Board of examiners.

2. That the board of examiners shall consist of five practitioners of dentistry, who are members in good standing of the New Jersey State Dental Society; *provided*, that said practitioners have been practising in the state of New Jersey for a term of not less than three years; said board shall be elected by the New Jersey State Dental Society to serve for one year; the president of said New Jersey State Dental Society shall have power to fill all vacancies in said board for unexpired terms.

Proviso.

Meetings of the board and powers.

3. That it shall be the duty of this board, first, to meet annually at the time of meeting of the New Jersey State Dental Society, or oftener, at the call of any three of the members of said board; thirty days' notice must be given of the annual meetings; secondly, to prescribe a course of reading for those who study dentistry under private instruction; thirdly, to grant a certificate to all applicants who undergo a satisfactory examination; fourthly, to keep a book in which shall be registered the names of all persons having certificates to practice dentistry in the state of New Jersey, after the passage of this act.

Register to be a book of record.

4. That the book so kept shall be a book of record; and a transcript from it, certified to by the officer who has it in keeping, with the common seal, shall be evidence in any court in the state.

Quorum.

5. That three members of said board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for their meeting, those present may adjourn from day to day until a quorum is present.

Penalty for violation.

6. That any person who shall, in violation of this act, practise dentistry in the state of New Jersey for a fee or reward, shall be liable to indictment, and on conviction, shall be fined not less than fifty, or more than three hundred dollars; *provided*, that nothing in this act shall be construed to prevent any person from extracting teeth; *and provided further*, that none of the provisions of this act shall apply to regular licensed physicians and surgeons.

Proviso.

Proviso.

Burden of proof on defendant.

7. That on trial of such indictment it shall be incumbent on the defendant to show that he has authority, under the law, to practise dentistry to exempt himself from such penalty.

Fines, how disposed of.

8. That one-half of all fines collected shall inure to the informer and the other half to the educational fund of the county.

Not to affect persons now engaged in practice.

9. That nothing in this act shall apply to persons who shall be engaged in the practice of dentistry in this state at the time of the passage of this act.

Fee for certificate.

10. That to provide a fund to carry out the provisions of the third section of this act, it shall be the duty of the board of examiners to collect from all who receive the certificate to practice dentistry, the sum of thirty dollars each, of which sum, if there be any remaining after liquidating necessary expenses, the balance shall be paid into the treasury of the said New Jersey State Dental Society, to be kept as a fund for the more perfect carrying out of the provisions of this act; and the board of examiners for their remuneration, shall receive from the above fund ten dollars per day for each day of actual service.

Fees of examiners.

Descent.

1. Real estate to descend equally, without regard to sex.
2. How brothers and sisters inherit.
3. When father shall take.
4. When mother shall take.
5. When the half blood shall take.
6. When those of equal degree of consanguinity shall take.
7. Posthumous children of intestates inherit.
8. And so though will made, unless excluded.
9. To inherit as if born in father's lifetime.
10. Construction of certain devises.
11. Operation of conveyance or devise in fee-tail.
12. Alienism no bar.
13. Devises of land in which the words heirs and assigns are omitted, how construed.

An act directing the descent of real estates.

Rev. 392, 608, 774.

Approved April 16, 1846.

P. L. 1835, p. 67.
P. L. 1838, p. 85.

R. S. 337.

Real estate to descend equally without regard to sex.

1. That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee simple(*a*) without devising the same in due form of law, leaving two(*b*) or more lawful children, such lands, tenements or hereditaments shall descend to, and be equally inherited by, all the lawful children of such person so seized, as tenants in common, and in equal parts, without regard to sex; *provided always*, that if any child of the person so dying seized, shall have died before his said ancestor, leaving lawful issue, the share or part of the said lands, tenements or hereditaments, which such child so dying would have been entitled to, under and by virtue of this act, if such child had survived the person so dying seized, shall descend to and be inherited by such issue, in the manner and in equal parts as before mentioned; and the same law of inheritance and descent shall be observed in case of the death of the grandchildren and other descendants, to the remotest degree; *and provided also*, that if any such ancestor shall, in his lifetime, have given or advanced(*c*) any part of his or her lands, tenements or hereditaments, to any of his or her issue, such issue shall not be entitled to any part or share of such ancestor's real estate, descending under or by virtue of this act, unless the real estate so given or advanced shall not be equal in value to the respective shares of the other issue in the same degree of affinity, as the case may be, and then no more than will be sufficient to make such share equal in value to the respective shares of the other issue, in the same degree of consanguinity to the said deceased ancestor.

Issue to take parent's share.

Rule as to advancements.

How brothers and sisters inherit, and their children.

2. That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee simple, without devising the same in due form of law, and without leaving lawful issue, leaving a brother or sister, or leaving a brother or brothers, and a sister or sisters of the whole blood, the inheritance shall descend to such brother or sister, or to such brother or brothers, and sister or sisters, as the case may be, as tenants in common, in equal parts; and in case any such brother or sister who would have inherited by this law, if living, shall die before the said person so seized, and leave a lawful child or children, such child or children, surviving the said person so seized, shall inherit, if a child, solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the person so seized;(*d*) and the same law of inheritance and descent shall be observed in case of the death of any child of such brother or sister before the person so seized, leaving a child or children.

When the father shall take.

3. That when any person shall die seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, leaving a father, then the inheritance shall go the father of the said person so seized, in fee simple, unless the said inheritance came to the person so seized from the part of his or her mother by descent, devise or gift, in

(*a*) Lands held in trust, upon the death of the trustee, descend according to the rules of the common law, to the eldest son, *Boston Franklinite Co.* v. *Condit*, 4 *C. E. Gr.* 395. *Wills* v. *Cooper*, 1 *Dutch.* 137. See *Schenck* v. *Schenck*, 1 *C. E. Gr.* 174. So, an estate tail will descend to the oldest son. Such course of descent was not interrupted or repealed until the passing of the act of June 13, 1820, (*infra*, § 10). *Den. Spachius* v. *Spachius*, 1 *Harr.* 172. *Den* v. *Robinson*, 2 *South.* *706(*a*). *Quick* v. *Quick*, 6 *C. E. Gr.* 13. An estate in reversion, after the determination of an estate tail devised in 1783, descended under the act of 1780, one-half to the male and one-fourth to each of the females, *Holcomb* v. *Lake*, 4 *Zab.* 686; 1 *Dutch.* 605. Where executors, under the authority of a will, transfer lands in satisfaction of a legacy to an infant, such lands, on the death of the infant, descend to her heirs, *Stevens* v. *Stevens*, 8 *C. E. Gr.* 296. See also *Teneick* v. *Flagg*, 5 *Dutch.* 25.

(*b*) If there should be but *one* child and he dies before the ancestor, leaving issue *several* children, they must take by common law, that is by primogeniture, 4 *Grif. Reg.* 1250. See 4 *Kent.* *375.

(*c*) A grant in consideration of natural love, by a father to a child, of an estate tail, is such an advancement as bars *pro tanto* her share in his real estate, after his death, *Den, McGinnis* v. *McPeake, Pen.* *291. A father put one of his sons in possession of lands which he occupied for twenty years and then sold, the father making the deed to the purchaser and the son receiving the consideration, *held* to be an advancement, *Gordon* v. *Barkelew*, 2 *Hal. Ch.* 94. A child who has received an advancement cannot be compelled to pay anything on account of it to the other children, *Ibid.* Whether a conveyance to a child is an advancement is a question of intent, *Speer* v. *Speer*, 1 *McCart.* 240. Where the money is paid by the father and the title taken in the name of the son, the purchase would be deemed an advancement, *Howell* v. *Howell*, 2 *McCart.* 75; but not where the son procures the deed to be made to him without the knowledge or consent of the parent, *Peer* v. *Peer*, 3 *Stock.* 432. An advancement in money, made by a father in his lifetime to one of his sons, cannot affect the share of the real estate of the father, which, at his death, descends to the son, *Havens* v. *Thompson*, 8 *C. E. Gr.* 321.

(*d*) The children of a deceased brother do not take in exclusion of such brother's grand-children, whose mother had died before the ancestor, *Den, Rodman* v. *Smith, Pen.* *7.

which case it shall descend as if such person so seized had survived his or her father.(*a*)

When the mother shall take.

4. That when any person shall die seized of any lands, tenements or hereditaments, in his or her own right in fee simple, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood or any lawful issue of any such brother or sister, and without leaving a father (leaving a mother), then the inheritance shall go to the mother of the said person so seized, for life; and after her death, the same shall go and descend as provided for in this act, in case the person so dying seized, shall die without leaving a mother capable of inheriting the same.

When the half blood shall take.

And their issue.

5. That when any person shall die seized of any lands, tenements or hereditaments as aforesaid, without devising the same in due form of law, and without leaving lawful issue, and without leaving a brother or sister of the whole blood, or any lawful issue of any such brother or sister, and without leaving a father or mother capable of inheriting the said lands, tenements or hereditaments by this act, and shall leave a brother or sister of the half blood, or a brother or brothers, and a sister or sisters of the half blood, the inheritance shall descend to such brother or sister of the half blood, or to such brother or brothers, and sister or sisters of the half blood, as the case may be, as tenants in common, in equal parts; and in case any such brother or sister of the half blood, who would have inherited by this act, if living, shall die before the person so seized, and leave a lawful child or children, such child or children surviving the said person so seized, shall inherit, if a child, solely, and if children, as tenants in common, in equal parts, such share as would have descended to his, her or their father or mother, if such father or mother had survived the person so seized; and the same law of inheritance and descent, shall be observed in case of the death of any child of such brother or sister of the half blood, before the person so seized, leaving a child or children; *provided always*, that in case the said lands, tenements or hereditaments came to the person so dying seized, by descent, devise or gift of some one of his or her ancestors, all those who are not of the blood of such ancestors, shall be excluded from such inheritance.(*b*)

When those of equal degree of consanguinity shall take.

6. That when any person shall die siezed of any lands, tenements or hereditaments, as aforesaid, without devising the same in due form of law, and without lawful issue, and without leaving a brother or sister of the whole blood or half blood, or the issue of any such brother or sister, and without leaving a father or mother capable of inheriting by this act the said lands, tenements or hereditaments, and shall leave several persons all of equal degree of consanguinity to the person so seized, the said lands, tenements or hereditaments shall then descend and go to the said several persons of equal degree of consanguinity to the person so seized, as tenants in common in equal parts, however remote from the person so seized the common degree of consanguinity may be, unless where such inheritance came to the said person so seized by descent, devise or gift of some one of his or her ancestors, in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance, if there be any person or persons in being of the blood of such ancestors capable of inheriting the said lands, tenements or hereditaments; *provided always*, that nothing contained in this act, shall be construed or taken to bar or injure the rights or estate of a husband, as a tenant by the curtesy, or a widow's right of dower, or to make void or in any way affect any marriage settlement.(*c*)

Curtesy, dower, and marriage settlements, saved.

(*a*) The words "from the part of his or her mother," are so construed as to include estates that come by descent, devise or gift, from any relatives of the blood of the mother, as well as those that come from the mother herself, *Banta* v. *Demarest*, 4 *Zab.* 431. H. died intestate, seized of real estate, leaving a widow and two sisters and a grandson, D, the only child of a daughter, who was the only child of H, and died before the intestate, leaving a husband and said D. her surviving. D. died shortly after the intestate without issue. The father of D. cannot inherit the estate, *Haring* v. *Van Buskirk*, 4 *Hal. Ch.* 545.

(*b*) A tenant in tail died leaving one son and two daughters by his second wife, and four daughters by his first; the son enters and dies seized, without issue, all the sisters, both of the half and whole blood, take as co-heirs, *Pennington* v. *Ogden*, *Coxe* 192. Brothers and sisters of the half-blood do not inherit as such, unless the real estate comes from a common ancestor, or is acquired by the intestate, *Den, Lloyd* v. *Urison*, *Pen.* *212. *Den. Pierson* v. *DeHart*. *Pen.* *481. *Arnold* v. *Phœnix*, 2 *South.* *862. *Den* v. *Jones*, 3 *Hal.* 340. *Den* v. *McKnight*, 6 *Hal.* 385. *Rake* v. *Lawshee*, 4 *Zab.* 613. But *cousins* of the half-blood cannot inherit, *Stretch* v. *Stretch*, 1 *South.* *182.

(*c*) A grand parent cannot take land in this state of which her grand son died seized, *Taylor* v. *Bray*, 3 *Vr.* 182; 7 *Vr.* 415. First cousins take in preference to cousins of a more distant degree, *Schenck* v. *Vail*, 9 *C. E. Gr.* 538. See *Fidler* v. *Higgins*, 6 *C. E. Gr.* 138.

7. That if the father die intestate, his posthumous child or children shall take, possess and inherit his estate real and personal, in the same proportion and manner as if such child or children were born in the lifetime of the father. Posthumous children of intestates inherit;

8. That if the father die testate, his posthumous child or children, in case no provision be made for him, her or them, by such last will and testament, shall, unless expressly excluded or barred thereby, take, possess and inherit the estate, real and personal, of his, her or their father, in the same proportion and manner as if the said father had died intestate; and the share or shares of such child or children shall be taken from the devisees and legatees, to whom the said estate is given and devised, ratably and in proportion to their respective interests therein. And so though will made, unless excluded.

9. That all posthumous children shall, in all cases whatsoever, inherit in like manner as if they were born in the lifetime of their respective fathers. As if born in father's lifetime.

10. That in case any lands, tenements, hereditaments or real estate, situate, lying or being in this state, shall hereafter be devised by the owner thereof to any person for life, and at the death of the person to whom the same shall so be devised for life, to go to his or her heirs, or to his or her issue, or to the heirs of his or her body, then and in such case, after the death of such devisee for life, the said lands, tenements, hereditaments or real estate, shall go to and be vested in, the children of such devisee, equally to be divided between them as tenants in common in fee, but if there be only one child, then to that one in fee, and if any child be dead, the part which would have come to him or her, shall go to his or her issue, in like manner.(*a*) Construction of certain devises.

11. That from and after the passing of this act, where any conveyance or devise shall be made, whereby the grantee or devisee shall become seized in law or equity of such estate in any lands or tenements, as under the statute of the thirteenth of Edward the first, (called the statute of entails), would have been held an estate in fee tail, every such conveyance or devise shall vest an estate for life only, in such grantee or devisee, who shall possess and have the same power over, and right in, such premises, and no other, as a tenant for life thereof would have by law; and upon the death of such grantee or devisee the said lands and tenements shall go to, and be vested in the children of such grantee or devisee, equally to be divided between them as tenants in common in fee, but if there be only one child, then to that one in fee; and if any child be dead, the part which would have come to him or her shall go to his or her issue in like manner; *provided*, that the widow of any such grantee or devisee of such estate, shall have her dower in the premises in like manner as if the said grantee or devisee had died seized thereof in fee simple; *and provided also*, that where any person shall marry a woman being a grantee or devisee and seized of such estate, the said husband, after the death of his said wife, shall have his curtesy in the said lands and tenements, if there be issue of the marriage, in like manner as if said wife had died seized of an estate of inheritance in fee tail of the premises.(*b*) Operation of conveyance or devise in fee-tail. Provisos.

12. That in making title by descent, it shall be no bar to a party that any ancestor through whom he or she derives his or her descent from the intestate, is or hath been an alien. Alienism no bar.

(*a*) When lands are devised to any person for life, and at his death to go to his heirs, the children of the tenant for life take immediately a *vested remainder* in fee, by virtue of this section, *Demarest* v. *Hopper*, 2 *Zab.* 599. *Ross* v. *Adams*, 4 *Dutch.* 179. *Moore* v. *Rake*, 2 *Dutch.* 574. *Den, Abrahams* v. *English*, 2 *Harr.* 281 *Croxall* v. *Sherrerd*, 5 *Wall.* 268. Similar words in a *deed* create a vested remainder, *Graham* v. *Houghtalin*, 1 *Vr.* 552. How would the estate descend if such devisee for life should die without issue? See *Demarest* v. *Hopper*, 2 *Zab.* 614. This section does not apply to estates limited in special tail. *Zabriskie* v. *Wood*, 8 *C. E. Gr.* 541. Persons entitled to a *vested* remainder take as the law stood at the death of the testator. *Van Tilburgh* v. *Hollinshead*, 1 *McCart.* 32. *Quick* v. *Quick*, 6 *C. E. Gr.* 13. But where the remainder is *contingent* they must take under the law as it exists at the happening of the contingency, *Slack* v. *Bird*, 8 *C. E. Gr.* 238. See *Holcomb* v. *Lake*, 4 *Zab.* 686; 1 *Dutch.* 605. *Den, Terrill* v. *Sayre. Pen.* *604.

(*b*) The statute *de donis*, although never enacted in this state, was always considered operative, until the act of June 13, 1799, (Pat. Rev. 436). *Den, James* v. *Dubois*, 1 *Harr.* 286. *Den, Crane* v. *Fogg, Pen.* *825; abolishing the statute did not affect the *estate*. *Den, Mason* v. *Fox*, 5 *Hal.* 39. This act extends to estates tail created as well by *deeds* as by wills, *Den. James* v. *Dubois*, 1 *Harr.* 285. What words will create an estate tail, *Den. Crane* v. *Fogg, Pen.* 819. *Den. Hugg* v. *Hugg*, 2 *South.* *427. *Den. Young* v. *Robinson*. 2 *South.* *689. *Den. Ewan* v. *Cox*, 4 *Hal.* 10 *Den, Popino* v. *Cook*. 2 *Hal.* 41. *Den. Emans* v *Emans. Pen.* *967. *Den, Shaw* v. *Foster. Pen.* *1021. *Den. Pinkerton* v. *Laquear*, 1 *South.* *301. *Den. Secquil* v. *Moore. Coxe* 386. *Den. Mason* v. *Fox*, 5 *Hal.* 39. *Den. Doremus* v. *Zabriskie*, 3 *Gr.* 404 *Den. Spachius* v. *Spachius*, 1 *Harr.* 172. *Den. Wilson* v. *Small, Spen.* 151. *Den. Richman* v. *Baldwin*, 1 *Zab.* 400 *Wright* v. *Scott*, 4 *Wash. C. C.* 16. *Holcomb* v. *Lake*, 4 *Zab.* 686; 1 *Dutch.* 605. See *Adams* v. *Ross*. 1 *Vr.* 505. An additional limitation to the heirs general of the issue of the body, will not prevent the word "issue" from raising an estate tail, *Zabriskie* v. *Wood*, 8 *C. E. Gr.* 541. By this section all estates tail at common law are changed into an estate for life in the first taker, with remainder in his child or children. *Morehouse* v. *Cothen*, 1 *Zab.* 480. *S. C.* 2 *Zab.* 430, said to have been reversed, 2 *Zab.* 440. See also *Croxall* v. *Sherrerd*, 5 *Wall.* 268.

An act to pass estates in fee by certain devises in wills and testaments, and to limit estates in tail.

Passed August 26, 1784.

Rev. 60.
R. S. 341.

Preamble.

WHEREAS it frequently happens, that, in making wills and testaments, the words heirs and assigns, in devises of land, or other real estate, are omitted, through the ignorance or inattention of the writer, though the testator meant and intended to grant an absolute estate in the devised premises; and devises are sometimes made in tail, without limitation of time, whereby the heirs are put to great expense in suing out recoveries, in order to dock such entails; for remedy in which cases—

Devises of lands, in which the words, heirs and assigns, are omitted, how to be construed.

13. SEC. 1. BE IT ENACTED *by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same,* That from and after the publication of this act, all devises made of land or other real estate, within this state, in which the words, heirs and assigns, or, heirs and assigns forever, are omitted, and no expressions are contained in such will and testament, whereby it shall appear that such devise was intended to convey only an estate for life, and no further devise thereof being made of the devised premises, after the decease of the devisee, to whom the same shall be given; all such devises shall be taken and understood to be the intention of the testator, thereby to grant and devise an absolute estate in the same, and shall be construed, deemed and adjudged in all courts of law and equity, in this state, to convey an estate in fee simple to the devisee, for all such devised premises, in as full a manner as if the same had been given or devised to such devisee, and to his heirs and assigns forever; any law, usage or custom to the contrary notwithstanding.(*a*)

(*a*) Wherever the intent is clear an absolute estate is given, although no words of inheritance be used, *Den, Bolton* v. *Bowne*, 3 *Harr.* 210. *Den* v. *Snitcher*, 2 *Gr.* 54. *Hance* v. *West*, 3 *Vr.* 233. *Downey* v. *Borden*, 7 *Vr.* 460. See *Herbert* v. *Tuthill*, *Sax.* 141.

Diseases.

1. In what case the governor shall issue his proclamation, prohibiting all communication with certain infected vessels.
2. What vessels shall come to anchor and be subject to the visitation of the health officer.
3. Vessels may be visited by health officer on request of master, etc.
4. Health officer may cause vessel to be unloaded and cleansed.
5. Mayor and aldermen of Perth Amboy to constitute a board of health. May appoint health officer.
6. Board of health may grant permits to vessels to leave anchorage.
7. Fees of board of health.
8. Health officer may appoint deputies.
9. Repealer.

An act to provide for the security of the citizens of this state, against the introduction of contagious diseases.

Passed November 19, 1799.

R. S. 511.

WHEREAS, it has been represented to the legislature, that for want of due provision on the part of this state, the laws of the states of Pennsylvania and New York, for preventing contagious diseases, have been repeatedly evaded by the citizens of this state, and by the crews and passengers of infected vessels landing on the shores of this state; and it being necessary to prevent a repetition of a conduct so dangerous,

In what case the governor shall issue his proclamation, prohibiting all communication with certain infected vessels.

1. *Be it enacted, &c.*, That it shall and may be lawful for the governor of the state for the time being, upon application to him made by the executive or other competent authority, in the states of Pennsylvania or New York, of any vessel infected with a malignant disease, and performing quarantine under the laws of the said states of Pennsylvania or New York, being then in the rivers Delaware or Hudson, or the waters adjacent to the city of New York, to issue his proclamation, forewarning all citizens of this state from entering on board of, or having any communication with such infected vessel; and if any person or persons shall, after the publication of the said proclamation, and in contravention thereof, enter on board of any such vessel, so as aforesaid described in the said proclama-