

and personal estate as shall be deemed necessary, and to improve, change and alter the same for the purposes of said corporation, and the same or any part thereof; to sell and convey by deed or mortgage, lease, or otherwise dispose of it, or any part thereof, under the direction of such grange.

3. That the capital stock of the said corporation shall not exceed the sum of twenty-five thousand dollars, in the case of the state grange, nor the sum of twenty thousand dollars, in the case of a pomona, county, district or subordinate grange, which said capital stock, or any part thereof, may be divided into shares of such amounts, and transferable in such manner, and upon such conditions, as such corporation by its by-laws shall prescribe. Amount of capital stock.

4. That said corporation shall have power to make and adopt by-laws and regulations for the election of officers, and to prescribe their duties, and for the general management of its affairs, and from time to time may alter and repeal the same. May make by-laws, &c.

Guardians.

I. TESTAMENTARY GUARDIANS.

1. Father may appoint with mother's consent.
2. Widowed mother may appoint, when.

II. SALE OF LANDS, &c., OF WARD.

3. Court may order sale of timber and lands.
4. Report of sale to be made to court.
5. Deed, form and effect of.

III. REMOVAL OF PROPERTY OF MINOR OUT OF THIS STATE.

6. May be made by order of court when guardian and ward are both non-residents.
7. Before such order, proof of appointment necessary. Court may require additional security.
8. Notice of application to be given. Court may refuse order.
9. Disposition of moneys when guardian and ward reside out of New Jersey.
10. Proof that guardian has given security required.

11. Chancellor may order guardian of infant to erect new building.
12. Provisions as to dower where money is borrowed to erect buildings.
13. Chancellor may order lands of infant to be exchanged.
14. Amended by section 21.
15. Chancellor may order guardian to purchase machinery, &c.
16. Persons entitled to dower to receive what.
17. Chancellor may order lands of lunatics, &c., to be exchanged.
18. Chancellor may order guardian to raise loan by bond and mortgage.
19. Chancellor may order lands of minors, lunatics, &c., to be sold.
20. Chancellor may order lands of minor sold when imperiled by liens, &c.
21. Chancellor may order guardian to erect new buildings and borrow money therefor.
22. Guardian may sell land without order of court in certain cases.
23. Sales heretofore made validated.

I. Testamentary guardians.

An act relative to guardians and the estates of minors.

Revision—Approved March 27, 1874.

1. That when any person hath or shall have any child or children under the age of twenty-one years, and not married at the time of his death, it shall be lawful for the father of such child or children, whether born at the time of the decease of the father or at that time in ventre sa mere, or whether such father be within the age of twenty-one years, or of full age, by his deed executed in his lifetime or by his last will and testament in writing, made and published by such father according to law, and proved and recorded in the manner prescribed by the laws of this state, to dispose of the custody and tuition of such child or children for and during such time as he, she or they shall respectively remain under the age of twenty-one years or any less time, to any person or persons in possession or remainder; *provided*, that the mother if living, consent to such appointment, which consent shall be in writing, and signed and acknowledged by the mother in the presence of two witnesses present at the same time, who shall subscribe their names thereto as witnesses in the presence of the mother, and such consent shall be proved to have been so given and acknowledged at the time the will appointing the testamentary guardian shall be admitted to probate; and such disposition of the custody of such child or children so made as aforesaid, shall be good and effectual against all and every person or persons claiming the custody or tuition of

R. S. 366, 374.

P. L. 1847, p. 143.
 " 1868, p. 122.
 " 1871, p. 10, 23.

Father may by will or deed appoint guardian of his minor children.
 R. S. 366, § 9.

Provided, mother, if living, consent in writing.
 P. L. 1871, p. 23.
 Consent acknowledged and proved.

Such guardian entitled to custody and tuition of minor.

R. S. 366, § 9.

And the profits of minors' lands and custody of goods and chattels.
Ib. § 10.

Mother being a widow may appoint guardian of her minor child if no guardian has been appointed by father.

such child or children, as guardian in socage or otherwise; and such person or persons to whom the custody of such child or children hath been or shall be so disposed or devised as aforesaid, may maintain an action of ravishment of ward or trespass against any person or persons who shall wrongfully take away or detain such child or children, for the recovery of such child or children; and may recover damages for the same in the said action, for the use and benefit of such child or children; and may take into his, her or their custody, for the use of such child or children, the profits of all lands, tenements and hereditaments of such child or children; and also the custody and management of the goods, chattels and personal estate of such child or children, till his or her or their respective age of twenty-one years or any less time, according to such disposition aforesaid; and may bring such action or actions in relation thereto, as by law a guardian in common socage might do. (a)

2. That the mother of any minor child or children, being a widow, may by her last will and testament made and published, and proved and recorded according to law, appoint a guardian for her minor children in all cases in which the father is authorized to make such appointment; and such guardian shall have the same power and authority in all respects as a guardian appointed by the father of a minor child; *provided*, that no guardian shall have been appointed by the father under the last preceding section. (b)

[For proceedings for the appointment of guardians in other cases—Bond and Inventory and Duties—see title ORPHANS' COURT.]

II. Sale of lands, &c., of ward.

Court may order sale of timber or lands for maintenance of ward.

R. S. 374, § 6.

If sale is of lands, report to be made to court.
Ib. § 7.
Amended.

Deed made, form and effect of.
Ib. §§ 7, 8.

3. That if the personal estate and the rents, issues and profits of the real estate of the ward be not sufficient for his maintenance, the orphans' court of the proper county, on full investigation thereof, may from time to time order the guardian to sell so much of the timber growing or being upon the lands of said ward or such parts of the ward's lands, tenements, hereditaments and real estate as they shall direct and judge adequate for his or her maintenance and education. (c)

4. That after the lands, tenements, hereditaments and real estate of the ward so ordered to be sold, shall be sold, the guardian shall make report thereof in writing to the said orphans' court, and if said court shall approve of such sale, it shall confirm the same as valid and effectual in law, and shall by rule of court direct the said guardian or guardians to execute good and sufficient conveyances in the law, to the purchaser or purchasers for the tract or tracts of land or real estate so sold.

5. That the guardian shall make a deed or deeds to the purchaser or purchasers, for the lands, tenements, hereditaments and real estate so sold; which deeds shall set forth that the same was made by virtue of an order of the orphans' court by which the sale shall be authorized, the term of the court in which it was granted, and the date of the order; which conveyances, duly executed as aforesaid, shall vest in the purchaser or purchasers all the estate therein that the ward was seized of or entitled to at the time of making the said order.

III. Removal of property of minor out of this state.

May be made when guardian and ward are both non-residents.

P. L. 1847, p. 143.
" 1868, p. 122.
" 1871, p. 10.
Amended.

6. In case any guardian and his ward are both residents of another state or of a foreign country, and such ward is entitled to any property, real or personal, in which shall be included property or money in the hands of any resident guardian, any legacy or distributive share in the hands of any executor or administrator in this state, moneys in the

(a) Such guardian supersedes one appointed by the orphans' court. *In re Van Houghten*, 2 Gr. Ch. 220.
(b) See *In re Turner*, 4 C. E. Gr. 433, 436.
(c) The father who is guardian by nature only, and not ap-

pointed by any court or competent authority, is not within this section. *Graham v. Houghtalin*, 1 Fr. 552. If the parent of the orphan is of sufficient ability to support him, such order cannot be made. *Morris v. Morris*, 2 McCart. 239.

hands of any commissioner, officer or other person, being the proceeds of the sale of lands under any judicial proceedings, or awarded as damages for the taking of lands under any legislative authority, or deposited in any court of this state, arising from the sale of any property of such ward or otherwise, and moneys or funds under the direction or control of the chancellor, it shall be lawful for the ordinary or the orphans' court of the proper county to make an order that such guardian may receive the rents, issues and profits of such real estate, and demand, sue for, collect and receive such legacy, distributive share, moneys or other personal property, and remove the same to the place of the residence of himself and ward; and the delivery, transfer or payment of such property or money to such guardian after the making of such order shall be a legal discharge and acquittance for the same. (a)

Ordinary or orphans' court may order.

Delivery of property, or payment in obedience to such order a legal discharge.

7. That before any such order as is mentioned in the last section shall be made, proof to the satisfaction of the ordinary or orphans' court shall be made, by certificate, according to the acts of congress, in case the guardian and ward reside in another state, or by attestation under the seal of the court wherein, or officer before whom the proceedings were had, if their residence be in a foreign country, of the appointment of such guardian, and that he has given adequate security as such guardian in double the amount in value of such property, over and above the value of the property of such ward in the place of his residence; and, in case the ordinary or orphans' court shall not be satisfied with the sufficiency of such security, additional security, to be given in this state, may be required in such form as the ordinary or court shall direct.

Before order made, proof to be made.

In what manner.

Of appointment of guardian and security given.

Additional security may be required.

8. That twenty days' notice of an application for the removal of property under the preceding section shall be given to the resident guardian or the executor or administrator in whose custody such property shall be, and the ordinary or orphans' court may direct notice of such intended application to be given to other persons interested; *provided, nevertheless*, that the ordinary or orphans' court may reject such application and refuse such order whenever it shall appear that it is for the interest of the ward that such removal shall not take place; and no order shall be made in any case where such removal will conflict with the terms or limitations attending the right by which the ward owns or is entitled to such property, or the interests of any citizen of this state in such property may be prejudiced.

Notice of application.

Order may be refused.

And shall not be made if conflicts with limitation of minor's title, or prejudices interests of citizens of this state.

Supplement.

Approved April 5, 1878.

P. L. 1878, p. 326.

9. SEC. 1. That in case any guardian and his ward are both residents of another state or of a foreign country, and such ward is entitled to funds or property of any description deposited in the court of chancery or under the control and direction of the chancellor, arising from the sale of the property of such ward in this state or otherwise, it shall be lawful for the chancellor to make an order that such guardian may receive and remove the same to the residence of himself and ward; and the delivery, transfer or payment of such funds or property to such guardian, after the making of such order, shall be a legal discharge and acquittance for the same. (b)

Chancellor may make order for guardian to receive funds, &c., when ward and guardian are non-residents.

10. SEC. 2. That before any such order as is mentioned in the first section of this act shall be made, proof to the satisfaction of the chancellor shall be made, by certificate according to the act of congress, in case the guardian and ward reside in another state, or by attestation under the seal of the court wherein or officer before whom the proceedings were had, if their residence be in a foreign country, of the appointment of such guardian and that he has given adequate security as such guardian in double the amount in value of such property, over and above the value of the prop-

Satisfactory proof to be made to the chancellor that adequate security has been given.

(a) See *Mahnken's Case*, 9 *Stew.* 518.

(b) Where moneys belong to the estate of a parent here, whose children reside in Germany and have a guardian duly appointed there, no order will be made for the payment of such

moneys to the guardian in Germany. Such moneys are properly payable to the legal representative of the parent, and the children, as legatees, are not such representatives. *Mahnken's Case*, 9 *Stew.* 518.

When additional security may be required.

erty of such ward in the place of his residence ; and in case the chancellor shall not be satisfied with the sufficiency of such security, additional security, to be given in this state, may be required in such form as the chancellor may direct.

P. L. 1886, p. 219.

Chancellor may order guardian of infant to erect new buildings.

Supplement.

Approved April 12, 1886.

11. SEC. 1. That when it shall be made to appear to the chancellor, upon the application of the guardian of an infant, that the land of such infant is occupied, in whole or part, by old, insecure or dilapidated buildings, or a building or buildings that is or are incapable of producing an income proportionate to and with the value of the land, and that it would be to the advantage of the estate of such infant that such building or buildings should be destroyed or removed and other building or buildings erected on said land, it shall be lawful for the chancellor to order and direct that the guardian of such infant be authorized to destroy or remove such building or buildings and to enter into a contract or contracts for the erection of new and other building or buildings as may be deemed advisable by the chancellor, and it shall be lawful for the chancellor to order and direct that the guardian borrow from time to time on bond, secured by mortgage on the lands of such infant, a sum of money sufficient to pay for the erection and completion of said building or buildings upon such terms as he may determine.

May order guardian to borrow money, &c.

Provisions as to dower where money is borrowed.

12. SEC. 2. That in case any person entitled to dower in such land shall join in such mortgage, she shall be entitled to receive, during the term of her natural life, one-third of the net proceeds received from said building or buildings, after deducting all taxes, assessments, water rents, repairs, insurance premiums, commissions, paid to agents for collecting such rents and other proper deductions to be first made from said rents.

Chancellor authorized to direct exchange of lands of infant.

13. SEC. 3. That when it shall appear to the chancellor, in the manner aforesaid, that it would be to the advantage of the estate of any minor to exchange a portion of the land described in such application for land next adjoining thereto, in order that the land of such minor may not be separated by the land of another, it shall be lawful for the chancellor to order and direct such exchange to be made upon such terms as he may determine ; *provided*, that such adjoining landowner consents in writing to the making of such order. [See Sec. 17, *post*.]

Proviso.

Supplement.

Approved April 28, 1886.

P. L. 1886, p. 326.

Chancellor may order guardian to purchase machinery, &c.

14. SEC. 1. [Amended by Sec. 21, *post*.]
15. SEC. 2. That the chancellor may, upon application aforesaid, when it is made to appear that machinery in any building or buildings owned by a minor or minors, lunatic, insane or feeble-minded persons, is old and incapable or insufficient to perform the duty required of it, or that additional machinery may be necessary, to order that other and new machinery be procured by such guardian at a price to be approved by the chancellor, and in case of the erection of a new building or buildings to be used for manufacturing purposes, to order the purchase of such machinery as may be necessary to effect the purpose of the use made or to be made of such building or buildings.

Persons entitled to dower to receive what.

16. SEC. 3. That in case any person entitled to dower in such land shall join in such mortgage, she shall be entitled to receive, during the term of her natural life, one-third of the net proceeds received from said building or buildings, after deducting all taxes, assessments, water rents, repairs, insurance premiums, commissions paid to agents for collecting such rents, and other proper deductions to be first made from said rents.

Chancellor may order lands of lunatics, &c., to be exchanged.

17. SEC. 4. That when it shall appear to the chancellor, in the manner aforesaid, that it would be to the advantage of the estate of any minor or minors, lunatic, insane or feeble-minded persons, to exchange a portion of the land described in such application for land next adjoining thereto, in

order that the land of such minor or minors, lunatic, insane or feeble-minded persons may not be separated by the land of another, it shall be lawful for the chancellor to order and direct such exchange to be made, upon such terms as he may determine; *provided*, that such adjoining land-owner consents in writing to the making of such order. Proviso.

Supplement.

Approved April 21, 1887. P. L. 1887, p. 224.

18. SEC. 1. That when it shall be made to appear to the chancellor, upon the application in the form of a petition of the guardian of minor or minors, lunatics, insane, or feeble-minded persons, that the lands or real estate of such persons are likely to be disadvantaged, imperiled or sacrificed by reason of the sale of such lands or real estate, or where for any cause such lands or real estate can be saved to such persons or in any way advantaged by said guardian being able to raise money upon security upon such lands or real estate, it shall be lawful for the chancellor to order and direct that the guardian of such minor or minors, lunatics, insane or feeble-minded persons be authorized to raise a loan or loans, by bonds secured by mortgage or other security, upon such lands or real estate for the purpose aforesaid upon such terms as he may determine; the chancellor may make such rules for the regulation of the practice and proceedings under this act as he may deem necessary or expedient; *provided*, they shall not be inconsistent with the provisions of this act. Chancellor may order guardian to raise loan by bond and mortgage.

Chancellor may make rules and regulations.
Proviso.

Supplement.

Approved June 13, 1890. P. L. 1890, p. 465.

19. SEC. 1. That when it shall be made to appear to the chancellor, upon the application of the guardian of a minor or minors, lunatic, insane or feeble-minded persons, that the lands of, and the interests and estates therein, of such minor or minors, lunatic, insane or feeble-minded persons are incumbered in whole or in part by mortgages, taxes, tax sales, assessments, water rents, judgments and other liens, and that it would be to the advantage of the estate of such minor or minors, lunatic, insane or feeble-minded persons, that the said mortgages, taxes, tax sales, assessments, water rents, judgments and other liens should be paid off, satisfied and redeemed, it shall be lawful for the chancellor, and he is hereby authorized to order and direct that the guardian of such minor or minors, lunatic, insane or feeble-minded persons be authorized to pay the same from the proceeds of the sale of securities and other personal estate belonging to the estate of such minor or minors, lunatic, insane or feeble-minded persons, but in case there shall not be sufficient securities and other personal estate belonging to the estate of such minor or minors, lunatic, insane or feeble-minded persons to pay off, satisfy and redeem the said mortgages, taxes, tax sales, assessments, judgments and other liens, then it shall be lawful for the chancellor to order and direct that the guardian borrow on bond, secured by mortgages on the whole of the lands and of the interests and estates therein of such minor or minors, lunatic, insane or feeble-minded persons, or on such part or parts, portion or portions of said lands, estates and interests as the chancellor may direct, such sum or sums of money as shall be sufficient in amount to pay off, satisfy and redeem said mortgages, taxes, tax sales, assessments, water rents, judgments and other liens, upon such terms and conditions and in such form as the chancellor may determine. Chancellor may order lands of minors, lunatics, &c., to be sold.

Supplement.

Approved April 3, 1893. P. L. 1893, p. 498.

20. SEC. 1. That whenever it shall appear to the chancellor, in any proceeding before him, that the lands or real estate of any minor or minors are likely to be disadvantaged, imperiled or sacrificed by reason of any liens or incumbrances existing against the same, and there is other estate Chancellor may order lands of minor sold when imperiled by liens, &c.

of such minor or minors, it shall be lawful for the chancellor to cause such other estate to be sold, converted or applied for the purpose of reducing or discharging such liens or incumbrances, and saving the said lands or real estate to such minor or minors; and it shall be lawful in such case for the chancellor to authorize the guardian of such minor or minors to mortgage any or all of the lands or real estate of such minor or minors to raise money wherewith to pay and discharge such liens or incumbrances.

An act to amend an act entitled "A supplement to an act entitled 'An act relative to guardians and minors' [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April twenty-eighth, one thousand eight hundred and eighty-six.

P. L. 1894, p. 436.

Approved May 17, 1894.

21. SEC. 1. That section one of an act entitled "A supplement to an act entitled 'An act relative to guardians and minors' [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four," which supplement was approved April twenty-eighth, one thousand eight hundred and eighty-six [see Sec. 14, *ante*], be and the said section is hereby amended to read as follows:

Chancellor may order guardian to erect new buildings and borrow money therefor.

[That when it shall be made to appear to the chancellor, upon the application of the guardian of a minor or minors, lunatic, insane or feeble-minded person or persons, that the land of such minor or minors, lunatics, insane or feeble-minded persons is occupied in whole or part by old, insecure or dilapidated buildings, or a building or buildings that is or are incapable of producing an income proportionate with the value of the land, and that it would be to the advantage of the estate of such minor or minors, lunatic, insane or feeble-minded persons that a new building or buildings should be erected on said land or that additions should be made to said building or that any guardian aforesaid has caused to be erected any building or buildings upon any land of a minor or minors, lunatic, insane or feeble-minded persons which is an advantage to the estate of such person or persons, it shall be lawful for the chancellor to order and direct that the guardian of such minor or minors, lunatic, insane or feeble-minded persons be authorized to enter into a contract or contracts for the erection of such building or buildings as may be deemed advisable by the chancellor (where such building has not been erected as aforesaid), and to pay for the same from the proceeds of sale of securities belonging to the estate of such minor or minors, lunatic, insane or feeble-minded person; but in case it should be deemed more advantageous to the estate of the minor or minors, lunatic, insane or feeble-minded persons not to dispose of such securities, then it shall be lawful for the chancellor to order and direct that the guardian borrow, on bond secured by mortgage on the lands of such minor or minors, lunatic, insane or feeble-minded persons, such sum or sums of money as shall be sufficient in amount to pay for the erection and completion of said building or buildings upon such terms as he may determine; and where such building has been erected by such guardian as aforesaid before the making of said application, it shall be lawful for the chancellor to order and direct that the guardian borrow, on bond secured by mortgage on the land of such minor or minors, lunatic, insane or feeble-minded persons on which said building has been erected, such sum or sums of money as shall be sufficient in amount to pay for having erected the same, upon such terms as he may determine.]

An act relating to the powers of guardians.

P. L. 1892, p. 434.

Approved April 8, 1892.

Guardian may sell lands without order of court in certain cases.

22. SEC. 1. That in case any guardian heretofore has or shall hereafter become the purchaser of any land, tenements or hereditaments, at a sale upon the foreclosure of any mortgage held by such guardian, such lands, tenements or hereditaments shall be assets in his hands, and may be sold

and conveyed by him without any order of court, and he shall receive, be accountable for and pay over the proceeds of such sale the same as the other assets in his hands.

23. SEC. 2. That any sale and conveyance heretofore made by any guardian under such circumstances shall be deemed as valid and effectual in all respects as if made under an order of court. Sales heretofore made validated.

Gunpowder.

1. Manufactory, where not to be erected.
2. Magazine, where not to be erected.

3. Fire-proof magazines, where they may be erected.

An act to regulate gunpowder manufactories and magazines within this state.

Rev. 549.

Passed February 7, 1811.

R. S. 574.

1. That from and after the first day of May next, no person or persons whatsoever, shall be permitted within this state to erect or establish, or cause to be erected or established, any manufactory which shall be actually employed in manufacturing gunpowder, either by himself or any other person, either on his own land or the land of another, within the distance of a quarter of a mile from any town or village, or house of public worship, or within the distance of a quarter of a mile from any dwelling-house, barn or outhouse, without the consent, under hand and seal, of all and every, the owner or owners of such dwelling-house, barn or outhouse, as aforesaid; and any person so offending shall be guilty of a misdemeanor, and on conviction thereof shall be fined any sum not exceeding two thousand dollars; *provided*, nothing in this section shall be so construed as to prevent the completing, rebuilding or repairing any powder mill now erected or erecting in this state on the site on which the same shall be now erected or erecting.

Manufactory, where not to be erected.

2. That no person or persons hereafter shall be permitted to erect or cause to be erected any powder magazine within this state, either upon his own land or the land of any other person, and actually deposit gunpowder therein, within the distance of half a mile from any town or village, house of public worship, dwelling-house, or outhouse; and any person so offending shall be guilty of a misdemeanor, and on conviction thereof shall be fined not exceeding the sum of two thousand dollars.

Magazine, where not to be erected.

Supplement.

Approved February 22, 1850.

P. L. 1850, p. 115.

3. SEC. 1. That the second section of the act to which this is a supplement, be so modified as to allow any person or persons to erect fire-proof magazines for storing not more in quantity than one hundred kegs of gunpowder, of twenty-five pounds each, at any one time, one-fourth of a mile from any town or village, house of public worship, dwelling-house, or outhouse.

Fire-proof magazines, where they may be erected.

Habeas Corpus.

I. WHO ENTITLED TO THE WRIT.

1. Who may sue out writ.
2. Who may not.

II. THE APPLICATION FOR THE WRIT, ITS FORM, &c.

3. Application for writ.
4. Contents of petition for writ, and how verified.
5. Writ to be granted forthwith.
6. Form of writ.
7. Not to be disobeyed from defect of form.
8. How writs sealed and certified.

III. SERVICE OF THE WRIT.

9. Service of writ.
10. *Ib.*, when person conceals himself.
11. Fees must be tendered; when bond required.
12. Last section not applicable when state is actor.
13. Officers, &c., to obey writs served on them.

IV. RETURN OF WRIT AND PROCEEDINGS THEREUPON.

14. Return, when to be made.
15. Contents of return.
16. Person making return may be examined.