

An act to prevent trespassing with guns.

Approved March 14, 1895.

P. L. 1895, p. 307.

2. SEC. 1. That any person trespassing on any lands, carrying a gun, after public notice on the part of the owner, occupant, lessee or licensee thereof, forbidding such trespassing, such notice being posted conspicuously adjacent to the highway binding on said lands, or adjacent to any usual entrance-way to said lands, shall be deemed guilty of trespass at the suit of such owner, occupant, lessee or licensee, and in an action of trespass or tort (which action shall be conducted in all respects as actions of trespass or tort are usually conducted) the damages awarded for any such trespass shall be not less than ten dollars.

Damages may be awarded against trespassers after notice posted.

3. SEC. 2. That any person trespassing on any lands, carrying a gun, after being forbidden so to trespass by the owner, occupant, lessee or licensee thereof, shall be deemed guilty of trespass at the suit of such owner, occupant, lessee or licensee, and in an action of trespass or tort (which action shall be conducted in all respects as actions of trespass or tort are usually conducted) the damages awarded for any such trespass shall not be less than ten dollars.

Damages may be awarded against trespassers after being forbidden.

4. SEC. 3. That any person or persons found trespassing, as provided in the first and second sections of this act, shall be deemed and adjudged to be disorderly, and in addition to the remedies therein provided for it shall be lawful for the owner or owners of the said lands, or the occupant or occupants, lessee or lessees or licensees thereof, or any constable or constables, to apprehend, without warrant or process, any such disorderly person or persons, and to take him or them before any justice of the peace of the county where apprehended; and it shall be the duty of the said justice, in a summary manner, to hear and determine the guilt or innocence of such person or persons, and upon conviction, to impose upon the offender or offenders, and each of them so convicted, a fine of five dollars, besides the costs of prosecution; and if any person or persons so convicted shall fail to pay such fines and costs, the said justice shall commit such offender or offenders to the common jail of the county for a period of not less than five nor more than ten days.

May be treated as disorderly persons and arrested without warrant, &c.

5. SEC. 4. That any person or persons who shall willfully or maliciously remove, deface or alter any notice posted, as contemplated in the first section of this act, with the intent to destroy such notice, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty dollars or imprisonment in the county jail not exceeding thirty days, or both.

Penalty.

A misdemeanor to remove, deface or alter notices posted.

Penalty.

Trustees.

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| 1. Amended by section 7. | 8. Powers of substituted trustee. |
| 2. Infant trustee may convey by order of chancellor. | 9. Trust property may be removed out of this state by order of court. |
| 3. Infant trustee may be compelled to convey. | 10. Proof to be made to court of appointment of trustee, &c. |
| 4. If trust shall descend to infant, &c., court may appoint new trustee. | 11. Notice of application for removal required. |
| 5. Amended by section 8. | 12. Chancellor may order transfer of trust funds to another state. |
| 6. Surety on bond of trustee may have account and separate security. | 13. Transfer not to be made until security is given. |
| 7. Estates granted or devised to trustees held in joint tenancy. | 14. Trustees may recover damages. |

An act relative to trustees.

R. S. 645.

Revision—Approved March 27, 1874.

P. L. 1880, p. 359.
" 1887, p. 168.
" 1888, p. 588.

1. [Amended by Sec. 7, *post.*]

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

Infant trustee may convey by order of chancery.
R. S. 645, § 1.

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 be compelled to convey, &c. *Ib.*, § 2.

3. That 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.

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

4. That 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.

Estate of new trustee.

Court may require security.

5. [Amended by Sec. 8, *post.*]

Surety on bond of trustee may have account and separate security. *P. L. 1860, p. 359.*

6. That 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, 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.]

Amendatory act.

Approved March 14, 1879. P. L. 1879, p. 203.

7. SEC. 1. That the first section of the act entitled "An act relative to trustees" [Revision], approved March twenty-seventh, one thousand eight hundred and seventy-four, be and the same is hereby amended so as to read as follows :

[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,

Preamble.

That all estates heretofore or hereafter granted or devised to trustees shall be construed to have vested and to vest an estate of 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 ; and in case any trustee or trustees have resigned or died, or shall hereafter resign or die, or the office of any such trustee become vacant for any cause and a new trustee or new trustees be appointed, the surviving trustees, if any there be, and the new trustee or trustees shall hold the trust estate as joint tenants, and a conveyance from the surviving trustees of a right and interest in the trust estate to such new trustee or trustees, shall vest in all the trustees an estate in joint tenancy notwithstanding the want of any unity.]

Estates granted or devised to trustees held in joint tenancy.

Supplement.

Approved April 9, 1892. P. L. 1892, p. 443.

8. SEC. 1. That section five of the act of which this is a supplement be and the same is hereby amended so as to read as follows :

[That 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 orphans' court of any county of this state, or 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 or trustees named in or appointed by such will or instrument, even in cases where such power may be directed to be exercised at the discretion of such original trustee or trustees, unless such power of sale shall by such will or instrument be expressly prohibited to any substituted trustee.]

Powers of substituted trustee.

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

An act concerning the removal of trust property out of this state and providing proceedings therefor.

Approved March 6, 1886. P. L. 1886, p. 61.

9. SEC. 1. That in case any trustee appointed and his beneficiary are both residents of another state, and such beneficiary is entitled to any property or interest, real or personal, in which shall be included property, or money or interest in the hands of any trustee, resident in this state, any legacy or distributive share or interest in the hands of any executor or administrator in this state, moneys in the hands of any trustee, executor or administrator, being the proceeds of the sale of lands under any judicial proceedings, or in pursuance of the provisions of any last will and testament, arising from the sale of any property under any judicial proceedings, or in pursuance of any last will and testament aforesaid, it shall be lawful for the ordinary or the orphans' court of the proper county to make an order that the trustee so appointed in another state, may receive the rents, issues and profits of such real estate, and demand, sue for, collect and

Trust property may be removed out of this state by order of court.

receive such legacy, distributive share, moneys or other personal property or interest aforesaid, and remove the same to the place of residence of himself and beneficiary; and the delivery, transfer or payment of such property, or money or interest to such trustee so appointed in another state, after the making of such order, shall be a legal discharge and acquittance for the same.

Proof to be made to court of appointment of trustee, &c.

10. SEC. 2. That before any such order as 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 trustee or beneficiary reside in another state, or by attestation under the seal of the court wherein, or officer before whom, the proceedings were had, of the appointment of such trustee, and that he has given adequate security as such trustee in double the amount in value of such property or interest at the place where such trustee and beneficiary reside; 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 orphans' court shall direct.

Court may order additional security to be given.

Notice of application for removal of property to be given.

11. SEC. 3. That twenty days' notice of an application for the removal of property under the provisions of this act shall be given to the resident trustee, or the executor or administrator in whose custody such property, moneys or interest shall be, and the ordinary or orphans' court may direct notice of such intended application to be given to other persons interested; *provided*, that the ordinary or orphans' court may reject such applications and refuse such order whenever it shall appear that it is for the interest of the beneficiary and parties in interest 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 by which such beneficiary owns, or is entitled to such property, or the interest of any citizen of this state in such property or interest may be prejudiced.

Proviso.

Supplement.

Approved May 11, 1886.

P. L. 1886, p. 354.

Upon petition, chancellor may order transfer of trust funds to custody of court or trustee of another state.

12. SEC. 1. That the chancellor of this state shall have power, in his discretion, upon the petition of any party interested in any suit or proceedings in the court of chancery, after investigation, to order the transfer and to transfer any trust funds in the custody of or under the control of the court of chancery, including the proceeds of sale of lands made by order of said court, unto the custody of the proper court of another state, or unto the custody of a trustee appointed by such court of another state wherein all of the beneficiaries reside, or wherein all the beneficiaries who are in esse at the time of making such order, reside.

Transfer not to be made until trustee has given security.

13. SEC. 2. That before making such transfer to a trustee appointed in another state, the chancellor shall be satisfied that such trustee has given adequate security, as required by the second section of the act to which this is a supplement.

An act to enable trustees to recover substantial damages.

Approved February 24, 1890.

P. L. 1890, p. 15.

Trustees may recover damages.

14. SEC. 1. That in all cases in which real or personal property while held by a trustee shall have heretofore been, or shall hereafter be, in any way injured, damaged or destroyed, and such trustee after the doing of such injury, damage or destruction, but before action brought for the recovery of damages in satisfaction thereof shall have heretofore conveyed, or shall hereafter convey such real or personal property to any cestui que trust or other grantee, whether for a good or valuable consideration, any such said trustee in any such action heretofore brought or hereafter to be brought by him for the recovery shall and may recover full and substantial damages against the wrongdoer in the same manner, and by the same measure, and to the same extent, as if such trustee had made no conveyance of such real or personal property, which damages when recovered and paid shall be held by said trustee to the use of his cestui que trust.