

CONSTRUCTION OF ACTS AND STATUTES.

1. By the act of 1785, ch. 72, sec. 12, this court is empowered to sell lands in which infants are interested. That provision is extended by the act of 1831, ch. 311, sec. 7, to cases where the parties are of full age. To give the court jurisdiction, under these acts, the bill should allege that a sale would be for the advantage of the parties, and the allegation must be established by admission, if the parties are of age, or by evidence, if not of age, and if so established, the court has power to decree a sale. *Mewshaw vs. Mewshaw*, 12.
2. Where a party who has trusted a mortgagor, knowing of the existence of a prior unrecorded mortgage, claims to stand upon a stronger equity than a party subsequently trusting the mortgagor, because the former knew of the unregistered mortgage, and the latter did not. Such a pretension is in conflict with the act of 1785, ch. 72, sec. 11. *Ohio Life Insurance and Trust Company vs. Ross & Winn*, 26.
3. A. died intestate, leaving uncles and aunts, and the children of uncles and aunts. HELD—
That under the act of 1820, ch. 131, sec. 4, the uncles and aunts are entitled to the whole real estate, to the exclusion of the children of the deceased uncles and aunts. *Levering vs. Heighe*, 81.
4. The general power of the Chancery Court to superintend trusts, is expressly preserved by the act of 1798, ch. 101, sub. ch. 12, sec. 16. *Swan vs. Dent & Richards*, 111.
5. Prior to the act of 1835, ch. 380, the general rule was, that a creditor, before he could, in equity, pursue property fraudulently conveyed, must have first obtained a judgment with respect to realty, and judgment and *fiert facius* where personal property was to be reached; yet, there are some exceptions to this rule.—*Ib.*
6. But the act of 1835, ch. 380, sec. 2, expressly exempts creditors from the obligation to obtain judgments before they can proceed in equity to vacate fraudulent conveyances. *Ib.*
7. To render an assignment valid under the 13th of Elizabeth, it is not enough to show that it was made for a valuable consideration, for that alone is not sufficient. It must also be *bona fide*. *Povoles vs. Dilley*, 119.
8. The title to property or claims transferred, or conveyed to a favored creditor, contrary to the provisions of the insolvent system, is, by the act of 1812, ch. 77, expressly vested in the trustee of the insolvent, and he alone is competent to sue for its recovery for the benefit of the creditors generally. *Ib.*
9. Under the act of 1802, ch. 111, authorizing the incorporation of churches, the persons elected, according to the provisions of the 2d section of that act, and not the congregation, constitute the corporation of the church. *Bethel Church vs. Carmack*, 143.
10. Whether a conveyance is fraudulent or not, under the statute of 13th Elizabeth, ch 5, depends upon its being made upon a good consideration and *bona fide*. It is not sufficient that it is upon a good consideration, or *bona fide*. It must be both, and if not, is void as to creditors; and the words, "good consideration," in the statute, must be understood to include valuable as well as good. *Glenn vs. Randall*, 220.