

Section II. (Section II, P. L.) And be it further enacted by the authority aforesaid, That in case of the death or removal out of the neighborhood of said school, of all or either of the said trustees or their successors, it shall be lawful for a majority of the subscribers to said school as often as occasion may require, to choose other trustees to supply such vacancy.

Approved February 8, 1809. Recorded in L. B. No. 11, p. 273.

CHAPTER MMMXXIV.

AN ACT RELATING TO THE LIEN OF THIS COMMONWEALTH ON THE ESTATE OF WILLIAM NICHOLS, DECEASED.

By an act of the general assembly of Pennsylvania passed February eighteenth, one thousand seven hundred and eighty-five,⁽¹⁾ and before the formation and adoption of the constitution of the United States, and in the twelfth section of the said act, it is enacted and declared, "That the settlement of any public account by the comptroller general, and confirmation thereof by the supreme executive council, whereby any balance or sum of money shall be found due from any person to the commonwealth, shall be deemed and adjudged a lien on all the real estate of such person throughout this state, in the same manner as if judgment had been given in favor of the commonwealth, against such person for such debt in the supreme court, and if after an appeal from the said settlement of account by or award of the said comptroller general, and confirmation thereof by the supreme executive council, the said settlement shall be confirmed, the said supreme court, shall award interest thereon from the date of the confirmation of the said settlement of account by the supreme executive council, and costs to be paid by the appellant."

And whereas William Nichols, as clerk of the mayor's court of the city of Philadelphia, received for tavern licenses, for the use of this commonwealth, large sums of money, and upon

settlement of his account in pursuance of the above recited act, he became indebted to this commonwealth, in the sum of seven thousand eight hundred and ninety-four dollars and sixty-nine cents, whereby a lien was created and attached on all his real estate, on the thirty-first day of December, in the year one thousand seven hundred and ninety-seven; and the said William Nichols having appealed to the supreme court, the said settlement was confirmed and judgment rendered for the commonwealth, on the sixth day of September, one thousand eight hundred and two, for the balance aforesaid, and the interest thereon amounting to the sum of nine thousand nine hundred and eighty-seven dollars and fifteen cents.

And whereas the said William Nichols, as collector of the internal revenue of the United States, became indebted to the United States, in the sum of twenty-nine thousand two hundred and seventy-one dollars, and to secure the payment thereof executed a mortgage of his real estate to Henry Miller, alleged to be for the use of the United States, notwithstanding the said estate was subject to the prior lien of this commonwealth: And afterwards a scire facias issued upon the said mortgage, wherein Henry Miller for the use of the United States, was plaintiff, and William Nichols defendant, and judgment was rendered thereon by the supreme court of Pennsylvania, and the said mortgaged premises have been sold, and the proceeds thereof amounting to the sum of fourteen thousand five hundred and thirty dollars, in obedience to a rule of the said court are now deposited in the hands of the prothonotary thereof:

And it appears by the record of the said suit that the attorney general of this commonwealth, moved the court for a rule to show cause why the amount of the sum due upon the lien of the commonwealth, should not be taken out of court, which motion was granted by the unanimous opinion of the court, on the thirteenth day of September, one thousand eight hundred and five: And the said suit with all the proceedings touching the same, were removed by writ of error into the

high court of errors and appeals, on the thirtieth day of December, one thousand eight hundred and five, the said court then being the highest court of law in this commonwealth, which writ of error was quashed on the sixth day of July, one thousand eight hundred and eight, and the said record remitted to the supreme court:

And inasmuch as a writ of error has issued from the supreme court of the United States, to remove the said suit of Henry Miller, for the use of the United States against William Nichols, and a citation in consequence thereof has been delivered to the governor and attorney general of this commonwealth, requiring the commonwealth to appear in the said court, and become a party to the said suit, and to bring into question the right of this commonwealth, to retain her lien aforesaid, in derogation thereof, because the district attorney of the United States has suggested that by an act of Congress, passed and approved March third, one thousand seven hundred and ninety-seven, the United States is entitled to be first satisfied out of the proceeds of the said sale, notwithstanding the lien aforesaid: And it is inexpedient for this commonwealth to appear or become a party to the said suit, or in such manner to permit her right aforesaid, to be questioned, declaring at the same time a firm determination to support the constitution of the United States, and to submit to all lawful powers and authorities derived therefrom, but conceiving that this commonwealth has never surrendered to the general government a power to defeat or destroy her right to enforce the collection of her own revenues, without which power she could not exist as a sovereign state, and not being willing to ascribe to the federal courts, by mere implication and in destruction of such preexisting right of the state government, a power which would involve such a consequence: Therefore,

Section I. (Section I, P. L.) 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 the prothonotary of the

eastern district of the supreme court of this commonwealth, shall, and he is hereby required and enjoined forthwith, to pay over to the treasurer of this commonwealth, out of the proceeds of the sales of the estate of William Nichols deceased, in his hands, the sum of nine thousand nine hundred and eighty-seven dollars and fifteen cents, together with the interest thereon from the sixth day of September, one thousand eight hundred and two, until the sixth day of July, one thousand eight hundred and eight, in satisfaction and discharge of the lien of this commonwealth upon the said estate.

Approved February 8, 1809. Recorded in L. B. No. 11, p. 273.
Note (*). Chapter 1132; 11 Statutes at Large, p. 427.

CHAPTER MMMXXV.

AN ACT AUTHORIZING GEORGE BRYAN TO SELL AND CONVEY A CERTAIN LOT OF GROUND THEREIN MENTIONED.

Whereas Sarah Bryan is seized in fee simple of a certain unimproved lot of ground in the borough of Pittsburgh, and is from the visitation of providence, rendered incapable to contract for the sale of or to convey the same, and as the said lot of ground is unproductive and the immediate interest of the said Sarah Bryan requires that the same should be sold, and the proceeds thereof applied to her use and advantage: And it fully appears, that all the persons who in the event of the death of the said Sarah would be entitled by law to the said lot of ground, have by deed duly executed, authorized and empowered George Bryan of the borough of Lancaster to extinguish their interest and eventual succession, in and to the same, and the said George Bryan has requested that he may be enabled by law to sell and make title to the said lot of ground, to the purchaser thereof, and it appears reasonable to grant such power: Therefore,

Section I. (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Penn-