

HOUSE No. 527

By Mr. Burgess of Quincy, petition of Henry F. Long, Commissioner of Corporations and Taxation, for legislation to authorize the taxation of additional property discovered in connection with the settlement of estates. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-One.

An Act providing for Taxation of Additional Property
Discovered.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section twenty-seven of chapter sixty-
2 five of the General Laws most recently amended by
3 chapter five hundred and twenty of the acts of nine-
4 teen hundred and twenty-two is hereby further
5 amended by striking out all of said section and in-
6 serting the following new section twenty-seven:—
7 *Section 27.* The commissioner shall determine
8 the amount of tax due and payable upon any
9 estate or part thereof and shall certify the amount
10 so due and payable to the persons by whom the
11 tax is payable. Such determination and certifica-
12 tion may be made upon account of the tax generally
13 or upon account or in full for any part thereof or

14 any interests therein. Payment of the amount so
15 certified upon account shall be a discharge of the
16 tax pro tanto and upon subsequent determination
17 and certification of the full amount of the tax
18 payable upon the estate generally or upon any
19 interest therein or part thereof, payment of the
20 full amount of said tax shall be a discharge of the
21 tax, and if upon such final certification it shall
22 appear that any payments made on account are in
23 excess of the tax in full as so determined, the com-
24 missioner shall upon application duly made within
25 six months from the date when the final certificate
26 shall have been issued, issue a certificate that the
27 applicant is entitled to have such excess refunded
28 and the state treasurer shall without any appro-
29 priation therefor by the general court pay the
30 amount so certified. In determining the amount
31 of any tax under this chapter, the commissioner
32 shall not be required to consider any payments on
33 account of debts or expenses of administration
34 which have not been allowed by the probate court
35 having jurisdiction of said estate. If after the de-
36 termination and certification of the full amount of
37 the tax upon an estate or any interest therein or
38 part thereof the estate shall receive or become en-
39 titled to property the existence of which was un-
40 known to the commissioner, was not disclosed to him
41 at or before the time of the certification of the tax
42 in full, the executor, administrator, trustee or other
43 fiduciary shall forthwith notify the commissioner
44 who shall upon being thus or otherwise informed
45 determine the amount of additional tax, if any, due

46 and payable thereon and shall certify the said
47 amount to the person by whom such tax is payable.

48 An executor, administrator, trustee, grantee, donee
49 or survivor aggrieved by any determination of the
50 commissioner may, within one year after the pay-
51 ment of any such tax, apply by a petition in equity
52 to the probate court having jurisdiction of the estate
53 of the decedent for the abatement of the tax or
54 any part thereof, and if the court adjudges that the
55 tax or any part thereof was wrongly exacted it
56 shall order an abatement of such part thereof as
57 was assessed without authority of law. Upon a
58 final decision ordering an abatement of any part of
59 such a tax, the treasurer shall pay the amount
60 adjudged to have been illegally exacted, with
61 interest, without any further act or resolve making
62 appropriation therefor.

1 SECTION 2. This act shall take effect as of
2 January one of the current year.

