ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

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C A P. LIV.

An Act for making further Provision for the Confinement and Maintenance of Insane Prisoners. [4th *August* 1840.]

WHEREAS it is expedient that further Provision should be made for the Confinement and Maintenance of Insane Prisoners: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That if any Person, while imprisoned in any Prison or other Place of Confinement under any Sentence of Death, Transportation, or Imprisonment, or under a Charge of any Offence, or for not finding Bail for good Behaviour or to keep the Peace or to answer a Criminal Charge, or in consequence of any summary Conviction or Order by any Justice or Justices of the Peace, or under any other than Civil Process, shall appear to be insane, it shall be lawful for any Two Justices of the Peace of the County, City, Borough, or Place where such Person is imprisoned to inquire, with the Aid of

Prisoners becoming insane, Two Justices may inquire, with Medical Aid, respecting such Insanity;

If certified to be insane, Secretary of State to grant Warrant for Removal to Lunatic Asylum,

Two Physicians or Surgeons, as to the Insanity of such Person; and if it shall be duly certified by such Justices and such Physicians or Surgeons that such Person is insane, it shall be lawful for One of Her Majesty's Principal Secretaries of State, upon Receipt of such Certificate, to direct, by Warrant under his Hand, that such Person shall be removed to such County Lunatic Asylum or other proper Receptacle for Insane Persons as the said Secretary of State may judge proper and appoint; and every Person so removed under this Act, or already removed or in Custody under any former Act relating to Insane Prisoners, shall remain under Confinement in such County Asylum or other proper Receptacle as aforesaid, or in any other County Lunatic Asylum or other proper Receptacle to which such Person may be removed, or may have been already removed, or in which he may be in Custody by virtue of any like Order, until it shall be duly certified to One of Her Majesty's Principal Secretaries of State, by Two Physicians or Surgeons, that such Person has become of sound Mind, whereupon the said Secretary of State is hereby authorized, if such Person shall still remain subject to be continued in Custody, to issue his Warrant to the Keeper or other Person having the Care of any such Asylum or Receptacle as aforesaid, directing that such Person shall be removed back from thence to the Prison or other Place of Confinement from whence he or she shall have been taken, or, if the Period of Imprisonment or Custody of such Person shall have expired, that he or she shall be discharged.

If afterwards sane, how to be dealt with.

Warrant for Removal back to Prison, or to discharge.

Justices of the Peace to inquire into the Settlement of such Prisoner, and make Orders on Parish for Maintenance, &c.

II. And be it enacted, That in all such Cases as aforesaid, unless One of Her Majesty's Principal Secretaries of State shall otherwise direct, it shall be lawful for such Two Justices, or any other Two Justices of the Peace of the County, City, Borough, or Place where such Person is imprisoned, to inquire into and ascertain, by the best Evidence or Information that can be obtained under the Circumstances, of the personal legal Disability of such Insane Person, the Place of the last legal Settlement, and the pecuniary Circumstances of such Person; and if it shall not appear that he or she is possessed of sufficient Property which can be applied to his or her Maintenance, it shall be lawful for such Two Justices, by Order under their Hands, to direct the Overseers of the Parish where they adjudge him or her to be lawfully settled, or in case such Parish be comprised in a Union declared by the Poor Law Commissioners, or shall be under the Management of a Board of Guardians established by the Poor Law Commissioners, then the Guardians of such Union, or of such Parish, (as the Case may be,) to pay on behalf of such Parish, in the Case of any Person removed under this Act, all reasonable Charges for inquiring into such Person's Insanity, and for conveying him or her to such County Lunatic Asylum or Receptacle for Insane Persons, and to pay such weekly Sum as they or any Two Justices shall, by Writing under their Hands, from Time to Time direct, for his or her Maintenance in such Asylum or Receptacle in which he

or

or she shall be confined; and in the Case of any Person removed under any former Act relating to Insane Prisoners, to pay such weekly Sum as they or any Two such Justices as aforesaid shall, by Writing under their Hands, from Time to Time direct, for his or her Maintenance in the Asylum or Receptacle in which he or she is confined; and when the Place of Settlement cannot be ascertained, such Order shall be made upon the Treasurer of the County, City, Borough, or Place where such Person shall have been imprisoned; but if it shall appear, upon Inquiry, to the said or any other Two Justices of the County, City, Borough, or Place where such Person is imprisoned, that any such Person is possessed of Property, such Property shall be applied for or towards the Expences incurred or to be hereafter incurred on his or her Behalf, and they shall from Time to Time, by Order under their Hands, direct the Overseers of any Parish where any Money or Securities for Money, Goods, Chattels, Lands, or Tenements of such Person shall be, to seize so much of the said Money, or to seize and sell so much of the said Goods and Chattels, or receive so much of the annual Rent of the Lands or Tenements of such Person, as may be necessary to pay the Charges, if any, of inquiring into such Person's Insanity, and of Removal, and also the Charges of Maintenance, Clothing, Medicine, and Care of any such Insane Person, accounting for the same at the next Special Petty Sessions of the Division, City, or Borough in which such Order shall have been made, such Charges having been first proved to the Satisfaction of such Justices, and the Amount thereof being set forth in such Order.

When Settlement not found, Order to be made on Treasurer of County.

In case the Person is possessed of Property, it shall be applied towards the Expence.

III. And whereas it is expedient that the same Provision should be made with regard to Persons charged with Misdemeanors as is made with regard to Persons charged with Treason, Murder, or Felony by virtue of an Act passed in the Session holden in the Thirty-ninth and Fortieth Years of the Reign of King *George* the Third, intituled *An Act for the safe Custody of Insane Persons charged with Offences*; be it therefore enacted, That in all Cases where it shall be given in Evidence upon the Trial of any Person charged with any Misdemeanor that such Person was insane at the Time of the Commission of 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 account of such Insanity; and if they shall find that such Person was insane at the Time of the committing such Offence the Court before whom such Trial shall be had shall order such Person to be kept in strict Custody, in such Place and in such Manner as to the Court shall seem fit, until Her Majesty's Pleasure shall be known; and it shall thereupon be lawful for Her Majesty to give such Order for the safe Custody of such Person, during Her Pleasure, in such Place and in such Manner as to Her Majesty shall seem fit; and in all Cases where any Person before the passing of this Act has been acquitted of any

Persons charged with Misdemeanors, acquitted on the Ground of Insanity, may be kept in Custody. 39 & 40 G. 3. c. 94.

any such Offence on the Ground of Insanity at the Time of the Commission thereof, and has been detained in Custody as a dangerous Person by Order of the Court before whom such Person has been tried, and still remains in Custody, it shall be lawful for Her Majesty to give the like Order for the safe Custody of such Person during Her Pleasure as Her Majesty is hereby enabled to give in the Case of any Person who shall hereafter be acquitted on the Ground of Insanity; and in all such Cases any Two Justices of the Peace of the County, City, or Place where such Person shall have been acquitted on account of Insanity, or shall be kept in Custody, shall have the like Power as is given in the Cases before mentioned to inquire into and ascertain the last legal Settlement of such Insane Person, and also to make the like Order or Orders for the Payment of such Person's Maintenance and of other Charges as above mentioned.

Like Powers as in Cases before mentioned for inquiring into Settlement and ordering Maintenance.

IV. Provided always, and be it enacted, That if any Person shall feel aggrieved by any Order of any Justices as aforesaid, such Person may appeal to the Justices of the Peace at the next Quarter Sessions of the Peace to be holden in and for the County, City, Borough, or Place where the Matter of Appeal shall have arisen, the Person so appealing having given to the Justices against whose Order such Appeal shall be made Ten Days Notice of his or her Intention to make such Appeal; and the said Justices at such Sessions are hereby authorized and required to hear and determine the Matter of such Appeal in a summary Way, and to make such Determination as they shall think proper, and shall and may also award such further Satisfaction to the Party injured, or such Costs to either of the Parties, as they shall judge reasonable and proper; and every such Determination shall be final and conclusive to all Intents and Purposes whatsoever, and no Certiorari shall be allowed.

Persons aggrieved may appeal from the Order of the Justices.

V. Provided also, and be it enacted, That the Overseers of the Parish in which the Justices shall adjudge any Insane Person to be settled, or in case such Parish be comprised in a Union, or be under the Management of a Board of Guardians, then either the Guardians of such Union or Parish (as the Case may be), or the Overseers of such Parish, may appeal against such Order to the General Quarter Sessions of the Peace to be holden for the County, City, Borough, or Place where such Order shall be made, in like Manner and under like Restrictions and Regulations as against any Order of Removal, giving reasonable Notice thereof to the Clerk of the Peace of such County, City, Borough, or Place, who shall be Respondent in such Appeal, which Appeal the Justices of the Peace assembled at the said General Quarter Sessions are hereby authorized and empowered to hear and determine in the same Manner as Appeals against Orders of Removal are now heard and determined.

Overseers or Guardians may appeal against the Order of the Justices on the Parish.

VI. And

VI. And be it enacted, That so much of an Act passed in the Ninth Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act to amend the Laws for the Erection and Regulation of County Lunatic Asylums, and more effectually to provide for the Care and Maintenance of Pauper and Criminal Lunatics, in* England, as relates to the Removal of any Person imprisoned under Sentence of Imprisonment or Transportation to any County Lunatic Asylum or other proper Receptacle, shall be and the same is hereby repealed. 9 G. 4. c. 40. s. 55. repealed.

VII. And whereas, by the said last-mentioned Act it was among other things enacted, that it should be lawful for Two Justices of the Peace of the County where any Person should be kept in Custody as an Insane Person by Order of any Court, or by His Majesty's Order subsequent thereunto, to inquire into and ascertain the Settlement and Circumstances of such Insane Person, and to make Order for the Payment of such weekly Sum for his or her Maintenance as One of His Majesty's Principal Secretaries of State should, by Writing under his Hand, from Time to Time direct; And whereas it is expedient that so much of the said Act as relates to such Direction to be given by such Secretary of State should be repealed, and other Provisions made in the Place thereof; Be it therefore enacted, That so much of the said Act as relates to such Directions to be given by such Secretary of State shall be and the same is hereby repealed; and that it shall be lawful for such Two Justices, by Order under their Hands, to direct the Overseers of the Parish in which they shall adjudge such Insane Person as last aforesaid to be legally settled, or in case such Parish shall be comprised in a Union declared by the Poor Law Commissioners, or shall be under the Management of a Board of Guardians established by the Poor Law Commissioners, then the Guardians of such Union or Parish, as the Case may be, to pay such weekly Sum for the Maintenance of such Person as they or any such Two Justices shall, by Writing under their Hands, direct. So much of 9 G. 4. c. 40. s. 54. as relates to Orders for the Payment of Money for Amount of Maintenance of Insane Prisoners, to be settled by Secretary of State, repealed.

VIII. And in order to remove Doubts as to the Meaning of certain Words in this Act, be it enacted, That the Words "Treasurer of the County, City, Borough, or Place" shall be deemed to include any Officer in any County, Riding, Division, Liberty, County of a City, County of a Town, Cinque Port, or Town Corporate, who has the Custody of any Funds assessed upon or raised in, or belonging to such County, Riding, Division, Liberty, County of a City, County of a Town, Cinque Port, or Town Corporate, in the Nature of County Rates, and applicable to the Purposes to which County Rates are applicable; that the Words "Insane Person" shall be deemed to include any Lunatic or dangerous Idiot; and that the Words "County, City, Borough, or Place" shall be deemed to include any County, Riding, Division, Liberty, County of a City, County of a Town, Cinque Port, or Town Corporate; and the Word "Parish" shall be deemed to include any Township, Hamlet, Tithing Rules for Interpretation of this Act.

Tithing, Vill, Extra-parochial Place, or any Place maintaining its own Poor.

Limitation of Act.

IX. And be it enacted, That this Act shall extend only to *England* and *Wales*.

Act may be altered this Session.

X. And be it enacted, That this Act may be altered, amended, or repealed by any Act to be passed in the present Session of Parliament.

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