

No. V.

An Act to further amend the law relating to the insane; to authorise the making of conventions with adjacent Colonies in connection therewith; and for the better administration and management of the property of persons incapable of managing their affairs. [23rd October, 1894.]

LUNACY
CONVENTION.
—

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Treatment of insane persons in adjacent Colony.

1. The Colonial Secretary may, on behalf of the Government of this Colony, from time to time, by convention or otherwise, agree with the Government of any adjacent Colony for the apprehension, care, treatment, maintenance, and burial, and for the payment of the expenses under the Lunacy Statutes of that adjacent Colony of insane persons set at large in that Colony under the provisions of this Act; and for the care, treatment, and maintenance under those Statutes of insane persons admitted from this Colony, at the request of relations or friends, into Lunatic Asylums of the adjacent Colony.

Conventions with
Governments of
adjacent Colonies.

2. (i) In any matter or proceeding under section six of the Lunacy Act of 1878, the Justices, on proof to their satisfaction of the matters in that section mentioned, and that it is for the benefit of the person found by them to be insane that he should be sent for care, treatment, or maintenance to an adjacent Colony, with the Government of which an agreement has been made as aforesaid, either before or after the passing of this Act, may, by order in the form of the Schedule to this Act, direct some person named in the order to take the insane person to such place in the adjacent Colony as may be agreed upon by the said convention or otherwise, and as may be named in the order, and there to set him at large, and thereupon to identify him to some officer of police of the adjacent Colony nominated by the Government thereof and named in the order, so that the officer of police may apprehend the insane person in due course, under the provisions of the Lunacy Statutes of the adjacent Colony, to be dealt with thereunder.

Justices may send
insane persons for
treatment in adjacent
Colony.

The order shall be subject to the provisions of section six of the Lunacy Act of 1878 and shall be a sufficient authority to all persons for anything done in pursuance of the same.

(ii) The justices shall forward the order, together with all certificates and evidence upon which the same has been made, to the officer of police named in the order, and shall also forthwith forward to the Inspector-General of the Insane a true copy of the order and of the certificates and evidence.

3. Any person for whose care, treatment, or maintenance the Government of this Colony has made provision under any agreement made with the Government of an adjacent Colony shall, so long as he remains an inmate of any lunatic asylum in that adjacent Colony, and so long as the Government of this Colony is responsible for the payment

Those persons to be
insane patients for
certain purposes.

Lunacy Convention.

payment of his maintenance therein, be deemed with regard to the management and disposition of his property in this Colony, and the liability of his relations residing therein to pay for or contribute to his maintenance, clothing, medicine, and care, to be an insane patient within the meaning of the Lunacy Acts, 1878-1893, and of this Act.

Right of action
vested in the master.

4. Any right of action that may accrue to the Government of this Colony against relations or friends of any person for the payment of whose maintenance the Government of this Colony has become responsible shall be vested in the Master.

Removal of patient
to hospital in this
Colony.

5. If at any time it is deemed expedient to remove any person for the payment of whose care, treatment, and maintenance the Government of this Colony is responsible from any lunatic asylum in an adjacent Colony to any hospital for the insane in this Colony, the Colonial Secretary may order the removal of that person accordingly; and the order of the Colonial Secretary under his hand shall be a sufficient authority to any person named therein to apply to the proper authorities in the adjacent Colony to discharge the first-mentioned person to his care, and to convey him to any hospital for the insane in this Colony, and shall be a sufficient authority to the medical superintendent of the hospital for the insane to which that person is sent to receive him.

Person discharged in
adjacent Colony
entitled to expenses
of his return.

6. Any insane person taken into an adjacent Colony under the authority of this Act, and there discharged from a lunatic asylum in that Colony, shall be entitled to be paid out of the Consolidated Revenue Fund the expenses of his return to this Colony.

Boarding out of harmless patients.

Boarding out of
harmless patients.

53 Vic., c. 5, s. 57.

7. (i) Where the superintendent of an hospital for the insane certifies that the patient therein named is harmless and is free from any symptoms which would indicate any tendency of a character dangerous, either to the patient himself or to others, the Inspector-General may, by order endorsed by him upon the certificate, commit that patient to the care of the person named in the order, to reside and board with him in accordance with and subject to regulations to be made under this Act.

(ii) Patients so boarded out shall, until discharged, be deemed to be insane patients, and as such subject to the provisions of the Lunacy Acts, 1878-1893, and of this Act.

Master, Deputy Master, and Deputy Inspector-General.

In administering the
estates of certain
persons, the Master
to have jurisdiction
of the Court.

54 & 55 Vic., c. 65,
s. 27.

8. Subject to rules in lunacy, the jurisdiction and powers of the Supreme Court or a Judge thereof in respect of the administration and management of the estates of all persons found to be insane by inquisition or by declaration under section ninety-two of the Lunacy Act of 1878, or found to be incapable of managing their affairs under section fourteen of this Act, may be exercised by the Master; and every order made by the Master under the authority hereby conferred on him shall take effect unless rescinded or varied by the Court or a Judge thereof.

9. (i) The Governor-in-Council may appoint a Deputy Master; and the Deputy Master may exercise all the powers conferred and shall perform all the duties imposed upon the Master by any Act or by any Rule or order of the Supreme Court or a Judge thereof.

(ii) During the illness or absence of the Master, the Court or Judge or the Colonial Secretary may authorise the Chief Clerk in Lunacy to perform the duties of the Master: Provided that if the Chief Clerk be not already under sufficient security, he shall give such security as the Court or Judge or the Colonial Secretary in each case may direct.

Power to appoint
persons to discharge
the duties of Master.

Lunacy Convention.

10. The Governor-in-Council may appoint a Deputy Inspector-General; and during the absence from the Colony of the Inspector-General of the Insane, or his inability to act, from illness or other cause, the Deputy shall have all the powers and shall perform all the duties of the Inspector-General.

Power to appoint
Deputy Inspector,
General.

Proceedings under s. 147 of Principal Act.

11. The wife of an insane patient shall be liable in respect of her separate estate for his maintenance, clothing, medicine, and care in the same manner and to the same extent as a husband is now liable for the maintenance, clothing, medicine, and care of his wife when an insane patient. And the provisions of section one hundred and forty-seven of the Principal Act shall, *mutatis mutandis*, apply to proceedings taken against a wife under this section.

12. (i) Upon application being made to Justices under section one hundred and forty-seven of the Principal Act or under the last preceding section of this Act, there shall be lodged with the Justices the affidavit or statutory declaration hereinafter mentioned, together with a true copy of the same.

Application for
maintenance to
be supported
by affidavit.

(ii) The affidavit or declaration shall be made by the Master or the Chief Clerk in Lunacy on his behalf setting forth the following facts to the best of his knowledge, information, and belief:—

- (a) The degree of relationship of the defendant to the patient.
- (b) That the defendant is of ability to pay for or towards the maintenance of the patient.
- (c) The particulars of the patient's property (if any) and that the same is not sufficient for his maintenance, clothing, medicine, and care.

13. Upon complaint being made under section one hundred and forty-seven of the Principal Act, or under section eleven of this Act, the copy of the affidavit or declaration lodged with the Justices as abovementioned shall be served with the summons or warrant. And the affidavit or declaration, or the copy served as aforesaid shall, at the hearing of the complaint, be evidence of the matters therein stated.

Persons incapable of managing their affairs.

14. (i) Where it is proved to the satisfaction of the Supreme Court or a Judge thereof that any person is through mental infirmity, arising from disease or age, incapable of managing his affairs, the Court or Judge may make all proper orders for rendering the property and income of the said person available for the payment of his debts and for the maintenance and benefit of himself and his family; and may make orders for the care and management of his property in all respects as if he had been declared under the Principal Act to be a person of unsound mind and incapable of managing his affairs; and may if necessary appoint any person either with or without security to undertake the care and management of his property under the order and direction of the Court. The person so appointed shall, subject to the said orders and directions and to the Rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate appointed under the Principal Act.

Persons incapable
of managing their
affairs.

53 Vic. c. 5, s. 116.

(ii) The power to make rules under section one hundred and seventy-six of the Principal Act shall extend to all matters under this section.

The provisions of section nineteen of the Lunacy Act Further Amendment Act of 1893 shall apply to the income of every person proved as aforesaid to be incapable of managing his affairs. And the provisions

Lunacy Convention.

provisions of section twenty of the same Act shall extend and apply to the percentage and fees in relation to the incomes and estates of the persons abovementioned.

Supplemental.

Governor may make regulations.

15. The Governor-in-Council may make regulations for carrying into effect the provisions of this Act, and in particular for the care and maintenance of patients while boarded-out and the inspection of those patients and of the houses and premises where they may reside, and may impose any penalty not exceeding twenty pounds for any breach of those regulations. All regulations when made and published in the *Gazette* shall have the force of law, and shall be laid before both Houses of Parliament without delay.

Penalties.

16. Penalties may be recovered before a Stipendiary or Police Magistrate or any two Justices of the Peace in Petty Sessions.

Definitions.

17. In this or in any other Act or in any regulations the expression "Lunacy Acts, 1878-1893," means the Lunacy Act of 1878, the Lunacy Act Amendment Act of 1881, and the Lunacy Act Further Amendment Act of 1893.

Short title.

18. This Act may be cited as the "Lunacy Convention Act of 1894," and shall be construed as one with the Lunacy Acts, 1878-1893.

SCHEDULE.

58 VIC. NO.

Order to convey an insane person to adjacent Colony.

We, the undersigned Justices, having called to our assistance and medical practitioners, and having examined of (*insert residence and occupation, if any*), who has been brought before us as being deemed to be insane, as also the said medical practitioners; and having made such inquiry relative to the said as we have deemed necessary, and being upon such examination (*if other evidence of the insanity, add "with other proof"*) satisfied that the said is insane and in indigent circumstances, or is insane and was wandering at large, or is insane and was discovered under circumstances, that denoted a purpose of committing some offence against the law, or is insane and is not under proper care and control, or is insane and is cruelly treated or neglected by a relative or a person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, and that it is for his benefit that he should be sent for care, treatment, and maintenance to the colony of [*here insert name of colony*] do hereby direct you [*person to convey insane person to adjacent colony*] to convey him to [*place in adjacent colony agreed upon*] and there to set him at large, and thereupon to identify him to [*name of a police officer of the adjacent colony*] so that the said may apprehend him in due course pursuant to the Lunacy Statutes of the said colony to be dealt with thereunder.