

CANCELLED

LEGISLATION ON INSANITY.

A COLLECTION OF ALL THE

LUNACY LAWS

OF THE

STATES AND TERRITORIES OF THE UNITED STATES

TO THE YEAR 1883, INCLUSIVE.

ALSO

THE LAWS OF ENGLAND ON INSANITY,

LEGISLATION IN CANADA ON PRIVATE HOUSES,

AND IMPORTANT PORTIONS OF THE

LUNACY LAWS OF GERMANY, FRANCE, ETC.

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1884.

KENTUCKY.

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1. The three lunatic asylums of this state shall be, and are hereby, continued under their present organization and the control of their present commissioners; and the commissioners, superintendents, stewards, and other officers shall hold their offices for the term for which they were respectively appointed, but subject to removal according to law. Each asylum is declared to be a body-politic and corporate, for the benefit of the state—that at Lexington, by the name of the “Eastern Kentucky Lunatic Asylum;” that at Hopkinsville, by the name of the “Western Kentucky Lunatic Asylum;” and that at Anchorage, by the name of the “Central Kentucky Lunatic Asylum;” and as such shall have perpetual succession; may have and use a common seal; may make contracts; may sue and be sued; may receive any gifts or devises in aid of objects of its institution; and shall have all other rights and powers, incident to corporations, which are necessary and proper for carrying out the purposes for which it was established. The said corporations are severally invested with the title to all the property and rights of action now held by the institutions respectively.*

2. The board of commissioners for each asylum shall be composed of nine discreet business men, residing within six miles of the asylum, appointed by the governor by and with the consent of the senate, and he may fill vacancies that happen, in the recess of the senate, by granting commissions, which shall expire at the end of its next session. The term of office of each commissioner shall be six years, except the boards appointed first after the passage of this act. The board of commissioners of each and every of said asylums, at their first meeting, which shall be held at their respective asylums

* This act of 1876 and its amendments will also be found in General Statutes of 1881 as chapter 73.

on the first day of May, 1876, shall divide by lot their respective boards into three classes; three commissioners shall be allotted to each class, and the seats of the first class shall be vacated on the first day of January, 1878; that of the second class vacated two years thereafter; that of the third class vacated four years thereafter from the first day of January, 1878, and so one class of three commissioners shall vacate every two years. Each commissioner, before entering upon the trust, shall take an oath that he will well and faithfully discharge the duties thereof.

Board to be divided into classes.

Commissioners to take oath.

3. The governor is hereby authorized to appoint the commissioners for the respective asylums from the county in which the asylum is situated.

Act of 1876, ch. 1012, § 1. Appointment.

4. (1) The commissioners shall elect one of their own number president of the board. A majority shall constitute a quorum, but a concurrence of not less than a majority of all the board shall be necessary for the allowance of any claim or the transaction of any other business; and such proceedings shall not then be binding until the record thereof shall have been approved and signed by the president, and countersigned by the secretary.

Act of 1876, ch. 900, § 3. Board to elect own president; majority is a quorum; record must be signed by president, attested by secretary.

(2) They shall have the general management and control of all the land, buildings, funds, books, papers, and other effects and property of their respective asylums, and shall cause them to be used and applied in the way best calculated, in their judgment, to promote the objects for which the institution was established. They shall cause all state appropriations to be used as directed by law, and all private donations and grants to be sacredly applied to the purposes specified by the donors or the grantors; but the state reserves full control over the institutions, their officers, and affairs.

Board to have management.

(3) They shall make such by-laws and regulations as they may deem necessary for the government of the institutions and of all officers and employes connected with them.

By-laws.

(4) They shall hold regular meetings at the asylums at least once in each month, and oftener, if the interests of the institution shall require. Meetings may be called by the president or any two commissioners. They shall

Monthly meetings and inspections.

maintain a vigilant inspection of the asylums, for which purpose one of them shall visit them every week, two in each month, a majority in each quarter, and the whole board once in every six months, in the manner and at times prescribed by the by-laws. The visiting commissioners shall note in a book

**Visits re-
quired of
commission-
ers.**

**Three
months' non-
compliance
vacates office.**

kept for the purpose the date of each visit, the condition of the house, patients, etc., with such remarks as may be deemed necessary. Any commissioner who cannot or will not comply with his duty as visitor for three months shall vacate his office, and the president shall report the same to the governor, who shall fill the vacancy.

(5) They shall appoint a secretary and treasurer and matron

**Secretary and
treasurer, ap-
pointment—
terms of office.**

**No officer
shall sell any-
thing to asyl-
lum.**

**Office of sec-
retary and
treasurer not
to be held by
same person.**

person.

(6) They shall keep a record of all their proceedings, which,

**Record of all
proceedings
to be kept,
and subject to
inspection.**

together with the books of the secretary, treasurer, and steward, and other officers, and all books and papers of the institutions, shall always be open to the inspection of the superintendent or any commissioner, the governor, a committee of the legislature, or any person appointed by either the governor or the legislature for their examination.

5. There shall be for each asylum a medical superintendent,

**Ibid § 4.
Officers of asy-
lums, how ap-
pointed and
term of office.**

who shall be a skilful physician, and a steward; and for the eastern Kentucky asylum a first and a second assistant physician; and for the central Kentucky asylum, one assistant physician. These officers shall reside in the asylum. They shall be appointed by the gov-

**Vacancies
filled by gov-
ernor.**

ernor, by and with the advice and consent of the senate; and he may fill vacancies that happen dur-

**Subject to re-
moval by gov-
ernor.**

ing the recess of the senate, by granting commissions that shall expire at the end of its next session. Their term of office shall be four years; but they shall

be subject to removal by the governor at his discretion. These officers, and also the treasurer and matron, shall receive such compensation as is now provided by law, except as otherwise provided herein; and the salaries of all officers shall be paid out of the general appropriation made by the state for the support of the institution.

Compensation, how paid.

6. (1) The medical superintendent shall have the general management, supervision, and control of the asylum and patients, subject to the regulations of the board of commissioners, and shall devote his entire time thereto. He shall keep a register of all patients, showing their names, ages, residences, dates of reception and discharge or death by whose authority received or discharged, and whether they are pay patients or paupers.

Ibid § 5. Medical superintendent, duties of.

(2) The superintendent shall appoint all such other inferior officers and employes (not otherwise provided for in this act) as he may deem necessary for the proper management of the institution, and he may remove any of them at pleasure and fill their places with others.

Other inferior officers to be appointed by sup't.

(3) It shall be the duty of the superintendent to appoint a receiver, to be approved by the commissioners, whose duty it shall be to receive all goods and supplies of any and all kinds purchased for the use of the asylum; take charge of them, see that they correspond with the bills accompanying them in character, quantity, and quality; weigh or measure the same, and distribute them to each and every department of the asylum as the superintendent may direct by written order; and in a book kept for the purpose open an account with each and every department, charging therein cost price for all goods so received and distributed. This book shall be open at any and all times for the inspection of the superintendent, any commissioner, and of the governor, a committee of the legislature, or any person appointed by either for the examination.

Receiver, appointment and duties of.

7. In case of the sickness or absence of the superintendent, his duty shall be discharged by the first assistant physician; and if the first assistant be absent or sick, then by the second assistant physician, if there be any.

Ibid § 6. Absence of superintendent.

8. The treasurer, before acting as such or receiving any funds of the institution, shall execute covenant to

Ibid § 7. Treasurer to

give bond, \$30,000 every two years. the commonwealth in the sum of thirty thousand dollars, with sufficient sureties, approved by the governor, and by the respective county judges of the county in which the asylum is situated, for the safe-keeping and proper disbursement and appropriations of all money, and other means and effects, which may come to his hands as such, and for the faithful discharge of all other duties devolved upon him. These covenants shall be renewed once in every two years, and oftener, if required by the board. Suit for any breach thereof may be brought, in the name of the commonwealth, for the use of the asylums, and of any other person interested, upon order of the board of commissioners.

9. (1) The treasurer, under order of the board of commissioners, shall receive from the treasurer of the state all moneys appropriated for the use of the asylum, and receipt to him therefor. It shall be his duty, also, to receive, collect, sue for, and pay out all moneys due and belonging to the asylum, and he shall settle his accounts with the board at least once in every three months, and with the auditor in the month of December of every year.

(2) He shall make to the governor, quarterly, a report of the financial condition of the asylum, including a detailed statement of the income and expenditures for the quarter.

(3) He shall keep all the money coming to his hands as treasurer to his credit as such in one of the banks incorporated by the laws of this commonwealth. It shall be unlawful for him to appropriate any part of it to his own use, or to lend any of it to any other person, or to pay out or disburse any of it, whether in liquidation, in whole or in part, of any claim against the asylum, or for any other object whatever, except upon the warrant of the president, countersigned by the secretary; or to check or draw any of it out of bank, except for the payment of such warrants after they have been drawn; and for all violations of these prohibitions he and his sureties are made liable on his official bond for the amount of the sum or sums so unlawfully appropriated, lent, paid, disbursed, checked, or drawn out, with ten per cent. damages, recoverable in any court of competent juris-

Ibid § 8.
Treasurer to receive all moneys and receipt for same, and settle accounts every three months.

Make report to governor quarterly.

Shall deposit funds in bank.

Penalty for violation of duty.

diction in this commonweath. All money appropriated by the state for the use and support of the Eastern lunatic asylum, or collected from any source for the use of pay patients, or any other purpose, by the treasurer of said institution, shall be deposited in bank as now provided by law; and it shall not be lawful for the officers of such bank to pay out said money, or any portion thereof, unless the checks therefor are signed by the said treasurer of the asylum, and countersigned by the president of its board of commissioners.

Amendment of 1878, ch. 1033, § 1. Deposits of money, and how to be drawn out.

(4) He shall keep true and complete books of account of all his financial transactions, incident to the management of the asylum, specifying whence received, and for what expended, and of all sums receivable and payable.

Shall keep books of account.

10. (1) No amount or claim of any kind brought against either of the asylums, whether by an officer thereof or any other person, shall be paid in whole or in part, until it shall have been first examined and indorsed by the superintendent and submitted to the board of commissioners and determined by them to be just and right, and directed to be paid by an order entered on the record of its proceedings; and the president shall not issue any warrant on the treasurer, except for the amounts of claims which have been so submitted to the board, allowed by it, and ordered to be paid.

Ibid § 9. Payment of accounts.

(2) Whenever he shall issue any such warrant he shall cause the number, date, and amount thereof, and the name of the person in whose favor it is made, to be entered by the secretary in a separate book kept for that purpose; and whenever he shall receive any money for the use of the asylum, he shall cause the same to be entered by the secretary in said separate book, but in a different part of it, stating the amount of money, the character and amount of means, and when and from whom received, and thereupon he shall deposit said money and other means (of whatever character they may be) with the treasurer and take his receipt therefor, and preserve it as a voucher.

All amounts paid to be recorded.

Money received how to be booked.

11. (1) The steward, by direction of the superintendent, shall purchase and furnish to the asylum all needed supplies of every description, and shall consult him as to the character, quantity, and quality of all such supplies.

Ibid § 10. Steward, duties of.

They shall be bought where they can be bought cheapest, due regard being paid to quality as well as price. He shall not draw on the treasurer for money to pay for such supplies, in whole or in part, but shall cause itemized accounts of the same to be made, in the names of the sellers, against the asylum, setting forth separately the date of purchase and the name and price of each article of purchase, and shall present these accounts, indorsed by the superintendent, to the board of commissioners for allowance. And he shall carefully enter in a book kept for the purpose the number, dates, and amounts of the warrants issued by the president for payment of the accounts for supplies purchased by him, and the names of the persons in whose favor they are made.

(2) He shall have charge of the farm and garden attached to the asylum, and shall have and control the cultivation and management of the same, subject to the regulation of the board of commissioners. Within the first Shall manage farm, etc. week after entering upon his duties, he shall take and file a complete inventory of all the crop on hand, live stock, farming utensils, vehicles, and all other effects properly pertaining to the farm and garden, and shall preserve and be responsible for these and for all subsequent products of the farm and garden, and all other stock and effects that may come into his charge in the management thereof, and none of them shall be taken therefrom without the knowledge and consent of the superintendent.

(3) It shall be his duty to furnish for the asylum such supplies from the farm and garden as can be provided Supplies from garden and farm; monthly statement. therefrom, and to present monthly to the secretary written statements of the kinds, amounts, and market value of the supplies so furnished, verified by certificates from the officers through whose hands they have passed. These statements shall be entered in the books of the secretary and steward, and filed and kept by the latter as vouchers.

(4) No stock or produce of the farm or garden shall be sold Stock or produce of gard'n or farm not to be sold except. by the steward without authority from the board of commissioners; and when sales are made, he shall pay and deliver the proceeds to the treasurer, and take his receipts therefor, specifying what was sold, to whom, and for what price. These receipts shall be recorded in the

books of the secretary and steward, and filed and kept by the latter in his office as vouchers.

(5) It shall be the duty of the steward to keep a complete record of all his official acts, and to report them to the governor monthly, along with the statement of the condition of the farm and garden, and the number, character, and condition of the stock under his care and control. He shall annually, during the month of November, make and render to the board of commissioners a true and perfect inventory, verified by oath, of all the personal property of every description belonging to the asylum, with the estimated value of the various articles.

Steward to keep record of acts, etc., and report.

(6) Before entering on the duties of his office, he shall give a covenant to the commonwealth, with good security, worth four thousand dollars, approved by the county judge of his county, for the faithful discharge of his duties; which covenant shall be filed with and preserved by the secretary. The steward hereafter appointed to either of the lunatic asylums in Kentucky shall receive for his services the sum of eight hundred dollars per annum, and his board and lodging at the asylum, or in lieu of said board and lodging, a reasonable allowance to be made by the commissioners; but the family, if any, of the present steward, or those hereafter appointed, shall not be supported by the asylum fund, nor shall said family in any way be a tax thereon. The board of directors of each of the three lunatic asylums shall fix the compensation of the steward of such asylum at a salary not exceeding eleven hundred dollars per year: *provided, however*, that such salary shall be paid, as now provided, out of the per capita allowance annually made to each asylum.

Covenant of steward.

Salary \$800, etc.

Amendment of 1882, ch. 1128, § 1.

12. It shall be the duty of the governor, whenever, in his opinion, the interest of the commonwealth demands, to appoint a special auditor to inspect the books and the accounts kept in either asylum, and report its true financial condition and management as respects receipts and disbursements, and the propriety thereof.

Ibid § 11. Governor may appoint special auditor.

13. The commissioners and all officers of the asylum and the servants of the asylum, shall be exempt from militia duty, from working on the public highway,

Ibid § 12. Exemption of officers, etc.

and from serving on any jury. Nor shall the officers and servants be required to give personal attendance as witnesses in any civil suit of the county in which the asylum is situated, but their depositions shall be taken in lieu thereof.

14. Actions in behalf the asylum may be instituted in any court of this commonwealth, in which the same would be proper as between individuals.

Ibid § 19.
Where actions in behalf of asylum instituted.

15. The superintendent and board of commissioners shall, on or before the first of November in each year, make a report to the governor of the condition of the asylum under their charge, exhibiting the amounts of income and expenditure, for what the expenditures were made, the number and names of the patients (distinguishing pauper from pay patients, and specifying the places from which they came), the number received and discharged each year, with such other facts and suggestions as they may deem important, which report the governor shall communicate to the legislature at its next regular session.

Ibid § 20.
Report of superintendent and board.

16. The president of the board of commissioners and the superintendent of each asylum shall, every three months, jointly certify, on oath, to the auditor of public accounts, the number of patients actually supported in the asylum, specifying the number of paupers, of those who pay in full, and those who pay in part, and the amount paid in part by each, [and the amount of any unexpended balance of the state appropriations over and above the debts and liabilities then existing against said asylum, remaining in the hands of the treasurer]. Thereupon the auditor shall draw his warrant on the state treasury in behalf of such asylum for a sum equal to [one hundred and sixty-five dollars] a year for each pauper patient so supported, and for so much in addition as will, when added to the sum paid by those partially dependent on the charity of the commonwealth, be equal to [one hundred and sixty-five dollars] for each patient; the sums herein mentioned to be drawn in advance. But it is to be understood that out of this permanent appropriation the board of commissioners shall pay for all repairs to and expenses of the institution, and the salaries

Ibid § 21.
President and superintendent to certify every three months to auditor, and what.

First amendment of 1880, ch. 939, § 1.

When auditor to issue warrants, for what.

Second amendment of 1880, ch. 939, § 1.

Amount of support.

Second amendment of 1880, ch. 939, § 1.

Repairs and expenses.

and wages of all officers and employes, but not the expenses of conveying patients to the asylum. And they shall incur no liability on behalf of the state for any purpose beyond the amount received from the treasury and from pay patients. [The auditor shall estimate any unexpended balance reported by the chairman of the board of managers and the superintendent of any one of the asylums as a part of its next quarterly allowance, and draw his warrant only for a sum sufficient, with said balance, to make complete the sum allowed by law for each quarter. In addition to the pay now allowed the officers of said asylum, each superintendent and steward shall be entitled to comfortable furnished quarters for themselves and their families, at or convenient to their respective asylums, and the assistant physicians and matrons each with a comfortable furnished room; [and each superintendent and his family, and the other said officers, shall be entitled to take their meals in the institutions at the expense of the state]; no commutation, however, shall be allowed in lieu of said meals and quarters, nor shall said officers be entitled to or receive, directly or indirectly, any other or further perquisites or compensation for their services; and any officer, employe, or other person connected with any of said asylums, who shall use or authorize the use of any money or other thing of value for private purposes, not authorized by law, shall be amenable to the punishments now provided for such offenses, and, in addition thereto, shall be reported by any person cognizant of the fact to the governor, who shall remove, or cause to be removed from the employment of the state, any person wilfully guilty of said offense.]

Third amend-
ment of 1880,
ch. 939, § 1.
Auditor to
estimate on
balance.

Superintend-
ent and
steward fur-
nished quar-
ters, etc.

Amendment
of 1882,
ch. 1128.

Penalty for
private use of
money or
property of
institution.

17. The superintendents shall examine all claims and accounts against their respective asylums, and report any fact or circumstance indicating any irregularity, fraud, or wrong to the board of commissioners; and if they have any doubt of the justice or legality of a claim, they may require both the superintendent and the steward to endorse their opinions, in writing, on the back thereof; and it shall be the duty of said officers to endorse any claim when required by the board to do so, and not

Act of 1880,
ch. 939, § 2,
supplemental
to § 21 supra.
Superintend't
to examine
claims.

otherwise; and the board of commissioners shall not direct any claim, or part thereof, to be paid until they are satisfied, from such investigations as may be necessary, that the same is just, legal, and right.

18. The president of the board of commissioners, and the superintendent of each of the lunatic asylums, shall, in addition to the facts now required by section 21 of said act, approved March 20, 1876, and the acts amendatory thereto, to be certified every three months to the auditor of public accounts, also in the same manner, and at the same time, certify the number of idiots, epileptic imbeciles, and harmless, incurable lunatics in their respective asylums that they have the right under the law to return to the counties of their residence or whence they came, and the auditor shall not draw his warrant on the state treasury in behalf of any asylums for any sums for the support of any such patient. All pauper idiots, epileptics, and harmless, incurable lunatics, shall be returned by the asylums in which they may be confined, to the several counties from whence they were sent, and delivered into the custody of their friends, if any; if not, then to the county judges, who shall make suitable provision for their keeping out of the annual seventy-five dollars appropriation now allowed such person by law reported as aforesaid; and said asylums, in the way prescribed by law, shall, as soon as may be, send each paying patient of the aforesaid class to the counties of their residence, or whence they came. The capacity of each of said institutions shall be reported by the board of commissioners to the governor, who shall, in his discretion, order patients to be transferred from one asylum to the other to prevent any one of the asylums from becoming more crowded than another.

19. If the necessities of the institution should demand the temporary employment of additional physicians, the board of commissioners may order the employment of not exceeding two, who may thereupon be appointed by the superintendent, by and with the advice and consent of the board. Their employment shall be subject to be terminated by the board when it thinks proper.

20. The board of commissioners may effect and keep insurance for reasonable amounts upon the asylum

Act of 1880,
ch. 1476, § 1,
supplemental
to § 21 supra.
Pauper idiots,
etc., to be re-
turned.

Act 1876, ch.
900, § 23.
Additional
physicians.

Ibid § 24.
Insurance.

buildings, with some good insurance company or companies, and pay the premiums out of the funds of the institution.

21. The property mentioned in this section shall be exempt from all taxation, viz: * * * , the real estate and investments devoted to * * * lunatic asylums.

G. S. of 1881, ch. 02, art. 1, § 3. Frees propy. from taxation.

22. Under no circumstances shall it be permitted that, by the reception of pay patients from other states, the asylum be so crowded that any delay shall be incurred in the immediate reception into the asylum of patients resident in this commonwealth, either paying or pauper.

Act of 1876, ch. 900, § 13. Pay patients from other states.

23. No private patient, who has not been found to be insane by regular inquest, shall be received into either of said asylums. Nor shall any patient be discharged as cured, or delivered into custody of friends, whose friends have placed him in the asylum, but by permit of superintendent and two commissioners. Any cured patient who was committed to the asylum, whilst in custody of the law upon a criminal charge, shall be delivered to the keeper of the penitentiary, or to the jailer of the county whence he came, as the case may require. A cured pauper, before being discharged, shall have a good suit of clothes, and be furnished with money enough to pay his traveling expenses back to home, not exceeding twenty dollars.

Ibid § 14. Private patients.

Discharge of patients.

Patient charged with crime shall be delivered to keeper of penitentiary or jailer.

What furnished upon discharge.

24. The commissioners may charge for board of paying patients any sum, in their discretion, not exceeding four dollars per week; and when the estate of the patient warrants it, his committee may contract for his receiving special comforts, and being exempt from work, at an additional rate, not exceeding five dollars per week.

Ibid § 15. Board of paying patients.

25. No patient, except those who are paupers, according to the provisions of section 5, article 2, chapter 53, of the general statutes, and of any amendments which may be made thereto, or who have been, or may be, sent to the asylum, by order of the court, upon an acquittal of crime, on the ground of insanity, shall be received or retained in either of the lunatic asylums of this state, unless six months' board be always paid in advance, and board for the residue of

Ibid § 16. What patients may be received.

the time they may remain in the asylum be secured by the obligation of one or more sufficient residents of this state; and the courts or officers shall make their orders for the committal of all patients (with the above exceptions) to the asylums conditional upon such prepayment being made and security given. But if the patient be discharged or die before the expiration of the six months paid for, a proper portion of the amount paid shall be refunded.

26. No married person of unsound mind shall be held a pauper under the provisions of the aforesaid section of the general statutes, unless it shall be found upon the inquest, in addition to the other facts required, that such person's husband or wife (as the case may be), if living, has not sufficient estate to support the person of unsound mind, besides supporting others who may be dependent on such husband or wife; and the court or officer holding the inquest shall require the jury to return a finding on this subject.

27. Where patients who have been or may be supported in either of said asylums, have or shall acquire estate which can be subjected to debt, the board of commissioners of such asylum is authorized and directed, in every such case, to sue for, in the name of the asylum, and recover the amount of such patient's board, at the rate of two hundred dollars per year, or so much thereof as such estate will suffice to pay, for the time they shall have been respectively kept and maintained therein, and not otherwise paid for; and by proper proceeding to subject their estates respectively to the payment thereof; and when the husband or parent of any such patient, who has been or may be supported in either asylum, shall have estate sufficient for the support of such patient, in addition to the support of any others who may be dependent on such husband or parent, the board of commissioners is authorized and directed, in like manner, to sue and recover from such husband the amount of his wife's board, and from such parent the amount of his or her child's board, at the rate aforesaid, for the time they shall have been respectively supported by such asylum.

28. The expenses of conveying pauper patients to the asylum shall be paid to the persons conveying them by warrant of the auditor on the treasury of the state; the

Orders of courts, how to be made.

Ibid § 17. Married persons.

Ibid § 18. When commissioners to sue for board.

Ibid § 22. Expenses of conveying paupers.

sum due for conveyance to be certified by the superintendent of the asylum to which the patient is carried. Only one person shall be paid for conveying any patient, unless the court shall say that an additional guard or guards are necessary; and the cost shall not exceed six cents per mile for the guard or guards and patient, each, going, and six cents per mile for the guard returning; the distance to be estimated by the nearest usual route of travel. If the patient cannot be received by the asylum, six cents per mile for his or her returning shall also be allowed. But no allowance shall Proviso. be made for such expense of either guard or patient to or from the asylum, unless either an application has been made, first by letter to the superintendent, or an order of court made to carry the patient to the asylum immediately pursuant to the provisions of section 21 of article 2, chapter 53, of the general statutes, entitled "Idiots and Lunatics."

29. (1) White lunatics and idiots resident in Kentucky, and found in the counties of Kenton, Grant, Owen, Franklin, Anderson, Mercer, Boyle, Lincoln, Pulaski, and Whitley, or any county east of these, when sent to an asylum, shall go to, and be received under the legal requirements by, the eastern Kentucky lunatic asylum, if there be room therein. Those found in any county west of these, and east of the counties of Breckenridge, Grayson, Edmonson, Barren, and Allen, shall Ibid § 25. White lunatics, etc., to be sent to eastern asylum. be sent to, and in like manner be received by, the central Kentucky lunatic asylum. To central asylum. And those found in the counties last named, and the residue of the state, shall be Western asylum sent to, and in like manner be received by, the western Kentucky lunatic asylum.

(2) Colored lunatics and idiots resident in Kentucky, and found in the counties of Kenton, Grant, Owen, Franklin, Anderson, Washington, Marion, Taylor, Adair, Russell, and Clinton, or any county east of these, if sent to an asylum, shall go to, and be received under the legal requirements by, the eastern Kentucky lunatic asylum, if there be room therein. Those from the rest of the state shall be sent to, and in like manner be received To central asylum. by, the central Kentucky lunatic asylum.

(3) Whenever the number of patients sent to either asylum is

When one asylum full, patient may be sent to another.

greater than can be properly accommodated and cared for in that institution, and there is at the time capacity for the reception and care of the patient at either of the others, it shall be the duty of the commissioners and superintendent of such other to receive as many of those rejected at the former, for want of room, as can be properly accommodated. When, upon application to the proper asylum, the patient is rejected for want of room, immediate application shall be made to another; *provided however*, that colored patients shall only be sent to or kept by the eastern and central asylums; *and provided also*, that the white and colored patients shall not be kept in the same buildings.

(4) The governor is empowered and directed to take care that each of the asylums is kept full to its utmost capacity of such patients as are receivable by it, as long as any such patients in the state are unprovided for, and that each receives its due proportion of the patients in excess of the ordinary capacity of the asylum.

30. No order shall be made by any court or officers for sending a pauper idiot to an asylum, nor shall such idiot be received therein unless the jury, by their verdict, on the inquest, shall find that he is so dangerous or uncontrollable that he cannot be safely and properly kept by a committee within the county.

31. (1) In order to relieve the state from an undue accumulation of patients, the several asylums may send back to the counties of their residence, or whence they came, any idiots [epileptic imbeciles, and harmless incurable lunatics] who are now, or may hereafter be, in such asylums, and who, in the judgment of the commission herein authorized, can be safely and properly kept by a committee within their counties. The president of the board of commissioners of each asylum, the superintendent, and one other of the commissioners, to be from time to time appointed by the board, as necessity may arise, shall constitute a commission to act upon such cases as the superintendent, [or the assistant physician, or either of them] may propose to send back. They shall investigate each case carefully and thoroughly; and if, after such investigation,

Ibid § 26. Sending pauper idiot to asylum.

Ibid § 27. Amendment of 1878, ch. 807, § 1. Idiots may be now sent to county and put in charge of committee.

Duties of commissioners in regard to.

Amendment of 1878, ch. 807, § 4.

they shall all concur in opinion that any specific patient is so quiet, harmless, and governable, and his physical condition is such that he can be safely and properly kept by a committee within the county, they shall, in each case, make duplicate certificates of the determination, signed by them all, one to be filed and kept by the superintendent, the other to be sent with the patient.

(2) Thereupon it shall be the duty of the superintendent to send each paying patient, as to whom such certificate shall be made, back to the county of his residence or whence he came, and deliver him, with one of said certificates, to his committee, if there be one; if there be no committee, then to his friends who have provided for his support; and he shall send each pauper patient, as to whom such certificate shall be made, back to the county of his residence or whence he came, during the term of the court having general equity jurisdiction therein, to be brought before said court, that it may provide for his custody and support. The certificate of the commission aforesaid, and a copy of the original inquest papers, if remaining at the asylum, shall be sent along with the patient, and presented to the court; and it shall be the duty of the attorney for the commonwealth, or, in his absence, the county attorney, to procure the proper steps to be taken in such cases.

Duty of superintendent, courts commonwealths, and county attorneys in regard thereto.

(3) The courts, in cases brought before them under these provisions, shall take proper proceedings and make the proper orders for the custody and support of such idiots.

Duties and powers of courts in such cases.

(4) The said courts shall have power to direct such pauper idiots to be kept in the poor-house of the county, if there be one; and in such cases the allowances for their support shall be paid to the receiver of the poor-house, who shall be liable on his official bond for a faithful appropriation and a just account thereof.

Court shall direct, etc.

(5) The foregoing provisions apply equally to male and female patients.

Male and female patients.

32. The cost of returning pay patients is to be defrayed by their respective committees, if they have any, and, if they have no committee, or friends or relatives able and willing to pay such cost, then the cost of

Act of 1878, ch. 807, § 2. Who to pay cost of returning.

removal to be paid the same as in case of pauper patients—the cost of transportation of pauper patients to be paid by certificate, made on the auditor, and certified to by the superintendent in the name of the asylum sending such patients away, which shall be the same as now regulated by law for conveying pauper lunatics to the asylum.

33. This act shall apply to all patients who have been regularly committed to the lunatic asylums by proper inquest, and the amount allowed for their sustenance and support shall be [seventy-five dollars] each per annum, which shall be paid by direction of the court making the order for the custody of the returned patient, which order shall be certified to by the clerk of the court making the order, directed to the auditor of the state, who shall issue his warrant on the treasurer for the sum allowed annually in favor of the party named in the order of the court.

Ibid § 3,
as amended
1880, ch. 1370,
§ 1.
Warrants for
support of re-
turned pa-
tients.

34. All pauper idiots, epileptics, and harmless incurable lunatics that have been or may hereafter be returned by the asylums in which they may have been or may be confined, to the several counties, shall be delivered into the custody of their friends, if any; if not, then to the county judges thereof, if they be residents of and sent from the county of Jefferson outside of the city of Louisville, and to the mayor of the city of Louisville, if they be residents and sent from said city, who shall make suitable provision for their keeping out of the annual seventy-five dollars appropriation now allowed such persons by law.

Act of 1881,
ch. 87, § 1.
Custody of re-
turned pa-
tients in
Louisville.

This act shall only apply to Jefferson county and the city of Louisville.

Ibid § 2.

35. The several courts having general equity jurisdiction in this commonwealth have power and jurisdiction within their respective counties over the care and custody of the persons and estates of all idiots, lunatics, those who, from confirmed bodily infirmity, are unable to make known to others by sign, speech, or otherwise, their thoughts or desires, and by reason thereof incompetent to manage their estates, and those whose minds, on account of any infirmity, or weight of age, have be-

Ch. 63, art. 1,
§ 1. Jurisdic-
tion of courts
having a
general equi-
ty jurisdiction
over the per-
sons and
estates of
idiots and
lunatics.

come so imbecile or unsound as to render them incompetent to manage their estates; as also over their committees, with power to appoint, suspend, and remove committees for them, upon the same terms and in the same manner, as is given over the persons estates and guardians of infants.

[Jurisdiction in inquests of idiots shall be confined to circuit court and criminal courts alone.]

Amendment of April 24, 1882, § 1.

36. The courts aforementioned may, on the application of a committee, order the sale of the whole or any part of the real estate of an idiot, lunatic, imbecile, or incompetent person, when indispensably necessary for the payment of debts or for the maintenance of such person and his family, and where the personal estate, with the rents and profits of the real estate, are not adequate for that purpose.

Art. 1, § 2. Real estate may be sold to pay debts, or for maintenance.

37. The power and duty of the committee of an idiot, lunatic, imbecile, or incompetent person, shall, in all respects, be the same as those of the guardian of an infant, except as to education. But the court may appoint a person other than the committee to take charge of the person of the idiot or lunatic when he is not confined in a lunatic asylum, and make the necessary orders for his support upon the committee.

Ibid § 3. Power and duty of committee.

Another may be appointed to take charge of the person.

38. No judgment shall be binding on an idiot, lunatic, imbecile, or person incompetent having a committee, unless the committee be also brought before the court, nor shall any action be prosecuted in the name of such idiot, lunatic, imbecile, or person incompetent without the assent of his committee, unless for special cause, the court in which it is brought shall permit its prosecution at the instance of another as next friend.

Ibid § 4. In suits committee must be brought before court.

No suit without assent of committee.

(1) If there be no committee, the court may proceed by the appointment of a next friend.

When there is no committee.

(2) If there be a committee, and the idiot or lunatic is confined in an asylum, service of process on the committee alone shall be sufficient to bind the idiot or lunatic.

When idiot or lunatic in asylum.

39. A committee shall not be appointed to an idiot, lunatic, or person charged to be imbecile or incompetent, who is a resident of this commonwealth, unless he

Ibid § 5. Committee not to be appointed ex-

cept upon judgment of court. has been heretofore or may hereafter be found to be such by the judgment of a court of competent jurisdiction in the county of his residence; or, if a non-resident, by the judgment of such court in the county of his residence.

Art. 2, § 5. Who a pauper lunatic, allowance. 40. A person is a pauper idiot or lunatic, within the meaning of this chapter, who has been found, by the verdict of a jury, to be an idiot or lunatic, and that he has no estate sufficient for his support; and also that his parents, if alive, have not sufficient estate to maintain him, and that he is unable to work for a support; and the order of court, making and certifying the annual allowance for the support of the idiot, shall be made on proof, and so state, and shall also state that the idiot is then alive, and a pauper. Upon such certificate, if a copy of the inquisition required to be filed by the provisions of this chapter has been filed with the auditor, he shall issue his warrant upon the treasury for the amount due, not exceeding seventy-five dollars per year, and at that rate for a greater or less time.

Act of 1880, ch. 1570, § 1. Limit of allowance for support. 41. Hereafter it shall not be lawful for any court in this commonwealth to allow, for the sustenance and support of any idiot, epileptic, or lunatic, whether he has been returned from an asylum or not, more than seventy-five dollars per annum, which shall be paid as such claims are now paid by law.

Ch. 53, art. 2, § 6. Inquest to be held. 42. If any person be of unsound mind, it shall be the duty of some court of the county in which he resides, having general equity jurisdiction, upon the application of the attorney of the commonwealth, or, if he be absent, of the county attorney, to cause an inquest by a jury to be held in open court, to inquire into the fact. The court shall appoint some member of the bar to represent and protect the interest and rights of the person alleged to be of unsound mind; and it shall also be the special duty of the attorney for the commonwealth, or for the county, to prevent the finding of any person, as an idiot or lunatic who, in his opinion, is not such; or the finding of any person an idiot who is a lunatic.

Attorney for defendant to be appointed. 43. The commonwealth's attorney shall be especially charged with the duty of being present at all inquests, and shall, whenever the interests of the state

Act of April 24, 1882. Duty of com-

may require it, introduce evidence as to the claims which these persons may have upon the state for an allowance. commonwealth's attorney.

44. The following oath shall be administered to the jury: "You do swear that you will well and truly inquire, and, from the evidence, say in your verdict, whether A. B., the person whom you have in charge, is of unsound mind, and, if of unsound mind, whether he is an idiot or lunatic—that is, whether he was destitute of mind from infancy, or has lost it since his birth; and if he has lost it since his birth, that you will state when, and, as far as you can from the evidence, the cause of it. You will also inquire and state his birth and residence, and whether he has been brought into this state by any person, and by whom, for the purpose of becoming a charge upon the commonwealth. That you will find what estate, and the value thereof, he owns in possession, reversion, or remainder; whether his parents are alive; where they reside; and whether they have estate sufficient to support the person under trial; whether he is capable of laboring, in whole or in part, and what part, for his support." The judge shall instruct the jury upon the whole case, so as to enable them to decide the question, whether the defendant is an idiot or lunatic. Ch. 53, art. 2, § 7. Form of oath to jury. Judge to instruct the jury.

45. On return of the verdict, if the court is satisfied with the inquest, judgment shall be entered upon it according to the finding. If the judge who presides shall be of opinion the verdict is not sustained by the evidence, or is against law, he shall set it aside and award a new inquest. Ibid § 8. Judgment on verdict or new trial. Verdict may be set aside.

46. No inquest shall be held unless the person charged to be of unsound mind is in court, and personally in the presence of the jury. The personal presence of the person charged shall not be dispensed with, unless it shall appear by the oath or affidavit of two physicians that they have personally examined the individual charged to be of unsound mind, and that they verily believe him to be an idiot or lunatic, as the case may be, and that his condition is such, that it would be unsafe to bring him into court. Ibid § 9. Personal presence of the person charged. Exception.

47. The circuit court clerk of each county shall transmit to

the auditor, on or before the 10th of September in each year, a list of the pauper idiots in his county; if he fail to do so without good cause, he shall be fined fifty dollars. All pauper idiots and lunatics may be sent, by order of a court to the lunatic asylum, and shall be maintained, during the continuance of the malady and stay in the hospital, at the expense of the commonwealth. If not so sent, the expense of maintaining lunatics shall not be a charge upon the commonwealth.

48. In all inquests held in respect of persons alleged to be imbecile or incompetent to manage their estates, the court shall cause an oath to be administered to the jury in such form as to ascertain, by the verdict, whether such person, by reason of bodily infirmity, disabling him or her from making their thoughts and desires known, or by reason of any infirmity or weight of age, is incompetent to manage his or her estate; and also what estate he or she owns in possession, reversion or remainder, and the value thereof.

49. Inquests under and according to this chapter shall, when a circuit court is in session in the county in which the inquest is held, be held only by such circuit court. When no circuit court is in session in the county, such inquest may be held by a judge of a circuit court or of a court of common pleas, or by a chancellor or vice-chancellor, or by the presiding judge of the county court, or by the judge of a city or police court. The officer who presides at such inquest may make all orders for the care of the person found to be of unsound mind; but if it is found upon the inquest that the insane person has any estate, it shall be the duty of the officer presiding at such inquest to certify the facts concerning said estate to the chancery court if there be one in the county where the inquest is held, or if not, then to the circuit court, and it shall be the duty of the judge of said chancery or circuit court, as the case may be, to make all necessary orders for the appointment of a committee and the security of the estate and care of the person found of unsound mind; but the officer holding the inquest may order the person found insane to the lunatic asylum when it would be proper for a court to do so, and may appoint a tem-

Ibid § 12.
Clerk to send list of pauper idiots.

Pauper idiots and lunatics may be sent to asylum.

Ibid § 13.
Oath of jury in inquests on imbecile or incompetent persons.

Ibid § 14,
as amended 1882, ch. 55.
Who may hold inquests.

His powers.

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porary committee for that purpose, and take from him bond and surety payable to the commonwealth for a faithful discharge of the duties of his station. Upon which bond, for a violation of its stipulations, any person aggrieved, or the committee thereafter appointed by the court, may sue in the name of the commonwealth at their own costs.

50. The papers pertaining to the inquest shall be delivered, by the officer holding the same, to the clerk of the court having jurisdiction, who shall file the same; and, at the next term of the court, a committee shall be appointed by the court, as though the inquest had been holden in term time, and such other orders made and taken as may be necessary to execute the provisions of this chapter. Whenever it shall be suggested to the court, by affidavit, that a person found of unsound mind has been restored to his proper senses, or that the inquest was false or fraudulent, the court shall forthwith direct the facts to be inquired into by a jury, in open court, and make all necessary orders or decrees in the premises.

Ibid § 15.
Disposition of
papers of in-
quest.

51. When a person shall be found a lunatic under the provisions of this chapter, the officer who presides at the inquest shall endeavor to ascertain and draw up a brief history of the patient's case, embracing the following points:

Ibid § 16.
Judge to pre-
pare history
of case.

(1) Age; occupation; married or single; habits; educated or not.

(2) If any, what relations have been insane.

(3) Date of first attack; how exhibited; has it changed in character ever any at a former period.

(4) Supposed cause; any peculiar illusion; and what; subject to fits, how long, and from what cause; natural temper and kind of affection towards relations.

(5) Any attempt at suicide; if any, in what violence or propensity to mischief exhibited.

(6) Periodic frenzy and lucid intervals, and duration of each.

(7) What restraint has been imposed; what treatment used; and if bleeding, to what extent.

(8) Any injury about the head ever received; any bodily disease from suppression of evacuations, eruptions, sores, or injuries.

(9) Together with whatever else may be deemed material towards enabling the superintendent of the asylum to understand the case.

Which statement or a copy, shall be sent with the record to the asylum, if the lunatic is sent.

52. Neither the county nor any relative of a lunatic shall be chargeable with the cost of his detention for one year in the asylum, if he be delivered there within six months after the first attack of his lunacy; nor shall a relative, in such case, be chargeable with the cost of his transportation.*

Ibid § 17.
Costs when lunatic is sent to asylum within first six months.

53. The court shall ascertain and certify as part of the order for the confinement of a lunatic in the asylum, the date of his first attack of lunacy, when it is intended to obtain the benefit of the above provision; but before it is allowed, the fact shall also be ascertained, upon proper proof, and certified by the circuit judge of the district.

Ibid § 18.
Date of first attack to be certified.

54. If the certificate of the circuit judge cannot be obtained until after the commitment, the treasurer of the asylum shall, upon its production, refund the cost of transportation to any relative paying the same.

Ibid § 19.
When the judge's certificate cannot be obtained.

55. The officer carrying a pauper lunatic or idiot, to either asylum or the feeble-minded institute, shall be paid by the treasurer thereof [six cents] per mile for himself and each guard, going and returning, besides tolls and ferriages, and the same for the lunatic in going and in returning, if the person has been denied admittance or not received for want of room. But there shall be no charge for more than two guards, and only for one unless the officer ordering such person to the asylum authorizes two. If transportation, in whole, or in part could have been had by stage, steamboat or railway for less cost, no more than what ought to have been the actual cost shall be allowed.†

Ibid § 20.
Allowance for transportation.

56. No officer shall be allowed for carrying an insane person who is a pauper to a lunatic asylum, unless he first apply by letter to the superintendent thereof, and ascertain that the patient can be received, and that

Ibid § 21.
No allowance to be made unless application first made

* See pl. 17 supra.

† Amended by act of 1876; see pl. 25 and 33 supra.

he cannot be sent for by the officers of the asylum. But where the safety of the lunatic or others seem to require it, the court may order the patient to be carried to the asylum immediately, without his being sent for.*

to superintendent.

57. The superintendent, immediately upon notice that a person has been ordered into confinement at the asylum, shall cause him to be brought, and pay the expenses of transportation.

Ibid § 22. Superintendent to cause patients to be brought to the asylum.

58. Whoever shall bring or cause to be brought into any county or city of this commonwealth, from another state or county, any pauper idiot or lunatic, with the intent to make him a charge upon such county or city, or this commonwealth, shall be fined one hundred dollars, besides being liable at the suit of the county or city for all damages incurred thereby, besides the cost of transportation, and imprisoned not more than three months.

Ibid § 23. Penalty of introducing pauper idiots or lunatics fraudulently.

59. No person not otherwise insane shall be sent to an asylum merely because he is subject to epileptic fits, or thereby rendered helpless.

Ibid § 24. Epileptic fits.

60. If the estate of a lunatic, or person adjudged to be incapable of managing his estate, be not sufficient to pay his debts, the same may, by a circuit or chancery court, be ordered to be sold, and proceeds distributed and estate settled as prescribed by law for the settlement of the estate of insolvent decedents.

Ibid § 25. Court may order sale of estate of a lunatic or imbecile.

61. If the court shall be of opinion that there are reasonable grounds to believe that the defendant is insane, all proceedings in the trial shall be postponed until a jury be empaneled to inquire whether defendant is of unsound mind, and if the jury find that he is of unsound mind, the court shall direct that he be kept in prison or conveyed by the sheriff to the nearest lunatic asylum, and there kept in custody by the officers thereof until he be restored, when he shall be returned to the sheriff on demand, to be reconveyed by him to the jail of the county.

Bullitt's Criminal Code, 1876, § 156. How question of defendant's sanity tried.

62. If the defense be the insanity of the defendant, the jury must be instructed, if they acquit him on that ground, to state the fact in their verdict, and there-

§ 268. Proceedings if defendant acquitted on

* Amended by act of 1876; see pl. 25 and 33 supra.

upon if the court, after hearing any testimony offered by the commonwealth or the defendant, be satisfied that he is insane at the time the verdict is rendered, it may order him to be taken to a lunatic asylum.

63. He may show for cause against the judgment any sufficient ground for a new trial, or for arrest of judgment; he may also show that he is insane. If the court be of opinion that there is reasonable ground for believing he is insane, the question of his insanity shall be determined by a jury of twelve qualified jurors, to be summoned and empaneled as directed by the court. If the jury do not find him insane, judgment shall be pronounced. If they find him insane, he must be kept in confinement, either in the county jail or lunatic asylum, until, in the opinion of the court, he become sane, when judgment shall be pronounced.

64. If the sheriff be satisfied that there are reasonable grounds for believing that the defendant is insane he may summon a jury of twelve persons on the jury list, drawn by the clerk, who shall be sworn by the sheriff well and truly to inquire into the insanity of the defendant, and a true inquisition return; they shall examine the defendant and hear any evidence that may be presented; and by a written inquisition, signed by each of them, find as to the insanity. Unless the inquisition find the defendant insane, the sheriff shall not suspend the execution; but if the inquisition find the defendant insane he shall suspend the execution, and immediately transmit the inquisition to the governor.

the ground of insanity.

§ 287.
What causes defendant may show why judgment should not be pronounced.

§ 296.
How sheriff to proceed if there are grounds to believe that defendant is insane.