

# MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

TWENTY-SEVENTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1847.

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1847.

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PUBLIC LAWS

OF THE

STATE OF MAINE,

1847.

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## CHAP. 32.

## Chapter 32.

An act to secure a certain amount of property from attachment.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

Certain property  
exempt from at-  
tachment.

SECT. 1. Any person who may raise, purchase or become owner of, in any legal manner, one pair of oxen, steers or bulls, shall be allowed to keep the said cattle, the same as though he or she raised them, as is provided in the one hundred fourteenth chapter of the revised statutes.

Same subject.

SECT. 2. Any person may keep one or two horses, instead of oxen, which he may raise, purchase or become the owner of, in any legal manner, provided the said horse or horses shall not exceed in all, the value of one hundred dollars, which horse or horses shall be subject to the same exemption as is provided for oxen in the thirty-eighth section of the one hundred and fourteenth chapter of the revised statutes.

[Approved August 2, 1847.]

## Chapter 33.

An act to modify and revise all acts for the government of the Insane Hospital, and for other purposes.

*Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :*

Trustees, how  
appointed.

Term of office.

Vacancies, how  
filled.

SECT. 1. The government of the Maine Insane Hospital is, and shall be vested in a board of six trustees, to be appointed by the governor and council, for the term of three years, classed in the same manner as they have heretofore been—all vacancies occurring before the expiration of commission, shall be filled by the governor and council for the remainder of the term; the trustees now in commission to be re-appointed, or others appointed in their stead, when their present commissions expire.

Duties of trust-  
tees.

SECT. 2. The said trustees shall have in charge the general care and management of the institution, and see that its affairs are conducted according to the requirements of the legislature and the by-laws and regulations, which the trustees shall establish for the internal government and economy of the institution; they shall have power to enact by-laws for its regulation and management, not repugnant to the laws of the state; and shall hold in trust for the state, any grant, devise of land, or any donation or bequest of

money, or other property, made, or to be made, to be applied to the maintenance, comfort, or improvement of insane persons, and the general use of said institution. They shall also be authorized in the name of the treasurer, to bring actions for the recovery of all debts due to the institution, and to answer to all suits that may be brought against them.

SECT. 3. The trustees shall appoint a superintendent, and they shall also, in conjunction with the superintendent, appoint a steward, and such other officers as, in their opinion, may be necessary, for conducting efficiently and economically the business of the institution; and all appointments made by them shall be made in such manner, with such restrictions, and for such terms of time, as the by-laws may prescribe; and the salaries of all the officers so appointed shall be determined by the trustees, subject to the approval of the governor and council.

Officers of hospital, how appointed.

Salaries.

SECT. 4. The superintendent, who shall be a physician, and reside constantly at the hospital, shall have the general superintendance of the hospital and grounds; the charge of the patients; the direction and control of all persons therein, subject to the regulations of the board of trustees. He shall annually report to the governor and council the condition and prospects of the institution under his care, accompanied with such remarks and suggestions in regard to its management, and the general subject of insanity, as, in his judgment, shall be calculated to promote the cause of science and the interest of humanity.

Duties of superintendent.

SECT. 5. The steward, who shall also be treasurer, shall have the immediate custody of the funds of the institution, and shall give bonds to the trustees, in such amount, and with such sureties, as they shall deem sufficient, for their safe keeping and proper disbursement. He shall, under the advice and direction of the superintendent, as well as of the trustees, make all necessary purchases of supplies and provisions; hire attendants and other laborers; see to the proper cultivation of the farm and grounds; and have a careful oversight of the patients whenever employed thereon. He shall also attend to and perform such other duties as the trustees shall direct, and shall annually make a detailed report to them of his receipts and expenditures, and of the financial affairs of the institution.

Duties of steward.

SECT. 6. There shall be thorough examinations of the hospital, monthly, by two of the trustees; quarterly, by three; and annually, by the whole board, or a majority thereof, as well as at such other times as they may deem necessary, or the superintendent shall request. And, at each visit, a written account of the state of the

Visitations by the trustees.

**CHAP. 33.**

Annual reports.

institution shall be drawn up by the visitors and recorded, which shall be presented at the annual meeting of the trustees, to be holden in the month preceding that on which the legislature assembles; and, at said annual meeting, a full and detailed report shall be made, to be laid before the governor and council, together with those of the superintendent and steward, during the first week, if not earlier, of the then next annual session of the legislature, for the use of the government, exhibiting a particular statement of the condition of the hospital, of its concerns and wants; and all these reports shall be made up to the last day of the month next but one preceding that in which the legislature commences its first session annually, inclusive. The trustees shall also, at the next meeting, after the expiration of every quarter, examine carefully the books and vouchers of the steward and treasurer, and audit and settle his accounts; and for all visits made and devoted to the hospital, the trustees shall receive two dollars per day for the time spent, and, for their travel, the same compensation as is allowed to the members of the legislature, their accounts to be audited by the governor and council; and the governor is hereby authorized to draw his warrant on the state treasurer for the amount found due to the trustees and other officers of the institution, the attendants on the patients and laborers on the premises not included.

Books of steward and treasurer examined quarterly.

Pay of trustees.

Duty of parents of insane children and guardians of insane wards.

Proviso.

Duty of mayor and aldermen and selectmen, to examine and decide on cases of insanity.

**SECT. 7.** It shall be the duty of parents to send their insane children, and guardians their insane wards, being minors, to the insane hospital within thirty days of the attack of insanity, if they are able to pay for supporting them there, in which case they shall file with the treasurer of the hospital the bond required in such cases—all such cases may be sent to the hospital without any legal examination; *provided*, that nothing contained in this act shall debar any parent, guardian or friend, committing such insane person to any other hospital for the insane, if so committed within thirty days of the attack of insanity.

**SECT. 8.** All insane persons not sent to the hospital by parents or guardians as provided in the preceding section, shall be the subjects of legal examination, as hereinafter directed. The mayor and aldermen of cities, and selectmen of towns shall, in their several cities and towns, constitute a board of examiners, whose duty shall be, upon complaint in writing of any relative of such insane person or persons, or of any justice of the peace or quorum in the town where such insane person or persons reside, to inquire into the condition of every insane person in their cities and towns and adjacent plantations, so soon as the existence of such case shall come to their knowledge, and they are hereby authorized and re-

quired, to call before them such testimony as shall be necessary to a full understanding of the case, and if it shall appear to them that the person is insane, and they shall be of opinion that the comfort and safety of the patient or others interested will be promoted by a residence in the insane hospital, it shall be their duty to send such person forthwith to that institution, accompanied with a certificate stating the fact of insanity, and also the city or town in which the patient resided, was commorant or found at the time of arrest and examination, ordering the superintendent to receive and detain him or her in his care until he or she shall become of sound mind, or be otherwise discharged by order of law, or by the superintendent or trustees. And it shall be the duty of the superintendent to receive all patients legally sent to the hospital, unless the number shall exceed the accommodation provided by the state.

SECT. 9. In all cases decided by the mayor and aldermen or selectmen as aforesaid, the right of appeal shall be granted to any corporation or individual who may deem themselves or the patient injured thereby, whether the decision shall have been for or against the fact of insanity, or committal. The person or persons claiming an appeal shall make application therefor in writing to the mayor and aldermen or the selectmen, as the case may be, within twenty-four hours of the decision having been made known, stating their wishes, and naming a justice of the peace and of the quorum on their part, residing in the same city or town or one adjoining, to sit and hear the appeal, specifying the time and place for the hearing, which shall be in the same city or town in which the insane person resides, or one adjoining, and the time within three days of that of making the request; the appellant shall notify and procure the attendance of said justice, if in his power, if not, another may be substituted in his room. The said mayor and aldermen or selectmen shall select another justice of the peace and of the quorum to sit with the former, and they two shall have power to call before them such testimony as they may deem proper, and shall hear and determine all matters brought before them touching the premises, and if they shall find the person insane they shall say so, and if they are of opinion that he or she will be more comfortable or safe to him or herself or others, they shall give an order under their hands for the conveyance to, and detention of him or her in the insane hospital, until he or she shall become of sound mind, or be otherwise legally discharged. They shall certify in said order that said person is insane, and also the city or town in which said insane person was residing commorant, or found at the time of arrest and examination.

Remedy, when  
appeal is made  
from their decision.

**CHAP. 33.**

Duties of justices of the peace when mayor and aldermen or selectmen neglect or refuse so to examine and decide.

**SECT. 10.** If the mayor and aldermen of any city, or selectmen of any town shall refuse or neglect to examine and decide on any case of insanity now existing, or which may hereafter exist in their respective cities or towns, complaint may be made by any relative of said insane person, or by any other respectable person, to two justices of the peace, one of whom shall be of the quorum, and said justices shall as soon as may be, sit in some place within said city or town, or one adjoining, and hear and decide on the case; and they are hereby authorized and required to call before them such testimony as they shall deem proper, and they shall inquire into and determine both as to the insanity, as well as to all other matters touching the case—and if they find the person insane they shall so decide, and if, in their opinion the patient would be rendered more comfortable and safe to himself or herself and others, by a residence in the hospital, they shall, by an order under their hands, send said insane person to the hospital, and they shall certify the fact of the insanity, and also the city or town in which he or she resided, was commorant or found at the time of the arrest and examination—and direct his or her detention in the insane hospital until he or she shall become of sound mind, or be otherwise legally discharged.

Commitments to be accompanied by certificates, stating the residence of such insane persons.

**SECT. 11.** All commitments made to the insane hospital by judges of courts, as provided by chapter one hundred and seventy-three of the revised statutes, and one hundred and eight of the statutes of the year eighteen hundred and forty-four, by the mayor and aldermen of cities or selectmen of towns, or by justices of the peace and quorum, in conformity with this or any other law of the state, shall be accompanied by a certificate, stating the city or town in which the insane person so committed resided, was commorant, or was found, at the time of the original arrest and examination, whether ordered to the insane hospital on the first or any subsequent process; and such certificate shall be deemed sufficient evidence to render such city or town liable for the expense of committing to, and supporting in, the insane hospital, such insane person, in the first instance. In all cases in which the friends or others shall file the necessary bond with the treasurer of the hospital, no city or town shall be made liable for the support of such insane person, unless a new action shall be had in the case, in consequence of the patient, or his or her friends, being longer unable to support him or her; which action may be had in the same manner, and before the same tribunal, as if the patient had never been admitted to the hospital. No provision of this act shall prevent any city or town, which has been made

Expenses of insane persons, how paid.



chargeable, and shall have paid for committing and supporting any insane person in the hospital, from recovering the same of the patient, if able, or of his or her friends liable for his or her support; nor from recovering the same from any city or town, in the same manner as if incurred for the ordinary expense of any pauper; and, if the said insane person has no legal settlement in this state, the expenses of committing and supporting said insane person shall be refunded to said city or town by the state. And no person shall, on account of any support rendered to him or her, as an insane person, suffer any of the constitutional or legal disabilities incident to pauperism; nor shall said insane person hereafter be deemed a pauper in consequence of said support.

Insanity, no cause of pauperism.

SECT. 12. When any insane person shall have been in the insane hospital six months, and any friend or person liable for his or her support, or any city or town supporting such patient, may, if they think the patient unreasonably detained, apply to two justices of the peace and quorum, whose duty shall be to inquire into the case, and to summon before them, in the town of Augusta, such testimony as they may deem proper; and their decision and order shall be binding on the parties. They shall tax the legal costs, and determine who shall pay them. Such appeal, if unsuccessful, shall not be again resorted to, until the expiration of another six months.

Remedy, when the parties liable for the support of any insane person think him unreasonably detained.

SECT. 13. When any adult male or unmarried female, being insane, shall be sent to the insane hospital, under any of the provisions of this act, having property or effects, the judges of probate in their respective counties, are hereby authorized and required, on receiving the certificate of the mayor and aldermen of the city or selectmen of the town where such insane person has his or her residence, that it will be for the interest of said insane person to have a guardian and trustee appointed, to hold in trust the property of such insane person, and to prevent waste thereof, to appoint forthwith some suitable person in the county, where that insane person has his or her residence, to be guardian and trustee to said insane person, and he shall give bond to the judge of probate, as in cases of guardians, and shall be reasonably compensated for his services, to be audited and allowed by the judge of probate, and paid out of the estate of the insane. It shall not be necessary to serve notice on an insane person to appear at probate courts, as is provided by law in other cases, when application for guardianship is to be considered, nor for city and town officers to do so when the insane person is in the hospital. It is provided also, that such guardian and trustee shall not be required to return an inventory to the judge of probate of the effects of said ward, nor exercise any other of the

Judges of probate to appoint guardians in certain cases.

CHAP. 33.

powers and duties of guardian for the term of one year from the date of his appointment, except so far as may be necessary for the support of the insane, or his or her family, and to prevent loss of his or her property.

Insane persons not to remain in jail or house of correction.

SECT. 14. No insane person shall be committed to, or remain in any jail or house of correction in this state either by the provisions of chapter one hundred and seventy-three of the revised statutes, or of any law of this state, for a longer time than may be necessary to make provision for him or her in the insane hospital.

Persons charged with a criminal offence, may be committed to the hospital when plea of insanity is made.

SECT. 15. When any person shall be charged with a criminal offence in this state, any judge of the court before which he or she is to be tried, on notice that a plea of insanity will be made, or when such plea is made in court, may, if he deems proper, order such person into the custody of the superintendent of the insane hospital, to be by him detained, and observed until the further order of the court, in order that the truth or falsehood of the plea may be ascertained.

Inmates of the state prison, becoming insane, shall be sent to the hospital.

SECT. 16. When any inmate of the state prison shall become insane, the warden shall notify the governor and council of the fact, and the governor with advice of the council, shall appoint a commission of two or more skilful physicians, to investigate the case—and if found insane by their examination, he or she shall be sent to the insane hospital, until he or she shall become of sound mind—and if this event shall take place before the expiration of the time he or she was sentenced, he or she shall be returned to prison. If said term has expired, he or she shall be discharged free. The expenses of the commission, removal and support, shall be paid by the state.

Mayor and aldermen, selectmen, and justices, to keep a record and furnish copies.

SECT. 17. The mayor and aldermen of cities, selectmen of towns, and justices of the peace, sitting and deciding any of the cases provided for in this act, shall keep a record of their doings, and furnish a copy to any person interested, who may call and pay for the same. And the justices deciding an appeal, shall be entitled to receive for their services two dollars a day, and ten cents a mile for travel, and they shall determine which party shall pay the same. And in all cases where justices have original jurisdiction they shall charge the same fees as they would by law be entitled to charge on a criminal examination, to be paid by the city, town or persons liable in the first instance to pay for committing to and support in the hospital.

Justices fees.

Duty of cities and towns, if commitment be ordered by justices.

SECT. 18. Whenever the justices mentioned in this act shall order a commitment to the insane hospital, it shall be the duty of the mayor and aldermen of the city, or selectmen of the town in

which the insane person resides, or such other person as the justices shall direct, to cause said order to be complied with forthwith, at the expense of said city or town. And said justices shall decide the amount of expense of said commitment, and certify the same, after the service has been performed.

SECT. 19. When any city or town shall be chargeable for the support of any insane person at the hospital, it shall be the duty of the overseers of the poor thereof, on notice by mail from the superintendent that said patient has recovered of his or her insanity, to remove or cause the same to be removed to said city or town; and if they shall neglect to do so for the term of fifteen days, it shall be the duty of the superintendent to cause such removal at the expense of said city or town.

When insane persons chargeable to cities or towns have recovered, how removed.

SECT. 20. All that part of chapter one hundred and seventy-eight of the revised statutes relating to insane persons, the thirty-sixth chapter, passed eighteenth of March, one thousand eight hundred and forty-two; the nineteenth chapter, passed March twenty-second, one thousand eight hundred and forty-three; chapter eighty-fifth, passed February fifteenth, one thousand eight hundred and forty-four; chapter two hundred and twenty-fifth, passed August tenth, one thousand eight hundred and forty-six; chapter two hundred and seventh, passed August eighth, one thousand eight hundred and forty-six, are hereby repealed; chapter one hundred and seventy-three of the revised statutes is so far modified as to comport with the provisions of this act. *Provided*, that nothing contained in this act shall be construed to affect any process or action which has been instituted under previously existing laws.

Inconsistent provisions, repealed.

R. S., ch. 173, modified.

Proviso.

[Approved August 2, 1847.]

### Chapter 34.

An act relating to the competency and credibility of witnesses.

*Be it enacted by the Senate and House of Representatives in Legislature assembled*, as follows:

No person shall be deemed an incompetent witness on account of his or her religious professions or opinions, but shall be subject to the test of credibility; and any person who shall not believe in the existence of a Supreme Being shall be permitted to testify under solemn affirmation, and shall be subject to all the pains and penalties of perjury.

No person an incompetent witness, &c.

[Approved Aug. 3, 1847.]