the commonwealth shall not acquire by such escheat any other or greater title to the same than the person who shall die intestate without heirs or known kindred as aforesaid.

[Section IX.] (Section XII. P. L.) And be it further enacted by the authority aforesaid, That the said escheator-general before he enter upon the duties of his office as required by this act shall give bond with two sufficient sureties to the commonwealth for his faithful performance of the trust reposed in him as aforesaid in the sum of two thousand pounds, which bond shall be deemed to relate to his proceedings by virtue of this act during seven years from and after the date thereof and not afterwards and shall be enforced as to any suit or action which shall be commenced within the term of twelve years, to be computed from the date of such bond and not otherwise, and that the escheator who shall then be in office shall at the end of the term of seven years renew the security by this act required of him in like manner and to like effect as afore directed, and it shall be the duty of the secretary of the supreme executive council to take care that the escheator give bond and renew the same conformably to the directions of this act, and that the same bond be recorded in the rolls-office of this commonwealth.

[Section X.] (Section XIII. P. L.) And be it further enacted by the authority aforesaid, That the fees and reward of the escheators aforesaid shall be as follows:

For receiving and filing each information, twenty shillings.

For issuing writs or precepts to the sheriff or coroner, fifteen shillings.

For filing return, three shillings.

For every subpoena for witnesses (four to be named in each if so many there be) five shilling and seven pence.

For calling and attesting the jury of enquiry and holding, drawing and filing the inquisition, thirty-five shillings.

Attesting each witness, one shilling and six pence.

For examining witnesses and reducing their testimony to writing, for each line of twelve words, four pence.

For all copies (beside the certificate) for each line of twelve words, two pence.

And for a certificate besides the copy, seven shillings and six pence.

For drawing a bond to traverse the inquisition, if necessary, seven shillings and six pence.

For filing the same, three shillings.

Executing every lease and filing the counterpart (the expense of drawing the same to be paid by the lessee) fifteen shillings.

And that the fees of the prothonotary, sheriff and other officers of the supreme court and jurors and witnesses shall be the same as they are entitled to receive for similar services in the same court.

[Section XI.] (Section XIV. P. L.) And be it further enacted by the authority aforesaid, That in all cases where escheats for want of heirs or known kindred have happened, as well previously to the late revolution, as since the same, they and each of them shall be inquired of by the escheator-general or his deputy, decided upon by like traverse and claim, and under the like limitations of time for making such traverse and claim, exposed to sale and sold in like manner as is herebefore provided as to escheats for want of heirs, and the moneys thence arising shall belong and go as the same by law would before the publication of this act.

(Section XV. P. L.) Provided, That the brothers or sisters of the half blood, the father, mother, [grandfather] or grandmother of the person so dying shall not have any benefit or share of the escheats which have happened heretofore. Provided also, That nothing in this act shall affect the claim of any person who shall be possessed of any escheat which had previously happened as aforesaid by virtue of an escheat warrant for the re-surveying of any lands that had formerly escheated.

(Section XVI. P. L.) Provided nevertheless, That such escheat warrant and the survey which hath been made thereon be returned into the office of the surveyor-general of this state within two years from and after the publication of this act and that the purchase money, together with the interest which shall be due upon the same be satisfied within one year there-

after, where such survey hath not been duly returned and satisfaction made for the same land heretofore.

[Section XII.] (Section XVII. P. L.) And be it further enacted by the authority aforesaid, That the proceedings in cases of escheats of lands and goods and chattels which shall hereafter accrue to the commonwealth by forfeit upon attaint shall commence by the issuing of a commission out of the supreme court to the escheator-general directed, commanding him to enquire concerning the same, whereupon the same escheator shall send forth his precept to the sheriff or coroner, who thereupon shall hold an inquest and return the inquisition, lease, sell and dispose of the personal estate, if any, and the money arising from the same escheats, and the supreme court shall allow of traverses and claims (if made under the limitations hereinbefore provided) to such forfeited property and decide upon the same, direct the sale of such real estate and give relief to those whose traverses shall succeed and whose claims be allowed and the president in council shall give a deed for any real estate so sold as aforesaid in like manner and to similar effect as in the cases of escheats for defect of heirs. And all creditors of any attained person who have or shall have a demand of debt or other demand of a pecuniary nature upon the estates which were of such offenders respectively shall be satisfied out of the estate, real and personal of the debtors severally, but in case any such estate prove insolvent, the demands aforesaid made upon it within one year from the attainder of the offender shall be paid in equal and proportionate manner according to the quantity of the demands, whether the same be yet due and payable or payable thereafter and the justice of the supreme court or any two of them shall hear and determine upon all and any claims as last aforesaid in a summary manner as to equity shall appertain, and the widow, child, children [and] kindred of the offender shall be awarded their respective legal demands upon the estate, which he or she shall forfeit as aforesaid, in like summary manner upon petition to the justices of the supreme court, made within two years after the attainder of the forfeiting persons respectively [but not afterwards] by the person or persons who shall be entitled to the same. Pro-

vided, That no person shall have any share or part of any estate which shall be escheated by attainder for discovering the same to the president or vice-president in council, unless the president or vice-president in council by proclamation think fit to offer [a reward] for such discovery, which reward shall not exceed one-half of the moneys arising from the same after all charges and costs be deducted nor unless the person discovering the same procure the necessary evidence to substantiate the title of the commonwealth thereto, and prosecute the right of the commonwealth to the same with effect.

[Section XIII.] (Section XVIII. P. L.) And be it further enacted by the authority aforesaid, That the escheator-general or his deputies shall at all reasonable times have access to the public papers in the land office and other public records free from any cost, charge or fee.

Passed September 29, 1787. Recorded L. B. No. 3, p. 294, etc.
See the Act of Assembly passed February 23, 1791, Chapter 1528.

CHAPTER MCCCXVII.

AN ACT FOR INCORPORATING THE GERMAN REFORMED CONGREGATION OF FRANKFORD IN THE TOWNSHIP OF OXFORD AND COUNTY OF PHILADELPHIA.

(Section I. P. L.) Whereas the congregation of the German Reformed church of Frankford in the township of Oxford and county of Philadelphia have prayed that their said congregation may be incorporated and by law enabled as a body corporate and politic to receive and hold such charitable donations and bequests as have been or that hereafter may be made to their said society and vested with such powers and privileges as are enjoyed by other religious societies, who are incorporated within this state:

And whereas this house is disposed to exercise the powers vested in the legislature of this commonwealth for the encouragement of pious and charitable purposes: