

in 1838. The earliest legislation on the subject of commitments to the asylum for the insane is found in the Revised Statutes, which went into effect in 1843. By section 15 of chapter 10 it was provided that "any insane person committed to the asylum by any court or judge of probate shall be supported by the county from which he was committed, and any sum so paid may be recovered by the county, of any county, town, or person chargeable with his support." It must be presumed that the legislature employed the expression "person chargeable with his support" in the same sense as the nearly identical language in the statute relating to paupers. Rev. Stat., c. 66, s. 9. When the intention was to subject the person committed to the expense of his support, different and explicit words were used. By section 21, chapter 225, it was provided that persons prosecuted for crime might in certain cases be committed to the asylum; and by section 22, that "every person so committed shall be kept at his own expense, if he has estate sufficient for that purpose." No material alteration of the statute has been made in respect to commitments by the judge of probate. G. L., c. 10, ss. 16 and 21.

A guardian is under no personal obligation to maintain his ward. He is not chargeable with the ward's support within the meaning of the statute, which contemplates a personal liability either at common law, or by force of the statute. G. L., c. 82, s. 8; Rev. Stat., c. 66, s. 8; Act of Dec. 16, 1828, s. 10.

It is not contended that a person committed to the asylum is liable at common law for his support therein. *Abbot v. Fremont*, 34 N. H. 432, 436; *Farmington v. Jones*, 36 N. H. 271; *Bennington v. McGennes*, 1 D. Chip. 44; *Deer-Isle v. Eaton*, 12 Mass. 328; *Medford v. Learned*, 16 Mass. 215; *Groveland v. Medford*, 1 Allen 24, 25; *Stow v. Sawyer*, 3 Allen 515.

Judgment for the defendant.

STANLEY, J., did not sit: the others concurred.

FRAZIER *v.* PERKINS.

The acceptance of a beneficial gift is presumed.

ASSUMPSIT, for money had and received. The plaintiff's wife, in her last sickness, having in her possession \$150 in money belonging to the plaintiff, in his presence and with his consent delivered the same to C. in trust as a gift of \$50 to each of their three minor children. All the parties understood that the gift was complete. In reply to C.'s inquiry if he should deposit the

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money in a savings-bank, the plaintiff suggested that it be deposited in the names of the children in such a way that the boy could draw his at the age of twenty-one, and the girls theirs at the age of eighteen. C. deposited in a savings-bank, without restriction, \$50 in the name of each child. After the wife's death, he delivered the deposit-books to the plaintiff, who procured each of the children to sign an order in favor of the defendant, and requested the latter to draw the money and pay it over to him. The defendant drew the money, but declined to pay it to the plaintiff unless it should be decided to belong to him, whereupon this suit was brought. The court ordered judgment for the defendant, and the plaintiff excepted.

A. F. L. Norris and *C. G. Hawthorne*, for the plaintiff.

H. W. Greene and *H. E. Perkins*, for the defendant.

CARPENTER, J. The money was as much the gift of the plaintiff as if he had delivered it to C. with his own hand. No element necessary to make it a completely executed gift was wanting. It was beneficial to the children, and their acceptance is presumed. *Hurd v. Silsby*, 10 N. H. 110; *Peavey v. Tilton*, 18 N. H. 151; *Fellows v. Greenleaf*, 43 N. H. 421; *Johnson v. Farley*, 45 N. H. 505. The plaintiff's suggestion that the money be deposited in a particular way was advisory, and not a condition or limitation of the gift.

Exceptions overruled.

ALLEN, J., did not sit: the others concurred.

ATTORNEY-GENERAL (*ex rel. Holden*) v. COLBURN.

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In an appropriate action for a judicial trial and settlement of the title to an office, the common law gives judgment for the candidate for whom competent evidence shows a majority of the legal votes were intended, and this rule is not altered by the statutes relating to the election of supervisors.

A vote cast in town-meeting is not rendered illegal or insufficient by the fact that the first name of the person voted for is indicated upon it by a single letter. The provision that it shall not be counted is inoperative.

QUO WARRANTO, to determine the title to the office of third supervisor of the town of Temple. Facts found by a referee. The defendant's full name is Elias Everett Colburn; and there