

LAWS OF PENNSYLVANIA,

same times in the counties of Carbon and Monroe, as though this act had not been passed.

JAMES COOPER,

Speaker of the House of Representatives.

CH. GIBBONS,

Speaker of the Senate.

APPROVED—The eighth day of February, one thousand eight hundred and forty-seven.

FRS. R. SHUNK.

No. 40.

AN ACT

Authorizing the guardian of the minor children of Francis B. Durbin, deceased, to sell or let on ground rent, certain parts of their real estate.

Power to sell and convey.

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* John P. Durbin, guardian of Augusta A. Durbin, Margaret C. Durbin, Alexander C. Durbin, John P. Durbin, junior, and William H. Durbin, minor children of Francis B. Durbin, deceased, be and he is hereby authorized, from time to time, to sell and convey in fee simple, either absolutely or reserving thereout a perpetual rent charge thereon, subject or not subject to extinguishment on the payment of a certain sum of money, at a certain time as he may see fit, all the right, title, interest, property, claim and demand of the said minors, and each and every of them, in and to a certain tract or parcel of land, situate in the district of Penn. in the county of Philadelphia, containing nineteen acres or thereabouts, formerly the property of Alexander Cook, deceased, or to any part or portion thereof; and for such purpose to unite with and join the other heirs of said Alexander Cook, to any sale or conveyance of the same, and such part and parts thereof as he may deem expedient in fee simple, or reserving a ground rent as aforesaid; and so that the purchaser and purchasers thereof, so far as relates to the interests of said minors therein, may receive and obtain as good and valid an estate in the premises, as the said Alexander Cook was seized of and entitled to at the time of his death, both in law and equity; and in case such rent and rents be made subject to extinguishment as aforesaid, the said guardian, and any successor of his in said guardianship, shall have power to receive the payments of such parts of said sums of money, to which said minors shall be entitled, and thereupon to join in any release or extinguishment of the said rent and rents; and the said purchaser and purchasers, so far as said minors are concerned, shall not be bound to see to the application of the said money: *Provided, That* such rent and rents, as to the parts belonging to such minors, shall be reserved and made payable to the said guardian, with the other heirs of

Proviso.

said Alexander Cook, in trust for the said minors; and that nothing herein contained, shall be construed to authorize said guardian to convey the undivided right of said minors, or any of them, either absolutely or reserving a ground rent to the whole or any part of said premises, separate and apart from the other heirs of said Alexander Cook, and as an independent sale, but only in conjunction with them, although it shall and may be lawful for said guardian to reserve the proportionate part of the ground rent, accruing to said minors from any sale to be made by the said heirs, and the said guardian in a separate deed to the said guardian in trust for said minors, which said proportion may be made chargeable upon such a portion of the ground embraced in such sale, as may be proportionate to the interest of said minors therein; the said guardian being authorized to join in the deeds or conveyances of the remaining portions embraced in such sale, for the purpose of passing the interest of said minors therein, although no portion of the ground rent reserved in said deeds of such remaining portions, should be made payable to said guardian in trust for said minors: *And provided also*, That before any such sale and conveyance in fee simple shall be made and executed, or any such ground rent shall be released and extinguished, said guardian, or his successor, shall give approved security to the orphans' court of the county of Philadelphia, conditioned to invest the portion of said minors in the money so paid in extinguishment of such rent, on good real security, in the name of said guardian as aforesaid, in trust for the said minors, and to be held as a part or portion of their said estate; or in default thereof, the part or portion of said minors may be paid into the said court, to be invested in good real securities under their direction, for the use and benefit of said minors: *And provided further*, That any such investment so to be made on good real security by said guardian, being approved by the orphans' court of said county, the said guardian and his said security, shall be exempted from all liability or loss for the same. Proviso.

SECTION 2. That in case of a partition of the said premises, the power hereinbefore granted may be exercised by the said guardian, as to the part or purpart allotted to said minors under said partition, and to such part or parts thereof as he may deem expedient; and that no such conveyance as aforesaid, either in fee simple or upon ground rent, shall annul the right of having and making partition of said premises among the parties interested therein, but the ground rents reserved upon any such conveyance shall stand and be, in case of such partition, in the place of the respective part or parts conveyed. Partition may be made.

SECTION 3. That the said guardian and his successors, be and he is further authorized to unite with the other heirs of said Alexander Cook, in any grant and exchange which he may deem expedient, of any part of the same premises, for any piece or pieces of land adjoining or adjacent thereto, as may be deemed advisable, for the purpose of straightening or completing the lines of the said premises, with reference to streets or other improvements, and to convey all the right, title and interest of said minors and every of them, in said pieces of land so granted and exchanged, free from any trust for the said minors: *Provided*, The piece and pieces of land so received, shall be conveyed to and held by the said guardian, as to the interest of said minors therein, in trust for said minors, and under and subject to all the powers granted by this act, and shall be subject to the right of partition, which shall in no case be prejudiced by such exchange. To unite with other heirs in any grant. Proviso.

SECTION 4. That it shall and may be lawful for the said guardian to join with the said other heirs of Alexander Cook, in any sale or sales he may deem expedient, of the said ground rents or any of them, and to To join in sales.

Proviso.

convey the full and absolute right, title and interest of said minors and every of them, of and in the same, to any purchaser or purchasers thereof, discharged from any trust for said minors, and without any liability on the part of said purchaser or purchasers, for the application of such purchase money : *Provided*, That before any such sale or conveyance shall be made and executed, the said guardian and his successors, shall give approved security to the orphans' court, conditioned to invest the portions of said minors, in the money so to be paid by such purchaser or purchasers, in good real securities in trust for the said minors, to be held as a part or portion of their said estate ; or in default thereof, the part or portion of said minors in such purchase money, may be paid into court, to be invested in good real securities under their direction, for the use and benefit of said minors : *And provided further*, That such investments to be made by said guardian, may be approved by said orphans' court as set forth in the first section of this act, and with like effect.

Proviso.

Enter into security in orphans' court.

SECTION 5. That before any deed or conveyance shall be executed of any portion of said tract, reserving thereout a ground rent, the said guardian shall enter security in the orphans' court for the county of Philadelphia, in the sum of ten thousand dollars, conditioned for the faithful appropriation and application of all and every the annual and semi-annual payments of ground rents, and parts of ground rents, in which said minors shall be interested, to be created under the provisions of this act, until the same shall be extinguished ; and that from and after the entry of such bond, all and every the purchaser and purchasers, and the heirs and assigns of such purchaser and purchasers, shall not be liable nor bound to see to the application of the annual and semi-annual payments or arrears of said ground rents, to be paid from and after the reservation of such ground rents, until the same are extinguished.

Sales to be approved by the court.

SECTION 6. That before any real estate shall be sold or let on ground rent, under this act, the same shall be approved by the orphans' court of said county.

JAMES COOPER,
Speaker of the House of Representatives.

CH. GIBBONS,
Speaker of the Senate.

APPROVED—The eighth day of February, one thousand eight hundred and forty-seven.

FRS. R. SHUNK.