

Proceedings when priority of incumbrance of the state shall be brought in question.

70. SEC. 2. That in all suits wherein the lien, incumbrance, or priority of incumbrance of the state shall be brought in question, a notice out of the court stating the names of the parties and the incumbrance or lien of the state sought to be affected, and a day for return, as in writs, out of the same court may issue, directed to the state of New Jersey, and the same may be served upon the attorney general as other process is served out of said court, and on the return of such notice duly served, or on appearance by the attorney general for the state the suit may proceed as other cases, and a decree or judgment therein shall bind the state the same as if it had been made against an individual; and the lien of the state on sale under such decree or judgment shall be cut off and the claim of the state shall be made out of the surplus, if any, in the order of priority in which the incumbrance of the state stands.

Joint resolution to provide for the safe keeping of the state buildings and grounds in the city of Trenton.

P. L. 1846, p. 237.

Approved April 9, 1846.

Preamble.

WHEREAS the state house has been repaired, and large and important additions made thereto, for the accommodation of the state officers, and the convenience of those who have business to transact with them, in doing which a large sum of money has been expended; and whereas, the public grounds adjacent to the state house are to be graded and planted with suitable trees, and it is thus rendered important that the buildings and grounds shall be well cared for and kept in proper condition and repair; therefore,

Treasurer to have charge of the state house, grounds, etc.

Be it resolved, &c., that the state house and adjacent public grounds be, and hereby are put under the care and safe keeping of the treasurer of the state; that the doorkeepers of the two houses, immediately after the legislature have adjourned, shall deliver to the said treasurer all the keys of their respective houses, which shall be safely kept in his office until the next meeting of the legislature; that when the courts are not in session the keys of the respective court rooms shall also be deposited with him for safe keeping; and it shall be the duty of the said treasurer to have the general supervision and care of said buildings and grounds, to preserve them from injury and to provide for their being kept in proper order, for which services he shall receive the sum of seventy-five dollars per year, to be paid out of any moneys in the treasury not otherwise appropriated.

Trustees.

1. Estates granted or devised to trustees held in joint tenancy.
2. Infant trustee may convey by order of chancellor.
3. Infant trustee may be compelled to convey.
4. If trust shall descend to infant, etc., court may appoint new trustee.
5. Powers of substituted trustee.
6. Surety on bond of trustee may have account and separate security.

R. S. 645.

An act relative to trustees.

Revision—Approved March 27, 1874.

P. L. 1860, p. 359.
 " 1867, p. 168.
 " 1868, p. 563.

Estates granted or devised to trustees held in joint tenancy.

P. L. 1868, p. 563.

1. That *whereas*, the acts relating to descents have always been construed not to extend to estates granted or devised to trustees so that the estate descended to the heir at common law, but doubts have been suggested whether the act respecting joint tenants and tenants in common does not apply to estates granted or devised to trustees, although the same reason of convenience applies to both cases, and the survivor or survivors should take the legal estate and such doubts should be set at rest; therefore, *it is enacted*, that all estates heretofore or hereafter granted or devised to trustees shall be construed to have vested and to vest an estate in joint tenancy in such trustees, and in case any trustee has been or shall be removed and a conveyance or devise has been or shall

be made by the trustee or trustees so removed to the old and new trustee or to new trustees, such conveyance or devise shall be construed to vest in the old and new trustee or the new trustees an estate in joint tenancy, notwithstanding the want of any unity.

2. WHEREAS, many inconveniences may arise by reason that persons, under the age of twenty-one years, having estates in lands, tenements and hereditaments, only in trust for others, or by way of mortgage, cannot, though by the direction of the *cestui que trust*, or mortgagor, convey any sure estate in any such lands, tenements or hereditaments, to any person or persons: for remedy whereof, *it is enacted*, that it shall be lawful for any such person or persons, under the age of twenty-one years, by the direction of the court of chancery, by an order made upon hearing all parties concerned, on the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust or of the mortgagor or mortgagors, or guardian or guardians of such infant or infants, or person or persons entitled to the moneys secured by or upon any lands, tenements or hereditaments, whereof any infant or infants are or shall be seized or possessed by way of mortgage, or of the person or persons entitled to the redemption thereof, to convey and assure any such lands, tenements or hereditaments, in such manner as the said court of chancery shall, by such order direct to any other person or persons; and such conveyance or assurance shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infant or infants were, at the time of making such conveyance or assurance, of the full age of twenty-one years.

Infant trustee may convey by order of chancery.

R. S. 645, § 1.

3. All and every such infant or infants, being only trustee or trustees, mortgagee or mortgagees, as aforesaid, shall and may be compelled by order, so as aforesaid to be obtained, to make such conveyance or conveyances, assurance or assurances, as aforesaid, in like manner as trustees or mortgagees of full age are compellable, to convey or assign their trust estates or mortgages.

Infant trustee may be compelled to convey, &c.
Ib. § 2.

4. In case any lands or real estate held in trust shall upon the death of the sole trustee or of the survivor of two or more trustees, descend to and become vested in any infant under the age of twenty-one years as trustee, or in case any sole trustee shall be declared a lunatic or shall abscond or remove from this state or become in any manner legally incapable of executing the trust, it shall be lawful for the circuit court of the county in which such lands are situate, or the supreme court or court of chancery, upon the application of any person interested, after notice to all parties concerned, to remove such trustee and appoint a new trustee in his place; and such new trustee shall be seized of the trust estate as fully and in the same manner as the original trustee was; *provided*, that the court in its discretion may require such new trustee to enter into bond with sureties in such manner as the court may direct, conditioned for the performance of the duties of such office; *and provided further*, that if any account shall be necessary or required, the application shall be made to the court of chancery.

If trust estate shall descend to an infant, etc., court may appoint new trustee.

Estate of new trustee.

Court may require security.

5. Any trustee appointed under the last preceding section of this act, or who heretofore has been or hereafter shall be appointed or substituted by the court of chancery in the place of any trustee appointed by a will or other instrument creating or continuing a trust, shall have the same power to sell and convey lands and other property as was given to and vested in the original trustee by such will or instrument, even in cases where such power may be directed to be exercised at the discretion of such original trustee, unless such power of sale shall by such will or instrument be expressly prohibited to any substituted trustee.

Powers of substituted trustee.

P. L. 1867, p. 168, § 10.

Amended.

[For appointment of new trustees by orphans' court, see ORPHANS' COURT, Sec. 129].

6. Where the surety in any bond given by a trustee shall discover that such trustee is wasting or mismanaging the estate, whereby the said surety may become liable to loss or damage, the court making the appointment, upon application of such surety, and upon sufficient reason therefor, may order every such trustee to render an account of his or her trusteeship to such surety, and if it shall appear that such trustee has embezzled, wasted,

Surety on bond of trustee may have account and separate security.

P. L. 1860, p. 359.

misapplied, mismanaged, or not sufficiently secured said estate, in any such case the said court shall direct the said trustee to give separate security to his or her surety, for the true payment of the balance remaining in his or her hands, to be paid according to the trust, and on neglect or refusal, it shall be lawful for the said court to revoke the trusteeship, and grant the same to such person or persons having right thereto, or other person or persons as will give sufficient bonds in the usual form, and in such case it shall be the duty of the newly appointed trustee immediately to bring an action on the case against such removed trustee, and hold him or her to bail, and in such action to recover the amount of all moneys, assets, rents, issues and profits received by such trustee and not applied according to law, as well as all damages done or committed by such trustee in respect to the estate in his or her hands.

[For power of court to examine into condition of trust estate, and to compel one trustee to give security to his co-trustee, see ORPHANS' COURT, *Sec.* 119].

Turner Societies.

1. Acts which have become inoperative revived.
2. Assessments to be paid.

3. General corporate powers.

An act to revive acts relating to Turner Vereinen (Turner Societies) which have become inoperative by reason of the non-payment of assessment required by law.

P. L. 1876, p. 283.

Approved April 21, 1876.

Acts which have become inoperative revived.

1. That wherever any Turner Vereinen (Turn Society) has been heretofore incorporated by the legislature of this state, and has organized under the act creating it, and has purchased and acquired real estate in this state for the purposes mentioned in said act, and said act has become inoperative and void, because the parties interested therein failed to pay the assessment required by law, that in every such case all the rights, powers and franchises hereinafter conferred upon said corporation shall be continued and declared to be vested in and exercised by said corporation as fully to all intents and purposes as if said state assessment had been paid within the time limited by law, and all acts done under said act which become inoperative and void for the reason aforesaid, shall be as valid to all intents and purposes as if said assessment had been paid when due.

Assessments to be paid.

2. That the parties interested therein shall pay or cause to be paid, on or before the first day of June, eighteen hundred and seventy-six, all assessments due on said act so invalidated, and also thirty dollars additional assessment.

General corporate powers of the society.

3. That every such Turn Verein shall be a body politic and corporate by the name mentioned in the act creating it; that the objects of the society shall be the improvement of mental, physical and corporal education; that the said corporation shall have power to prescribe admission and expulsion of its members, and for the election, time of service and duties of its officers; that the officers of said corporation shall consist of a president, vice president, one corresponding, one recording, one financial secretary, treasurer, first and second turn master, librarian, quartermaster, drum major and the chairman of the mental turn school, said officers to be elected annually and at such time and place as the by-laws of the said corporation may prescribe; that the said corporation may purchase and hold real and personal estate for their use and benefit, and continue to hold any heretofore purchased by them, the value of which shall not at any one time exceed the sum of fifty thousand dollars.