

No. 272.

AN ACT

Authorizing the sale of certain real estate, and for other purposes.

Preamble.

WHEREAS, John Robinson, deceased, of Allegheny county, died possessed of a large real estate in said county, and leaving several children, among whom was Mary who intermarried with Michael O'Hern :

And whereas, The said Michael and Mary, his wife, after the decease of her father, conveyed all the interest in the estate of her said father to Peter Beard and his heirs by deed, dated the thirteenth day of January, in the year of our Lord one thousand eight hundred and thirty-seven, and recorded in said county, in record book page

upon trust, to pay the profits to said Mary for her separate use, free from the control of her said husband, so that she shall not sell, charge or dispose of the same ; and to convey the same to her in case she should survive her said husband, with a power to said Mary to dispose of said estate by way of appointment if she should die before the husband, and in case of her death without appointment to her heirs :

And whereas, The said Michael O'Hern and Mary, his wife, have many years ago removed to Brooklyn, in the state of New York, and the said estate owing to their absence is but little productive, and the management has become inconvenient :

And whereas, The said Mary has made application for a law authorizing the sale of said estate, and investing the proceeds thereof in real estate in Brooklyn, in the state of New York or its vicinity, in such manner as may be more advantageous to her on the same or similar trusts ; therefore,

Trustees of Michael and Mary O'Hern, to sell real estate.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the said Peter Beard, or trustees of said estate for the time being, shall have authority to sell and convey, under the direction of said Mary, the said real estate so conveyed to the said Peter Beard in trust as aforesaid, to such purchaser or purchasers, and on such terms and for such estate, and in such parcels as may be most advantageous to the estate of said Mary, and to invest by purchase or incumbrance the proceeds of such sales in real estate in the cities of New York or Brooklyn, or the vicinity thereof, upon the same trusts as those contained in the said deed : *Provided,* That the said trustee or some one for him before he shall make such sale, shall give security, to be approved of by the district court of said county, faithfully to sell said estate at fair and reasonable prices, and that he will faithfully invest the proceeds of the estate aforesaid in the purchase of other real estate or incumbrances on real estate, in or near said cities, upon said trusts.

Smith Hamill to execute deed.

SECTION 2. That Smith Hamill, executor of the last will and testament of Nathaniel Hamill, late of North Beaver township, Beaver county, deceased, is hereby directed and empowered to make and execute a deed of conveyance to the school directors of said township, for a certain moiety of ground, which said Nathaniel Hamill, deceased, in his lifetime, did give to said school directors for common school pur-

poses, he, the said Smith Hamill, being first well satisfied of such donation having been made by the said deceased, in his lifetime, for the purposes aforesaid: *Provided*, The same do not exceed one acre of land.

SECTION 3. That the court of common pleas of Lancaster county is hereby authorized and required, upon the petition of Daniel L. Hasbuck, and Fidelia R. his wife, late F. R. Vandyke, Dr. Samuel Humes and Henry V. D. Johns, being the several sureties to an agreement, under seal, dated the twenty-fourth of May, eighteen hundred and forty-two, and duly recorded in the recorder's office, at Lancaster, in record book W, volume six, page one hundred and ninety-three, et cetera, to appoint a trustee in place of Henry V. D. Johns, if the said Johns shall decline the duties of said trust; the said trustee shall be appointed by the said court, at the instance and suggestion of the said Fidelia R. Vandyke, provided the person thus suggested shall be a citizen of Pennsylvania, and competent to discharge the duties of said trust; and the said trustee is hereby authorized, upon the terms and restrictions hereinafter mentioned, to sell and convey, in fee simple, all the estate, right and interest of the said Daniel L. Hasbuck, and Fidelia R. his wife, in and to a certain tract of land called Rockford, in the township of West

Court of Lancaster county to appoint trustee for Fidelia Hasbuck.

—, in the county of Lancaster, containing one hundred and thirty-eight acres and thirty-one perches; and also, their estate, right and interest in and to a tract of land of twenty acres, more or less, in the city of Lancaster, and also their estate, right and interest, in and to an undivided tract of land in or near Meadville, in the county of Crawford, and shall have power to make and execute to the purchaser or purchasers thereof, in fee simple, good and sufficient conveyances, in law and equity, conveying and , in fee, all the estates of the said Daniel L. Hasbuck and Fidelia R. his wife.

Trustee may sell real estate.

SECTION 4. The said trustee, before he proceeds to the performance of his duties herein imposed, shall present a petition to the said court, setting forth the advantages that may result to the interest of the said Fidelia, from the sale of the said real estate mentioned in the preceding section; and if the court shall be of opinion that the said sale would be advantageous to the interest of the said Fidelia, and of all others interested, under the terms and provisions of said agreement, the said court is authorized to grant an order of sale to the said trustee to sell the said real estate, as provided for in the preceding section.

Court to order sale.

SECTION 5. The proceeds of the sales of the said lands shall be securely invested under the direction of the said court, by the said trustee, so as to secure and carry fully into effect the covenants and objects of the said agreement; and the said trustee shall, before he proceeds to execute the order of sale, give bond to the commonwealth, with sufficient security, for the use of the said Fidelia, and all others interested, conditioned for the faithful performance of his duties, and the faithful application and appropriation of the proceeds of sales according to the intent and directions of this act.

Investment of proceeds.

Bond.

SECTION 6. Before the order shall be granted, as hereinbefore directed by the said court to the said trustee, to sell the said real estate, as herein provided for, the assent of the said Fidelia L. Hasbuck shall be given to the order aforesaid, the court shall be satisfied that such assent is given without any compulsion, or coercion of her said husband, and with full knowledge of her rights.

Assent of cestui que trust required.

WHEREAS, It is represented that Westley Lumeroux, of the county of Luzerne, bid off, at orphans' court sale, a tract of land unimproved, containing thirty-two acres, in said county, which land was ordered to be sold at public vendue, by the order and decree of the said court, as the property of Isaac Fuller, deceased, and that the said Westley Lu-

Preamble.

Westley Lumeroux, of Luzerne county.

meroux paid the amount of the bid to the administratrix of the said Isaac Fuller, Nancy B. Cook, to wit: one hundred and sixty-six dollars—and possession was duly given to the said Westley, a deed having been executed by the said Nancy B. Cook, to the said Westley Lumeroux, for the said land, bearing date the twentieth day of April, eighteen hundred and thirty-nine, but the said sale not having been confirmed by the said court, in due form, is therefore defective.

Orphans' court
to receive proof
and confirm deed
to W. Lumeroux

SECTION 7. That the orphans' court of the county of Luzerne, are hereby authorized and required to receive proof on a proper rule, to shew cause in the matter of confirmation of the sale of the said real estate; and if the facts set forth in the preamble to this section be clearly proved, and said court shall be satisfied that a confirmation of said sale would be consistent with the principles of equity arising in the case, then said court shall confirm the same *nunc pro tunc*; and such confirmation so made, shall have the same effect in law as if it had been duly made before the execution of said deed, and said deed shall be as valid as if the same had been executed in pursuance of a regular confirmation of the sale.

Wm. Ayres au-
thorized to mort-
gage certain real
estate.

SECTION 8. That William Ayres, trustee of Mary Elizabeth Ayres and her children, be and he is hereby authorized to borrow on loan for a term of years, a sum of money not exceeding six thousand dollars, for the benefit of the estate of the said Mary Elizabeth and her children; and for that purpose he is hereby authorized to mortgage for the security of the payment of the aforesaid sum, or such parts as may be borrowed, two certain properties situate in the borough of Harrisburg, on the east side of third street, between Market and Walnut, to wit: All that four-story brick house and lot, including the back building, situate on the corner of Third street and Strawberry alley, being forty-two feet on Third street and extending along said alley fifty-two and half feet deep; the other property being three vacant lots, adjoining the aforesaid four story brick building on the south-east, and other property belonging to said estate, each twenty-one feet fronting on Third street, and extending fifty-two and one-half feet back: *Provided*, The orphans' court of Dauphin county shall first approve of the terms of such loan, and the purpose for which it is to be made; and the said trustee shall execute a bond to the commonwealth for the use of the persons interested, with sufficient sureties, to be approved by said court, in the penalty double the amount of such loan, conditioned for the faithful application of the money borrowed under direction of said court, before the execution of any mortgage or other instrument for the security of said loan, otherwise such mortgage or other instrument shall not be a lien on said premises or building upon the estate of said Mary Elizabeth Ayres.

Proviso.

Bond.

Representatives
of D. Thomas,
trustee of George
Bisling, directed
to pay certain
moneys to sur-
viving trustee.

SECTION 9. The legal representatives of David Thomas, deceased, who was one of the trustees to sell the real estate of George Bisling, of Montgomery county, deceased, are hereby authorized and required to pay to the surviving trustee of said estate, the moneys belonging to the same which were in the hands of the said David Thomas at the time of his death, with the interest which was then due or has since accrued thereon; and thereafter the said surviving trustee and his sureties, and not the estate of said David Thomas or his sureties, shall be responsible for the faithful application of said moneys according to law.

FINDLEY PATTERSON,
Speaker of the House of Representatives.

WILLIAM P. WILCOX,
Speaker of the Senate.

APPROVED—The twelfth day of April, one thousand eight hundred and forty-five.
FRS. R. SHUNK.