

TITLE XX.

INFANCY, IDIOCY, AND LUNACY.

Chap. 1....INFANTS' LANDS, HOW SOLD.

“ 2....IDIOTS AND LUNATICS.

“ 3....LUNATIC ASYLUM.

CHAPTER 1.

INFANTS' LANDS, HOW SOLD.

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1845.  
PAMPH. 99.

An Act relative to the sale and disposition of the real estates of infants.

Approved March 19, 1845.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey, as follows :*

Minors, in certain cases to be wards in chancery.

SEC. 1. Whenever an infant shall be seized of any lands or tenements, or be entitled to any term to come in any lands in this state, and it shall be represented to the chancellor, on behalf of said infant, by his or her guardian or next friend, that his or her interest requires that the said lands or term should be sold or disposed of, the chancellor may, in a summary manner, proceed to inquire into the merits of the application; and from such time the infant shall, as far forth as relates to such property, its proceeds and income, be considered a ward of the court of chancery.

Chancellor to appoint guardian.

SEC. 2. On every such application the chancellor shall, in his discretion, appoint a suitable guardian or guardians of the infant in the premises, who shall give bond to the infant, to be filed with the clerk of the court of chancery, in such penalty and with such surety as the chancellor shall direct, conditioned for the just and faithful performance of the trust reposed in such guardian, and for the observance of such orders and directions as the chancellor shall from time to time make in the premises in relation to such trust; which bond, if forfeited, may be prosecuted in any court having cognizance of the same, by the direction of the chancellor.

May direct sale of lands.

SEC. 3. After such bond shall be given and filed as aforesaid, the chancellor may proceed in a summary manner, by reference to a

master, to inquire into the merits of such application; and whenever, and as often as it shall satisfactorily appear to the court that the interest of the infant requires, or will be substantially promoted by a sale or other disposition of the lands or term of such infant, or of any part or parts thereof, the chancellor may direct a sale or other disposition of such lands or term to be made by the guardian or guardians, in such way and manner, and with such restrictions, as shall be deemed expedient; and all sales, dispositions, and conveyances, made in good faith in pursuance of, and in conformity with the direction of the court, when confirmed, as hereinafter mentioned, shall be valid and effectual as if made by such infant when of full age; *provided however*, that nothing in this act contained shall authorize the sale or disposition of any lands or term for years against the provisions of any last will or conveyance by which the same were devised or granted to such infant.

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SEC. 4. All sales and dispositions made in pursuance of this act shall be reported, on the oath or affirmation of the guardian or guardians aforesaid, to the chancellor, to be approved by him before a conveyance shall be executed; and if the sale or disposition is confirmed by the chancellor, and a conveyance directed to be executed, he shall then make order for the application and disposition of the proceeds of the same, and for the investment of the surplus belonging to such infant, so as to secure it to the infant in such way and manner as may seem most for his or her benefit and advantage; and a report of such investment or disposition shall also be made to the chancellor, by such guardian or guardians, on oath or affirmation as aforesaid, as soon as conveniently may be, and filed in the office of the clerk in chancery.

Sale, etc., to be approved by chancellor.

SEC. 5. No sale of any real estate, made in pursuance of the provisions of this act, shall give to any person any other or greater interest in the proceeds of such sale than he or she had or would have had in the lands, provided the same had not been sold; but the said proceeds shall be considered relative to the statutes of descents and distribution, and for every other purpose, as real estate of the same nature as the property sold.

Interest of purchaser in real estate.

SEC. 6. If the real estate of any infant, or any part of it, shall be subject to dower, and the person entitled thereto shall consent, in writing, to accept a gross sum, to be approved by the court in lieu of such dower, or the permanent investment of a reasonable sum with the like approval, in such manner as that the interest thereof be made payable to the person entitled to the said dower during life, the chancellor may, after such consent in writing has been filed in the clerk's office, direct the payment of such sum in gross, or the investment of such sum, as he shall deem reasonable and shall be

Chancellor may direct payment of a sum of money, in certain cases, in lieu of dower.

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acceptable to the person entitled to such dower, in manner aforesaid; which sum, so paid or invested, shall be taken out of the proceeds of the sale of the real estate of such infant so subject to said right of dower; *provided however*, before any such sum shall be paid, or such investment made, the chancellor shall be satisfied that an effectual release of such right of dower has been executed.

Guardian to  
account, etc.

SEC. 7. Such guardian or guardians, to be appointed as aforesaid, shall be liable to account, under the order of the court of chancery, before such master as the chancellor may designate from time to time, upon the application of any person or persons interested in the funds; and the report of such master, made thereupon, shall be liable to exceptions, as in other cases of master's reports requiring confirmation; and the chancellor shall have full power and authority to make all such orders and decrees in the premises as shall be necessary to give complete relief to the parties.

SEC 8. This act shall go into operation immediately after it becomes a law.

## CHAPTER 2.

### IDIOTS AND LUNATICS.

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| 1. Proceedings in chancery and orphans' court. | 9. On death, another appointed.             |
| 2. How supported, and debts paid.              | 10. Representatives to account.             |
| 3. Report, when lands sold.                    | 11. Of guardian accounting.                 |
| 4. Deed, what to set forth.                    | 12. Idiot, etc., not to be imprisoned.      |
| 5. Case of non-resident lunatic.               | 13. Proceedings when dangerous if at large. |
| 6. Guardian of such appointed.                 | 14. Overseer to furnish lists of.           |
| 7. Guardian's bond.                            | 15. When sent to asylum.                    |
| 8. When to give additional security.           | 16. Freeholders may act by committee.       |

### An Act concerning idiots and lunatics.

REV. 696.  
MAR. 43, 442.

Revision....Approved April 16, 1846.

1839-40.  
PAMPH. 37.  
1841-2.  
PAMPH. 138.  
1842-3.  
PAMPH. 82.

Proceedings  
in idiocy and  
lunacy.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That all cases of idiocy and lunacy shall be determined by an inquest, on a commission of idiocy or lunacy, issued out of the court of chancery and returnable thereto, and the proceedings thereon shall be as heretofore practiced, and in cases of idiocy or lunacy found, the chancellor shall cause to be transmitted to the orphans' court of the county where such idiot or lunatic may reside, a certified copy of all proceedings which may be had thereon, which shall be recorded and filed in the surrogate's office of said county; and the said orphans' court is hereby directed and required, on further application for that purpose, to

Orphans'  
court to ap-  
point guard-  
ian.

appoint some fit and discreet person or persons guardian or guardians of such idiot or lunatic; and if it shall so happen that the orphans' court of said county shall not be then sitting, it shall and may be lawful for any one of the judges of the said orphans' court, forthwith to call an orphans' court, to be holden at the usual place of holding said court, and the said orphans' court so convened, shall and may proceed to appoint such person or persons as guardian or guardians of the said idiot or lunatic, who shall have the care and safe keeping of said idiot or lunatic, his or her lands, tenements, goods and chattels, that the said idiot or lunatic may live and be competently supported and maintained by and out of his or her goods, chattels and the profits of his or her lands and tenements, and that no waste or destruction of his or her lands or tenements be done or permitted, and such lands shall in no wise be aliened, saving that the same be done by authority of this or some other statute of this state, but shall, upon the death of any such idiot, descend and go to his or her heirs, and the residue of the goods, chattels and profits of said idiot, after payment of his or her just debts, shall go to and be distributed according to law among his or her next of kin; and in case any such lunatic shall come to his or her right mind, that the lands and tenements, with the residue of the goods, chattels and profits of such lunatic, be restored to him or her, and in case he or she shall die in his or her lunacy, such lands and tenements shall descend and go to his or her heirs, and the residue of the goods, chattels and profits, after payment of his or her just debts, shall go to and be distributed according to law among such lunatic's next of kin.

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His duty.

Lands to descend at death,

or restored if he recover.

2. *And be it enacted,* That if any such idiot or lunatic is justly indebted to any person or persons, beyond his or her ability to pay the same out of his or her personal estate, or in case the personal estate of such idiot or lunatic, together with the profits of his or her lands and tenements, shall be insufficient for his or her support and comfortable maintenance, and that of his or her household, if any he or she shall have, it shall and may be lawful for the orphans' court of the county in which the lands and tenements of any such idiot or lunatic shall be situate, on full investigation of the situation and circumstances of the said idiot or lunatic's real and personal estate, and of the just debts, owing by him or her from time to time, to order the guardian of such idiot or lunatic to sell so much of the timber growing or being upon the lands of said idiot or lunatic, or such parts of the said idiot or lunatic's lands, tenements, hereditaments and real estate, as the said court shall direct and judge sufficient to pay his or her just debts, and proper

Court may order lands sold, if necessary.

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and necessary for his or her support and maintenance, and for the support of his or her household, if any he or she have.

Report to be made.

3. *And be it enacted*, That after the lands, tenements and real estate of such idiot or lunatic so ordered to be sold, shall be sold, the said guardian or guardians shall make report in writing, of all proceedings thereon, to the next orphans' court after such sale.

Deed, what to set forth.

4. *And be it enacted*, That the said guardian or guardians shall make a deed to the purchaser or purchasers, for the lands, tenements, hereditaments and real estate so sold, which deed shall set forth the said order at large and shall vest in the purchaser or purchasers, as good and perfect an estate in the premises so sold, as the said idiot or lunatic shall be seized of or entitled to at the time of making said order by the court.

Case of non-resident lunatic.

5. *And be it enacted*, That where any person residing out of this state hath been or shall be duly found or proved to be an idiot or lunatic, according to the laws of the state, territory, nation or kingdom, where such idiot or lunatic shall reside, it shall and may be lawful for the orphans' court of any county in this state, in which any property or estate of such idiot or lunatic may be found or situate, upon application made to them for that purpose, and upon exhibiting to the said court, and filing in the surrogate's office of such county an exemplified copy of the proceedings upon such inquest or finding of idiocy or lunacy, to make an order, that cause be shown before them at a certain time and place therein to be expressed, not less than thirty days, nor more than six months from the time of making such order, why a guardian should not be appointed for the said idiot or lunatic; which order shall be served or published in such manner as the said orphans' court shall direct.

Rule to show cause.

Publication.

Guardian of such appointed.

6. *And be it enacted*, That the said orphans' court at the time and place mentioned in the said order, or at such other time and place as they may then appoint, shall hear and examine the allegations and proofs of the party making such application, and of other persons interested, if any shall apply to be heard; and if the court upon examination, shall be of opinion that letters of guardianship for the said idiot or lunatic ought to be issued, then the said court shall appoint such person or persons as they may approve, guardian or guardians of the said idiot or lunatic.

To give bond.

7. *And be it enacted*, That every person appointed guardian as aforesaid, shall, before he enters upon the duties of his appointment, enter into bond to the ordinary of this state, and his successors in office, with two or more sureties, being freeholders, approved of by the orphans' court, in such sum as said court shall order and direct, conditioned that the said guardian shall well and truly take care of the person and estate of said idiot or lunatic, and

of all writings and evidences touching his or her lands, and render the same to such person or persons as by law are or may be entitled to receive the same, and render a just and true account of the rents, issues and profits of the real estate of the said idiot or lunatic, and if any part should be ordered to be sold, that he or she will render a just and true account of the money arising on the sale thereof, and in the meantime improve the said lands and tenements to the best advantage, and that he or she commit no waste or destruction thereof or thereon, and also, that he or she will render a true account of the expenditures and disbursements of the goods, chattels and personal estate of said idiot, or lunatic, that shall come to his or her hands.

8. *And be it enacted*, That the orphans' court, when they shall know, or have cause to suspect that the sureties of a guardian of any idiot or lunatic, or any of them, are or is failing, or in dubious circumstances, may require said guardian to give additional surety or sureties, and if he or she refuse or neglect so to do, may displace him or her, and on application, appoint another person guardian to said idiot or lunatic.

When guardian to give additional security.

9. *And be it enacted*, That in case of the death of any guardian of any idiot or lunatic appointed under this act, it shall be lawful for such orphans' court forthwith to appoint another guardian for such idiot or lunatic, if said court be then sitting; and if the said orphans' court be not then sitting, it may be lawful for any one of the judges of said court to call a special orphans' court for that purpose, in the manner directed in the first section of this act.

Upon death of guardian, another appointed.

10. *And be it enacted*, That whenever a new guardian is appointed as aforesaid, upon the death of a former guardian of any idiot or lunatic, the executor or executors, administrator or administrators of every such deceased guardian, shall account to such new guardian for all property of such idiot or lunatic in their possession or under their control, or, if required, shall account for the same before the said orphans' court, upon a citation issued for that purpose, at the instance of such new guardian.

Representatives to account.

11. *And be it enacted*, That it shall be the duty of every guardian of any idiot or lunatic, once in three years, and oftener in case the orphans' court shall so order and direct, to render to the orphans' court, from whom he or she received his or her appointment as guardian, a true account of his or her administration of the estate of the said idiot or lunatic, and he or she may be cited by the said court to do the same, on the application of any one of the heirs or next of kin, to the said idiot or lunatic; and on the death of any such idiot or lunatic, or the coming of sane mind of any lunatic, the guardian of such idiot or lunatic may be compelled

How, when, and to whom guardian to account.

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Proceeds of real estate considered as real estate.

12. *And be it enacted,* That no idiot or lunatic, during the time of his or her lunacy, shall be or stand committed or detained in prison for want of bail, or his or her body taken in execution, in any civil action or in any action for a penalty; and in case any idiot or lunatic shall be arrested and detained in custody, in any civil suit, contrary to the true intent and meaning of this act, he or she shall be discharged, on motion, by the court out of which the process issued, on which he or she is so held in custody, or upon a writ of habeas corpus issuing out of the court of chancery or the supreme court, and allowed by the chancellor, or one of the justices of the supreme court, returnable forthwith, before the chancellor, or any one of the justices of the supreme court.

Idiot or lunatic not to be imprisoned.

Habeas corpus may issue.

13. *And be it enacted,* That it shall and may be lawful for any two justices of the peace of the county in which any lunatic furiously mad or dangerous to be permitted to go at large, shall be found, by warrant under their hands and seals, directed to the overseer or overseers of the poor of the city or township in which such lunatic or mad person may be found, to cause such person to be apprehended, and kept safely locked up and chained, if necessary, in some secure place, within such city or township, or within the county in which said city or township shall be situate, as such justices shall, by their warrant, direct and appoint, in case the last legal settlement shall be in a city or township in the said county; but in case the last legal settlement of such lunatic or mad person, shall not be in any city or township within the county where such person shall be found, then such person shall be sent to the place of his or her last legal settlement, in the manner directed in and by the laws relating to the poor, and shall be locked up and chained, if necessary, in some secure place, by warrant from two justices of the peace of the county, to which such person shall be sent in

Proceedings when lunatic dangerous if at large.

To be sent to place of settlement.

manner aforesaid ; and in case the last legal place of settlement is not known, or cannot at the time be ascertained, it shall and may be lawful for any two justices of the peace in and for said county, by warrant under their hands and seals, directed to some one or more of the constables or overseers of the poor of the city or township within such county, to cause such person to be apprehended and conveyed to any place provided in said county for the reception of maniacs or lunatic persons ; and in case no such place be provided in such county, to be conveyed to the jail of said county for safe keeping ; and it shall be the duty of the sheriff of such county, and he is hereby required to receive into his custody such lunatic or mad person, and safely to keep him or her until the last legal place of his or her settlement shall be ascertained ; and in case no such settlement can be discovered, then until some order on the subject shall be taken by the court of common pleas, whose duty it shall be to decide thereon, and the reasonable charges for apprehending, maintaining, keeping and removing such person, shall be made and levied of the goods and chattels of such person, by warrant of distress, from two justices of the peace of the county where such goods and chattels may be found ; but in case sufficient goods and chattels of such lunatic or mad person cannot be found, the charges aforesaid shall be paid and satisfied by the overseers of the poor of the city or township in which such person shall be legally settled, in the manner in and by the poor laws directed for maintenance and support of the poor ; and in case the last legal settlement is not known or cannot at the time be ascertained, the said charges and expenses shall be paid and satisfied by the county wherein such person shall have been apprehended ; *provided*, that if the last legal place of settlement of such lunatic or mad person shall be discovered and ascertained, then and in that case, the charges and expenses aforesaid shall be reimbursed to the county where such expenses may have occurred, by the city or township where such settlement may be ; *and provided always*, that this section, or any thing therein contained, shall not extend to, or be construed to restrain or abridge the power or authority of the chancellor, orphans' court or guardian, touching and concerning such lunatic or mad person, nor to prevent any of the friends or relations of such person from taking him or her under their own protection, so long as such friends and relations shall take care of and safe keep him or her.

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Sheriff to  
keep.

Charges.  
how paid.

Provisoes.

Overseers to  
furnish lists.

14. *And be it enacted*, That it shall be the duty of the overseers of the poor of the several townships in each and every county in this state, to make out and furnish to the board of chosen freeholders of the county in which said townships are situated, a list of all

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the poor lunatics and idiots within the bounds of their townships, stating the age of such lunatics or idiots, when such lunacy commenced, what means (if any) they have for support, with all other facts connected with each case, calculated to give information of their actual state and condition.

When sent  
to asylum.

15. *And be it enacted*, That the said board of chosen freeholders shall, at their annual meeting, cause an examination to be made into the condition and circumstances of such idiots and lunatics; and if it shall appear to them that there is reasonable ground to believe that any of such persons can be restored to their right mind, it shall be their duty to cause such persons, under a warrant, signed by the director of the board, to be taken to a lunatic asylum in one of the adjoining states of New York or Pennsylvania, and there supported at the expense of such county, for such time as they may deem necessary and expedient for a fair trial to recover such person; *provided*, they can be maintained at such asylum at the same rates at which they respectively maintain the pauper lunatics of the several states in which they are situated; *and provided further*, that the use of asylums in other states shall be continued only until an asylum in this state shall be completed and ready for the reception of idiots and lunatics.

Provisoes.

Freeholders  
may act by  
committee.

16. *And be it enacted*, That it shall and may be lawful for such board of chosen freeholders to appoint a committee of said board to act in the intervals between the fixed and general meetings, if they shall deem it expedient so to do, of such number and with such powers as they shall deem proper.

## CHAPTER 3.

## LUNATIC ASYLUM.

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| <ol style="list-style-type: none"> <li>1. Commissioners to select site.</li> <li>2. Purchase land.</li> <li>3. Treasurer to pay.</li> <li>4. Contract for building, etc.</li> <li>5. Commissioners' bond.</li> </ol> |  | <ol style="list-style-type: none"> <li>6. How moneys paid.</li> <li>7. Report to be made.</li> <li>8. Pay of purchasing commissioners.</li> <li>9. Pay of building commissioners.</li> <li>10. Accounts to be audited.</li> </ol> |
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1845.  
PAMPH. 164.

An Act to authorize the establishment of the New Jersey State Lunatic Asylum.

Approved March 26, 1845.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey, as follows:*

Commission-  
ers to select  
site for asy-  
lum.

SEC. 1. Daniel Haines, of Sussex, Thomas Arrowsmith, of Monmouth, John S. Condit, of Hudson, Joseph Saunders, of Glouce-

ster, and Maurice Beesley, of Cape May, are hereby appointed and constituted commissioners for the purpose of selecting a suitable site on which may be erected the State Lunatic Asylum of New Jersey.

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SEC. 2. The said commissioners, or a majority of them, shall have power to purchase, at any price not exceeding ten thousand dollars, or receive by gift, a site for the location of said asylum, and so much land, under assured title, as shall be deemed necessary for farming and gardening purposes; and there shall be on the premises facilities for obtaining ample and unfailing supplies of pure soft water.

To purchase  
land, etc.

SEC. 3. Whenever the said commissioners shall procure a site for said asylum, and a good and sufficient title therefor shall be duly executed and delivered, the treasurer of the state is hereby directed to pay, on the warrant of the governor, to the grantor or grantors of whom the said site shall have been purchased or obtained as aforesaid, such sum or sums of money as may be required to pay for the said site, agreeably to the contract of said commissioners, not exceeding said sum of ten thousand dollars.

Treasurer  
authorized  
to pay pur-  
chase mo-  
ney.

SEC. 4. At any time after said site shall be obtained by said commissioners, not exceeding three months, the governor shall appoint three commissioners to contract for the erection of said asylum, on such plan and terms as they shall deem just and proper, always providing that said plan shall embrace the most approved construction for such buildings, conducing to the comfort and economical management of the institution; and further providing, that said plan and terms of the said contracts shall be approved by the governor; and it shall be the duty of said commissioners, or one or more of them, to superintend the building of said asylum, with a view to the due execution of the work on the part of those with whom they shall contract for the erection thereof; and in case of the death, inability, or refusal to serve of one or more of said commissioners, the governor shall have power to fill such vacancy.

Commission-  
ers to con-  
tract for  
building asy-  
lum.

SEC. 5. The said last named commissioners, before entering on the duties of their office, shall give their bonds, with two or more sufficient sureties, to be approved by the governor, jointly and severally to the state, in the penal sum of ten thousand dollars, conditioned for the faithful performance of the duties required of them by this act.

To give  
bond.

SEC. 6. The treasurer of the state is hereby directed to pay to the said commissioners, on the warrant of the governor, out of any moneys in the treasury not otherwise appropriated, such sum or sums of money as they may require for the building of said asylum,

Treasurer to  
pay money  
required for  
building.

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not exceeding twenty-five thousand dollars; the secretary of state shall audit the accounts of said commissioners.

Commissioners to make report.

SEC. 7. It shall be the duty of the commissioners to make a detailed report of all the moneys expended by them by virtue of this act, and of the progress which shall have been made in the erection of said buildings, to the governor of the state, on or before the first day of January next, and as often thereafter as the governor shall or may from time to time require.

Compensation to commissioners.

SEC. 8. Each of said commissioners first mentioned in this act shall be allowed for his services, while actually employed in the duties of his appointment, the sum of three dollars per day.

Compensation to commissioners to superintend building.

SEC. 9. Each of said commissioners, appointed by virtue of this act to contract for and superintend the building of the said asylum, shall be allowed for his said services, while actually employed in the duties of his office, the sum of two dollars per day.

Secretary of state to audit the accounts.

SEC. 10. The secretary of state shall audit the accounts of the commissioners for services, and, upon his certificate, the treasurer shall pay the same.