

by law, have judgment thereon for such default of appearance, and no essoin or saver-default in any such case be received or allowed.

SECTION 88. Whenever it shall be lawful to cause service of any writ as aforesaid, to be made upon any defendant out of the county in which the action may be commenced, the sheriff of the county in which such defendant may reside or be found, shall by virtue of his office, have within his county, the power of a deputy to the sheriff of the county in which such writ shall have issued, for the purpose of executing such writ, without any special deputation for the purpose.

SECTION 89. That all laws hereby altered or supplied, so far as are inconsistent with this act, are hereby repealed.

SECTION 90. The provisions of this act, so far as they alter or add to existing laws or customs, shall go into effect from and after the first day of September next, and not before.

NER MIDDLEWSARTH,  
Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,  
Speaker of the Senate.

APPROVED—The thirteenth day of June, Anno Domini, eighteen hundred and thirty-six.

JOS: RITNER.

No. 171.

## An Act

Relating to lunatics and habitual drunkards.

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An act relating to lunatics and habitual drunkards.

#### IX. OF THE COMMISSION OF LUNACY OR HABITUAL DRUNKENNESS, AND THE INQUISITION HELD THEREON.

*SECTION 1. Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the*

*authority of the same*, That it shall be lawful for any court of Common Pleas of this commonwealth, to issue a commission, in the nature of a writ de lunatico inquirendo, as heretofore practised and allowed, to inquire into the lunacy or habitual drunkenness of any person being within this commonwealth, or having real or personal estate therein.

SECTION 2. The jurisdiction aforesaid, shall be exercised as follows, viz:

- I. If any person alleged to be a lunatic or habitual drunkard, shall reside within the commonwealth, such commission shall be issued by the court of the county in which he shall reside, and shall be executed therein: *Provided*, That if an alleged lunatic shall be under restraint, in any place within this commonwealth, out of the county of his residence, and it shall be made to appear, to the satisfaction of the court of such county, that such person cannot conveniently be removed to the place of his residence, such commission may be executed in the county where such person may be so restrained.
- II. If such alleged lunatic or habitual drunkard shall not have any residence within this commonwealth, such commission may be issued by the court of the county in which he may be, and shall be executed therein.
- III. If any inhabitant of this commonwealth shall be absent therefrom, such commission may be issued by the court of the county in which his last place of residence was, or in which he may have any real estate, and shall be executed therein.

SECTION 3. The commission aforesaid, shall be made according to the following form, viz:

The Commonwealth of Pennsylvania, to

Greeting:

WHEREAS, we have been informed in our court,  
 ( ) that , of the county of ,  
 now is a lunatic, (or habitual drunkard, as the case be,) and  
 we, being willing to be more fully satisfied of the state of  
 the said in the premises, have appointed, and do  
 hereby appoint, authorize, and command you, (or any two  
 of you, if the commission be directed to three or more,)  
 that at such certain day and place as you (or any two of  
 you) shall think fit, you diligently inquire, by the oaths or  
 affirmations of six good and lawful men of the county of ,  
 by whom the truth of the matter may be better known,  
 whether the said is a lunatic (or habitual drunkard,  
 as the case may be) or not, and if you find him to be a lunatic,  
 then how long he hath been so, and if he enjoys lucid inter-  
 vals, and what lands and tenements, goods and chattels he  
 was seized or possessed of, or entitled to, at the time of his

becoming a lunatic, and the value thereof, and whether he hath since aliened or disposed of them, or any part thereof, and to whom; (or in the case of an alleged habitual drunkard, if you find him to be so, what lands and tenements, goods and chattels he is seized or possessed of, and how much the said lands and tenements are worth by the year, and what is the value of the same goods and chattels,) and how old he is, and who are his heirs, or next of kin, and the ages of the said heirs or next of kin, respectively.

And for the purpose aforesaid, we do authorize and empower you (or any two of you) to issue, under your hand and seal, (or the hands and seals of any two of you,) all such writs of venire, subpoena, and habeas corpus, as to you (or any two of you) shall seem necessary and proper, and to enforce obedience to the same, and to all necessary orders and rules in the premises, as fully as our said court may lawfully do; and the inquisition so to be made, you are to return to our said court, on or before the \_\_\_\_\_ of \_\_\_\_\_ next, under your hand and seal, (or the hands and seals of any two of you,) and the hands and seals of those by whom you shall make that inquisition, and this commission; Witness \_\_\_\_\_ president, (or as the case may be,) of our said court; at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, A. D. 18 \_\_\_\_\_.

Prothonotary.

SECTION 4. *Provided*, That no commission shall be issued for any purpose as aforesaid, except upon the application in writing, of a relation by blood or marriage, of the person therein named, or of a person interested in his estate.

II. Nor, unless such application be accompanied by affidavits of the truth of the facts therein stated.

SECTION 5. It shall be lawful for the court to cause any such commission as aforesaid, to be directed or addressed to any one or more person or persons, who shall have the same powers heretofore possessed by the three, or more, commissioners in such commission named, and the inquisition made thereon by such one or more commissioners, shall be good and valid, to all intents and purposes, as if such commission had been directed or addressed to, and the inquisition returned by three or more commissioners, as heretofore.

SECTION 6. It shall be the duty of the court, at the time of granting any application as aforesaid, to make such order respecting notice of the execution of the commission to the party, with respect to whom such commission shall be issued, or to some of his near relations or friends, who are not concerned in the application, as the said court shall deem advisable.

SECTION 7. It shall be lawful for the commissioner or commissioners as aforesaid, in their venire to the sheriff, to require him to summon such number of persons, not less

than six, nor more than twelve, upon the inquest, as the circumstances of the case may seem to them to require.

SECTION 8. It shall be lawful for any court of Common Pleas, if they shall be satisfied upon such application, that the party with respect to whom the proceedings are instituted, has no estate, or that his estate is so small, that the costs of the inquisition will be found an undue burthen, to direct an inquest to be impanelled, from the jurors attending the court, and that the inquisition be held by one of the judges of the court, at such convenient time and place as shall be ordered by the said court, and the inquisition so made, shall have the like force and effect as an inquisition held by commissioners, as aforesaid.

SECTION 9. If upon such inquisition, it shall be found that the party with respect to whom the application was made is not a lunatic or habitual drunkard, and it shall appear to the judge holding such inquisition, that there was not probable cause for such application, he shall certify the same on such inquisition, and thereupon, the party by whom such application was made, shall be liable for the costs of the proceeding, in like manner as prosecutors in criminal cases, when directed by the jury to pay the costs of prosecution.

SECTION 10. Every commissioner shall be entitled to receive such reasonable sum for his services, as the court shall allow and direct.

SECTION 11. Every person impanelled upon an inquest held by commissioners as aforesaid, shall be entitled to receive seventy-five cents for his services, and if not completed in one day, he may receive one dollar for each day he shall be employed thereon, and the sheriff shall be allowed the same fees as are provided for in the general fee bill, for holding inquisitions on real estate.

#### II. OF THE TRAVERSE OF AN INQUISITION.

SECTION 12. Every person aggrieved by any inquisition as aforesaid, may traverse the same, upon or after the return of the same, and proceed to trial thereon, and have like remedy and advantage as in other cases of traverse upon untrue inquisitions, or office found.

SECTION 13. It shall be lawful for the court after the return of the inquisition as aforesaid, notwithstanding any traverse of the same that may be pending, to make such orders touching the care and custody of the person, and the management and safe-keeping of the estates of any person, so found to be a lunatic or habitual drunkard, as they shall think necessary and proper.

#### III. APPOINTMENT OF A COMMITTEE, AND HEREIN OF FOREIGN COMMITTEES.

SECTION 14. On the return of any inquisition as aforesaid, finding that the person therein named is a lunatic or habitual

drunkard, it shall be lawful for the court to commit the custody and care of the person or estate, or both, of such lunatic or habitual drunkard, to such person or persons as they shall deem most suitable, according to the rules heretofore practised and allowed.

SECTION 15. But before any person appointed committee of the estate of a lunatic, or of an habitual drunkard, shall perform any act as such, he shall give security, in such sum as the court shall direct, with condition for the faithful performance of the said trust, and duly to account, according to law, for all property and funds that may have come into his hands.

SECTION 16. The finding of a person to be a lunatic or habitual drunkard as aforesaid, in any court of Common Pleas of the commonwealth, having jurisdiction as aforesaid, and the appointment of a committee by the same authority, shall have the like effect, in every other county of this commonwealth, as in that in which the said proceedings took place.

SECTION 17. The appointment of any committee, guardian, trustee or the like, by any authority out of this commonwealth, shall not authorize the person so appointed, to control the person or estate of any lunatic or habitual drunkard resident within this commonwealth, or to interfere with the real estate, situate within this commonwealth, of any lunatic or habitual drunkard, whether resident within this commonwealth, or otherwise.

SECTION 18. That in the case of a person residing out of this commonwealth, and duly found or proved to be a lunatic or habitual drunkard, according to the laws of the place in which he shall reside, it shall be lawful for the court of Common Pleas of any county of this commonwealth, to admit copies of the proceedings in such case, duly authenticated, as sufficient proof for the appointment of a committee of the person or estate of such person, for this commonwealth.

#### IV. AUTHORITY AND DUTIES OF A COMMITTEE AND HEREIN OF THE SALE OF REAL ESTATE AND EXECUTING THE CONTRACTS OF LUNATICS.

SECTION 19. It shall be the duty of every such committee, within forty days after he shall have undertaken the trust, to file, in the office of Prothonotary of the court having jurisdiction, as aforesaid, a just and true inventory of all the personal estate belonging to the lunatic or habitual drunkard, so far as the same had come to his possession or knowledge, together with a statement of the real estate, and within forty days after any other personal or real estate shall have come to his possession or knowledge, it shall be his duty to file an additional or supplemental inventory or statement, containing

the same: *Provided*, That in case of the committee of a person found to be a lunatic or habitual drunkard, by any authority out of this commonwealth, such inventory and statement may be of the real and personal estate, within this commonwealth, of such lunatic or habitual drunkard.

SECTION 20. The committee of the estate of every person found to be a lunatic or habitual drunkard, as aforesaid, shall have the management of the real and personal estate of such person, and shall from time to time, apply so much of the income thereof as shall be necessary to the payment of his just debts and engagements, and the support and maintenance of such person, and of his family, and for the education of his minor children.

SECTION 21. If the income of the estate of such person shall not be sufficient for the purposes aforesaid, it shall be lawful for the committee aforesaid, under the directions of the court, to apply so much of the principal of the personal estate as shall be necessary for the purpose.

SECTION 22. If the personal estate of such lunatic or habitual drunkard, shall not be sufficient for the purposes aforesaid, it shall be lawful for the Court of Common Pleas, having jurisdiction of the accounts of the committee of such person, to make an order, authorizing such committee to sell at public sale, or mortgage, such parts of the same as the said court shall deem expedient.

SECTION 23. But no such order shall be made, unless the application of the committee for the same be accompanied with:

I. A true and perfect statement or inventory of the real and personal estate, so far as the same has come to his knowledge:

II. A statement of the debts due by such lunatic or habitual drunkard, so far as he can ascertain the same:

III. An estimate of the sum that would probably be required annually, for his support and maintenance, and for the support and maintenance of his family, and education of his children, if he have any.

Which statements, estimate and inventory, shall, in all cases, be supported by the oath or affirmation of the applicant.

SECTION 24. No order for the sale or mortgage of real estate, as aforesaid, shall be granted, unless it appear that due notice of the intended application was given to the wife, if any, and the next of kin of the lunatic or habitual drunkard, capable of inheriting the estate.

SECTION 25. It shall be lawful for the court, upon any application as aforesaid, to appoint an auditor to investigate the facts of the case, and to report upon the expediency of granting the application, and if the case shall require it, the amount proper to be raised by such sale or mortgage.

SECTION 26. Every order for the sale of real estate, as aforesaid, situate within the same county, shall specify the property to be sold, the notice of the sale to be given by the committee, the terms of sale, the amount of security to be given by the committee, and the day on which the order of sale is to be returnable.

SECTION 27. Every order for the mortgage of real estate, as aforesaid, shall specify the amount to be raised by mortgage, the property to be mortgaged, the rate of interest to be paid, the amount of security to be given by the committee, and the day on which the order is to be returnable.

SECTION 28. When the real estate of such person is situate in another county or counties, or in the same and another county or counties, and the court of Common Pleas aforesaid, shall be satisfied of the expediency of a sale, or mortgage, of some portion of such real estate, not within their jurisdiction, it shall be lawful for such court to make an order, authorizing such committee to raise so much money as the said court may think necessary, from real estate situate in such county, as they may designate, and thereupon, it shall be the duty of the court of Common Pleas of the county wherein the real estate so designated is situate, upon the petition of such committee, to make an order for the sale, or mortgage, as they shall think expedient, of so much and such parts of such real estate as shall, in their opinion, be necessary to raise the specified sum.

SECTION 29. The committee shall make return to the court of Common Pleas of the county in which the real estate is situate, at the time appointed in the order, of the manner in which such order shall have been executed, and the same being in conformity with such order, shall be confirmed by the court.

SECTION 30. But no sale or mortgage of real estate, as aforesaid, shall be confirmed by the court, until the committee have given security, to the satisfaction of the court, for the faithful application of the proceeds of such sale or mortgage, according to the duties of his trust.

SECTION 31. On the return made of any sale or mortgage, as aforesaid, if the same be confirmed by the court, the committee shall execute such deed of sale, or mortgage, as may be according to the terms of the contract, which deed, so executed, shall be effectual to convey, or mortgage, as the case may be, all the right, title and interest of the lunatic or habitual drunkard, according to the terms of the contract, as aforesaid.

SECTION 32. If the committee in such case shall die, or from any cause, or in any manner, become incapable of executing such deed, it shall be lawful for the court, on the petition of the purchaser or mortgagee, to direct the protha-

notary of the court to execute and deliver to the purchaser or mortgagee, the necessary deed, on his paying into court the money otherwise payable to the committee as aforesaid, and in other respects complying with the terms of the contract, and the deed so executed by the prothonotary, shall be as valid and effectual, to all intents and purposes, as if executed by the committee aforesaid; or in any case as aforesaid, if a new committee shall have been appointed, and give security according to law, it shall be lawful for the court to order the deed to be executed by such new committee, on the payment to him of the purchase or mortgage money, and the performance of the terms of the contract, as aforesaid.

SECTION 33. The like proceedings may had, if any committee, as aforesaid, shall neglect or refuse to execute any deed of sale, or mortgage, as aforesaid, without sufficient cause shown for such neglect or refusal, after due notice to such committee of the application, as aforesaid.

SECTION 34. It shall be lawful for any committee as aforesaid, by the leave, and under the direction of the court of Common Pleas having jurisdiction, as aforesaid, to invest the money of a lunatic or habitual drunkard, in such stocks, or upon such security, as shall be approved of by such court, and if such investment be made, bona fide, the committee making the same, shall not be liable for any loss that may arise thereby.

SECTION 35. Whenever any person shall, by a bargain or compact in writing, bind himself to sell and convey any real estate within this commonwealth, and afterwards shall become a lunatic or habitual drunkard, as aforesaid, and shall be so found by an inquisition, as aforesaid, being seized or possessed of such real estate, it shall be lawful for the committee of the estate of such person, or for the purchaser of such real estate, or other person interested in such contract, to apply by bill or petition, to the court of Common Pleas, having jurisdiction of the accounts of such committee, setting forth the facts of the case, and after due notice of such bill or petition, to the purchaser, or to the committee and next of kin of such lunatic or habitual drunkard, as the case may require, to appear in court on a day certain, and answer such bill or petition, if there be cause; such court shall have full power, if the facts of the case be sufficient in equity, and no sufficient cause be shown to the contrary, to decree the specific performance of such contract, according to the true intent and meaning thereof: *Provided*, That either parties, when facts are controverted, may require a decision thereon by a jury.

SECTION 36. The order or decree of the court of Common Pleas for the specific performance of any such contract, in the cases hereinbefore mentioned, being certified by the clerk of such court, under the seal thereof, may be recorded

in the office for recording of deeds, in the county where such real estate is situate, in like manner as deeds are recorded, and with the same effect.

SECTION 37. When such order or decree for the specific performance of any such contract shall have been made, and the purchase money paid, or secured to be paid, according to the terms of such contract, it shall be the duty of the committee aforesaid, to execute such deed of conveyance, as shall be directed by the court, in conformity with the intention of such contract, and the same being so made, shall be of the same force and effect to pass and vest the estate intended, as if the same had been executed by the person so contracting, when of sufficient ability.

SECTION 38. The like proceedings may be had in all respects, whenever any parol contract shall have been entered into, by any person who shall become a lunatic or habitual drunkard, as aforesaid, for the conveyance of real estate within this commonwealth, of which such person shall be seized or possessed at the time of the inquisition, in all cases where such parol contract shall have been so far executed, that it would be against equity to rescind the same.

SECTION 39. Whenever any person shall have contracted as aforesaid, for the purchase of any real estate within this commonwealth, and shall afterwards, and without having executed such contract, become a lunatic or habitual drunkard, and be found as aforesaid, it shall be lawful for the court having jurisdiction as aforesaid, on the application of the vender, or of the committee, or of any person interested in such contract, in the manner hereinbefore provided, to make such order for the performance of the contract as shall be according to the rules of equity, and the terms of such contract, or on the application of the committee, or other person interested, made as aforesaid, and with the assent of the vender, to make a decree for the rescinding of such contract, if such proceeding shall not be disadvantageous for the estate of such lunatic or habitual drunkard, upon such terms as shall be equitable and just, and the like proceedings may be had upon any parol contract, made as aforesaid, and so far executed as that the same may be enforced, according to the rules of equity.

SECTION 40. Every committee of the estate as aforesaid, shall, at least once in three years, and at any other time when so required by the court, render an account of the management of the property committed to him as aforesaid, including the particulars of his receipts and expenditures, which accounts shall be filed in the office of the prothonotary of the court, for the information of the court, and the inspection of all parties concerned.

SECTION 41. And every committee as aforesaid, shall on the determination of his trust, by the death of the party, or otherwise, settle in the said office, a full and complete account of his management of the property under his care, including all the items embraced in every preceding settlement.

SECTION 42. In every case in which a committee of the person of a lunatic or habitual drunkard, shall be appointed separately from a committee of the estate, such committee of the person shall settle an account of his transactions as such, in the office of the prothonotary, as aforesaid, whenever so required by the court.

SECTION 43. The several courts of Common Pleas, and the judges thereof respectively, shall have the like power and authority in respect to the control, removal, dismissal, and discharge of committees of the person or estate of any person found by inquisition to be a lunatic or habitual drunkard, as are now possessed by the several Orphans' courts, and the judges thereof, in respect to guardians or minors.

#### V. PROCEEDINGS IN CIVIL ACTIONS AGAINST LUNATICS.

SECTION 44. No person, found by inquisition to be a lunatic, shall be liable to arrest or imprisonment, upon mesne or final process in any civil action, so long as such person shall remain of unsound mind.

SECTION 45. Every writ for the commencement of an action, against a person found to be a lunatic, as aforesaid, shall be served on the committee of the estate of such person, or upon the committee of the person, if there be no committee of the estate, and proceedings may thereupon be had, in like manner as if service had been made upon the defendant, being of sound mind.

SECTION 46. If any person found by inquisition to be a lunatic, shall be arrested or imprisoned as aforesaid, in any civil action, it shall be the duty of the court from which the process shall have issued, and of any judge thereof, in vacation, on the application of any person on behalf of the defendant, and the production of a certified copy of the proceedings upon such inquisition, to discharge such defendant from arrest or imprisonment, without bail.

SECTION 47. *Provided*, That if the plaintiff in such action shall make affidavit, that he verily believes that such inquisition was unduly or untruly found, or that the defendant is restored to a sound state of mind, as the case may be, the court may, in their discretion, order the defendant to be held to bail, if he be in other respects liable thereto.

SECTION 48. If any person arrested or imprisoned as aforesaid, in any civil action, shall appear to be of unsound mind, it shall be the duty of the jailor or keeper of the prison, forthwith to give notice of the fact, to two or more aldermen or justices of the peace of the city or county,

and require them to attend at such prison, and inquire into the state of mind of such person.

SECTION 49. It shall be the duty of the said aldermen or justices, upon such notice, and also, in case such aldermen or justices shall receive information of the fact by other means, to attend at the said prison, and by their own view, and by examination, on oath or affirmation of such persons as they shall think fit to examine, they shall inquire into the state of mind of such prisoner, and if it shall appear to such alderman or justices, that such prisoner is of unsound mind, and unfit to apply for the benefit of the acts for the relief of insolvent debtors, they shall forthwith make a record of the fact, and certify the same to the prothonotary of the court of Common Pleas of the same county.

SECTION 50. It shall be the duty of the said prothonotary, forthwith, to make known such record to the court of Common Pleas, if in session, or to some judge thereon, in vacation, and thereupon, such court, or such judge, shall appoint a day, not more than twenty, nor less than ten days, for hearing any objections to the discharge of such prisoner, and it shall then be the duty of such prothonotary, to cause notice to be inserted in one or more newspapers published in the county, and also, to be given to the creditor at whose suit such prisoner shall be detained, his agent or attorney, at least one week before the day of hearing, that application will be made to the court, or the judges, as the case may be, for the discharge of such prisoner, on the day therein specified.

SECTION 51. On the day appointed for the hearing, as aforesaid, if it shall appear that notice has been published and given as aforesaid, the court, or judge, as the case may be, may proceed to ascertain the state of mind of such prisoner, and if they or he shall be satisfied that such prisoner is of unsound mind, an order shall be made for the discharge of such prisoner from confinement, which shall be entered of record in the said court: *Provided*, That if it shall appear to such court or judge, that such person is not in a fit condition of mind to be set at large, it shall be lawful for such court or judge to make an order that he be detained in custody, or delivered to his kindred or friends, in the manner hereinafter provided in the case of a lunatic charged with any crime or misdemeanor.

SECTION 52. If any person as aforesaid, be in confinement upon mesne process in any civil action, it shall be the duty of the said court, or of the said judge, before making such order of discharge, to appoint some suitable person, being of the kindred of the said prisoner, if such can be found, to appear and act for the prisoner in the matter of the said action, and to order that the appearance of such person to the action be forthwith entered of record.

SECTION 53. If such person be in confinement on any *capias ad satisfaciendum*, in any civil action, as aforesaid, it shall be the duty of the said court, or of the said judge, to appoint two suitable persons to act as assignees of the estate and effects of such prisoner, and thereupon, the order of discharge of the said prisoner, shall operate as a present assignment of all the estate, property, and effects whatsoever, of the said prisoner, to such assignees, for the benefit of his creditors, in the same manner, and with the same effect, to all intents and purposes, as if such assignment were made by the party himself, being of sound mind, under the laws relating to insolvent debtors.

SECTION 54. The assignees so to be appointed, shall have the like powers and authorities, and shall be subject to the same responsibilities, and liable to the performance of the same duties, as assignees appointed under the acts aforesaid, relating to insolvent debtors.

SECTION 55. The order of the court or of the judge aforesaid, being duly certified to the sheriff, jailor, or keeper of the prison, shall be a sufficient warrant for the discharge of the prisoner, and after such order shall be made, the person therein named, shall not be liable to arrest or imprisonment, at the suit of the same, or any other creditor, unless upon the order of the court, after proof made of his becoming of sound mind.

SECTION 56. It shall be lawful for the court in which any action shall be depending, or any judge, in vacation, upon application by the special bail in such action, at any time before such bail shall have become absolutely liable, setting forth that the principal had been, before the time of arrest, found by an inquisition to be a lunatic, or had subsequently thereto been so found, and that in consequence of such lunacy, he could not be surrendered to the prison without prejudice to his health, or safety, to hear and decide the question in a summary way, after due notice to the plaintiff in the action, and if upon such hearing, the court, or judge, as aforesaid, shall be satisfied of the truth of the facts stated in such application, it shall be lawful for such court or judge, to order an exoneretur to be entered on the bail piece.

SECTION 57. *Provided*, That if such application be made before judgment in the action, it shall be the duty of the said court, or of the said judge making such order, to appoint some suitable person as aforesaid, to appear and act for the defendant in the matter of the said action, and to order that the appearance of such person to the action be forthwith entered of record.

#### VI. CRIMINAL PROCEEDINGS AGAINST LUNATICS.

SECTION 58. In every case in which it shall be given in evidence upon the trial of any person charged with any crime

or misdemeanor, that such person was insane at the time of the commission or such offence, and such person shall be acquitted, the jury shall be required to find specially, whether such person was insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on the ground of such insanity, and if they shall so find and declare, the court before whom the trial was had, shall have power to order such person to be kept in strict custody, in such place, and in such manner as to the said court shall seem fit, at the expense of the county in which the trial was had, so long as such person shall continue to be of unsound mind.

SECTION 59. The same proceedings may be had if any person indicted for an offence, shall, upon arraignment, be found to be a lunatic, by a jury lawfully impanelled for the purpose, or if upon the trial of any person so indicted, such person shall appear to the jury charged with such indictment to be a lunatic, in which case, the court shall direct such finding to be recorded, and may proceed as aforesaid.

SECTION 60. In every case in which any person charged with any offence shall be brought before the court, to be discharged for want of prosecution, and shall, by the oath or affirmation of one or more credible persons, appear to be insane, the court shall order the prosecuting attorney, to send before the grand jury, a written allegation of such insanity, in the nature of a bill of indictment, and thereupon, the said grand jury shall make inquiry into the case, as in cases of crimes, and make presentment of their finding to said court, and if said grand jury shall affirm said written allegation, they shall endorse the same thereon, and thereupon, the court shall order a jury to be impanelled, to try the insanity of such person, but before a trial thereof be ordered, the court shall direct notice thereof to be given to the next of kin of such person, by publication or otherwise, as the case may require, and if the jury shall find such person to be insane, the like proceedings may be had as aforesaid.

SECTION 61. *Provided*, That if the kindred or friends of any person who may have been acquitted as aforesaid, on the ground of insanity, or in default of such, the guardians, overseers, or supervisors of any county, township, or place, shall give security, in such amount as shall be satisfactory to the court, with condition that such lunatic shall be restrained from the commission of any offence, by seclusion, or otherwise; in such case, it shall be lawful for the court to make an order for the enlargement of such lunatic, and his delivery to his kindred or friends, or as the case may be, to such guardian, overseers, or supervisors.

SECTION 62. The estate and effects of every such lunatic shall, in all cases, be liable to the county aforesaid, for the

re-imbusement of all costs and expenses paid by such county in pursuance of such order, but if any person acquitted on the ground of insanity, shall have no estate or effects, the county, township, or place to which such lunatic may be chargeable, under the laws of this commonwealth, relating to the support and employment of the poor, shall, after notice of his detention as aforesaid, be liable for all costs and expenses as aforesaid, in like manner as if he had become a charge upon any township not liable for his support, under the laws aforesaid.

#### VII. OF SUPERCEDING A COMMISSION OF LUNACY.

SECTION 63. It shall be lawful for the court to which any inquisition shall be returned, as aforesaid, on petition by the party, setting forth that he is restored to a sound state of mind, or that he is reformed, and become habitually sober, as the case may be, to take proofs of the facts, and if the court shall be satisfied of the truth of the allegations in such petition, it shall be their duty, to make an order that the commission issued in such case, and the inquisition taken thereon, and the appointment of committee, and all proceedings relating thereto, be suspended, or altogether superceded and determined, as the court shall decide.

SECTION 64. The order of the court, as aforesaid, duly certified, shall have all the effect of a writ of superseedeas, in respect to the estate, or rights and privileges of such party, and may be enforced by attachment.

SECTION 65. *Provided*, That the order of the court for the superceding of the commission, as aforesaid, shall not have the effect of rendering the estate of such person liable for any contract made by him at any time previous to such order.

#### VIII. PENALTY ON INN-KEEPERS SELLING TO HABITUAL DRUNKARDS.

SECTION 66. If any inn keeper, distiller, grocer, or other person, shall receive notice from the committee of an habitual drunkard, not to furnish or supply him with any liquor, and shall, after such notice, sell, or in any manner furnish or supply any wine, or spirituous, or mixed liquors, to such habitual drunkard, or any person for him, every person so selling or furnishing, shall forfeit and pay the sum of ten dollars for every such act, to be recovered as debts of the same amount are by law recoverable, and to be appropriated, one half to the county treasury, and the other half to the person who shall sue for the same.

SECTION 67. The word "lunatic" in this act, shall be construed to mean and include every person of unsound mind, whether he may have been such from his nativity, as idiots, or have become such from any cause whatever.

SECTION 68. All laws hereby altered or supplied, so far as are inconsistent with this act, are hereby repealed, and this act shall take effect from and after the first day of September next.

NER MIDDLESWARTH,  
Speaker of the House of Representatives.

THOMAS S. CUNNINGHAM,  
Speaker of the Senate.

APPROVED—The thirteenth day of June, Anno Domini, one thousand eight hundred and thirty-six.

JOS: RITNER,



No. 172.

## An Act

Relating to Domestic Attachments.

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