



ANNO OCTAVO

EDWARDI VII REGIS.

A.D. 1908.

No. 954.

An Act to facilitate the Control and Care of Inebriates.

[Assented to, November 11th, 1908.]

BE it Enacted by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as "The Inebriates Act, 1908." Short title.

2. "The Inebriates Act of 1881," is hereby repealed: Repeal.
that such repeal shall not affect any act, matter, or thing done 238 of 1881.
under the said Act before the passing of this Act.

3. In this Act—

"Inebriate" means a person who habitually uses alcoholic liquors or intoxicating or narcotic drugs to excess: Definitions.
Vict., No. 1940, 1904,
s. 3.

"Institution" means a place, not being a gaol, established or licensed under this Act by the Governor for the reception, control, and treatment of inebriates:

"Judge" means a Judge of the Supreme Court of the said State:

"Justice" means a Justice of the Peace for the said State:

"Subject of an order" or "subject of the order" means the person concerning whom an order under section 4 or section 8 of this Act has been made:

"This Act" includes regulations made under this Act.

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Power of Judge or Magistrate to make an order as to control of inebriate.

Ibid, s. 4.

4. It shall be lawful for a Judge or a Special Magistrate, on proof to his satisfaction that a person is an inebriate, to order—

- (a) That such inebriate be placed for any period not exceeding two calendar months under the care and control of some person or persons to be named in the order, either in the house of the inebriate, in the house of a friend of the inebriate, in a public or private hospital, or in an institution; or
- (b) That such inebriate be placed and detained in an institution for such period, not exceeding two years, as is mentioned in the order; or
- (c) That such inebriate be placed for any period not exceeding two years (to be mentioned in the order) under the care and charge of an attendant or attendants to be named in the order, which attendant or attendants shall be under the control of such Judge or Magistrate as aforesaid.

Upon whose application order may be made.

Ibid, s. 4.

5. Such order may be made on the application of—

- I. The inebriate himself, or any person authorised in writing in that behalf by the inebriate while sober and fully understanding the nature and effect of such authorisation (of which fact the Judge or Special Magistrate must be satisfied);
- II. The husband or wife, or a parent, or a brother, sister, son, or daughter (which brother, sister, son, or daughter is not less than twenty-one years of age), or a partner in business of the inebriate; or
- III. A member of the Police Force of or above the rank of sub-inspector, acting on the request in writing of a legally qualified medical practitioner in professional attendance on the inebriate, or on the request in writing of a relative by blood or marriage of the inebriate, or at the instance of a Justice.

Conditions precedent.

Ibid, s. 4.

6. (1) No such order shall be made except—

- I. On the production to such Judge or Magistrate of a certificate by a legally qualified medical practitioner (not being the applicant) that the person in respect of whom the application is made is an inebriate, together with corroborative evidence by some other person or persons; and
- II. On personal inspection of the inebriate (where the application is to a Special Magistrate) by such Magistrate, or (where the application is to a Judge) by the Judge or by some person appointed by him in that behalf, whose report shall be produced to the Judge.

(2) Every medical practitioner who signs any certificate under or for the purposes of this Act shall specify therein the facts upon which he has formed his opinion that the person to whom such certificate relates

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relates is an inebriate, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others; and no such order shall be made upon any certificate which purports to be founded only upon facts communicated by others.

7. The inebriate shall be afforded an opportunity of being heard by the Judge or Magistrate on the hearing of an application for an order under section 4 hereof.

Person charged to be heard.
Ibid, s. 4.

8. (1) When any person has been convicted three times within the preceding twelve months of an offence or offences of which drunkenness is a necessary part or condition, it shall be lawful for any Judge or Special Magistrate, on the application of any of the persons upon whose application an order may be made under section 4 hereof, to order that such person be placed for such period of not more than twelve months, as is mentioned in the order, in an institution.

Order in case of frequent convictions of drunkenness, &c.
Vict., No. 1940, 1904, s. 6, adapted.

(2) On the order of any Judge or Special Magistrate such period may from time to time be extended for further periods, none of which shall exceed twelve months.

(3) If such person is physically unfit to travel to the institution named in such order, the Judge or Magistrate making the order may direct that he be placed for immediate medical treatment for such time as the Judge or Magistrate thinks fit, not exceeding twenty-eight days, in a gaol or hospital or private house, there to be under the supervision of the police, and may renew such order from time to time.

9. The Judge or Special Magistrate who makes any order under section 4 or 8 of this Act may, in such order or any subsequent order, direct that the expenses of the care, charge, and maintenance of the subject of the order be paid by him or out of any of his property, and fix the amounts to be so paid. The expenses so directed to be paid may be recovered in any Court of competent jurisdiction—

Order for expenses of care and maintenance.
Ibid, s. 7, adapted.

(a) In case the subject of the order is placed in an institution established by the Governor, at the suit of the Attorney-General or any person authorised by him in that behalf:

Cf. 61 and 62, Vict., c. 60, s. 12.

(b) In case he is placed in an institution licensed by the Governor, at the suit of the managers thereof or any one or more of such managers, or of the secretary thereof.

10. (1) Where it is proved to the satisfaction of the Supreme Court or a Judge that the subject of an order is incapable of managing his affairs, such Court or Judge may make all proper orders for rendering the property and income of such subject 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 were lunatic within

Supreme Court may make order as to management of inebriate's estate.
Vict. No. 1940, 1904 s. 8.

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21 of 1864.

within the meaning of the "Lunatics Act, 1864," 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.

21 of 1864.
380 of 1886.

(2) The person so appointed shall, subject to the said orders and directions and to the rules of the Court, have the same powers and be subject to the same obligations and control as a committee of the estate of a lunatic, and the powers and provisions contained in the "Lunatics Act, 1864," and "The Real Property Act, 1886," relating to the management and administration of the estates of lunatic persons shall apply to the estate of such subject.

Directions as to control of inebriate and power to vary, etc., any order or direction.
Ibid, s. 9.

11. The Judge or Special Magistrate making an order under section 4 or 8 of this Act may give such directions as he thinks fit as to the control of the subject of the order, and may vary, renew, or rescind any order or direction made by him.

Order sufficient authority for anything therein directed.
Ibid, s. 10.

12. The order or direction of a Judge or Special Magistrate made under this Act shall be sufficient authority for the carrying out by any person of any direction therein contained.

Order shall direct attendant to prevent supply of intoxicant.
Ibid, s. 10.

13. When an order made under this Act is that the subject of the order be placed under the care and charge of an attendant it shall authorise and direct such attendant to prevent any person from supplying such subject while under his care and charge with any intoxicating liquor, or with any drug or thing which is capable of being used for the purpose or with the effect of producing a state of intoxication; and any attendant who neglects to comply with any such direction shall be liable to a penalty not exceeding Ten Pounds.

Inebriate not to leave the State.
Ibid, s. 11.

14. When, by an order under this Act, the subject of the order has been placed under the care and charge of an attendant, such subject shall not be allowed to leave the said State during the continuance of such order, unless permitted to do so by some variation of the order.

Inebriate escaping from custody may be arrested.
Ibid, s. 12.

15. (1) Any subject of an order who escapes from the institution in which, or from the attendant under whose care and charge, he has been placed by an order under this Act may, without further or other authority than this Act, be arrested and returned to his former custody under such order.

61 & 62 Vic., c. 60,
s. 18.

(2) The time between his escape and his return, whether on arrest or otherwise, shall not be treated as part of the period prescribed in any order made under this Act.

Police to assist in enforcing compliance with order.

Vic. No. 1940, 1904,
s. 13.

16. It shall be the duty of all officers and members of the Police Force to assist the person under whose care and charge the subject of an order has been placed under an order under this Act to compel such subject to comply with the directions of such order, and to assist such person and the managers of any institution in enforcing the observance of the provisions of this Act.

17. If

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17. If any licensee of any institution licensed under this Act knowingly and wilfully fails to comply with any of the provisions of this Act, or neglects or permits to be neglected any inebriate or the subject of an order placed in the institution in respect of which he is licensed, or does anything in contravention of any of the provisions of this Act, he shall be liable to a penalty for every such offence of not exceeding Twenty Pounds.

Offences by licensees of institutions.

42 & 43 Vict., c. 19, s. 23, adapted.

18. If any person does any of the following things:—

Offences by officers, servants, and other persons.

- i. Ill-treats, or, being an officer, servant, or other person employed in or about an institution, wilfully neglects any inebriate or the subject of an order placed or detained in it:
- ii. Induces or knowingly assists the subject of an order detained in an institution, or placed under the care and charge of an attendant by an order under this Act, to escape from such institution or attendant:
- iii. Without the authority of the licensee or a legally qualified medical practitioner in medical attendance at an institution (proof of which authority shall lie on the said person), brings into such institution any intoxicating liquor or drug, or thing which is capable of being used for the purpose or with the effect of producing a state of intoxication:
- iv. Without the written authority of a legally qualified medical practitioner (proof of which authority shall lie on the said person), except in case of urgent necessity (proof of which shall also lie on the said person), gives or supplies, or attempts to give or supply, the subject of an order, with any intoxicating liquor, or any such drug or thing as mentioned in subsection iii. of this section,

Ibid, s. 24, adapted.

Cf. Vict. No. 1940, 1904, s. 14.

he shall be liable to a penalty for every such offence of not exceeding Twenty Pounds.

19. If the subject of an order who, in the opinion of a legally qualified medical practitioner, is *compos mentis*, while detained in an institution, wilfully neglects or wilfully refuses to conform to the rules thereof, he shall be liable to a penalty not exceeding Ten Pounds, or, at the discretion of the Special Magistrate or Justices, to be detained within the institution for any period not exceeding twenty-eight days beyond the period prescribed in any other order made under this Act.

Offences by inebriates while detained in institutions.

42 & 43 Vict., c. 19, s. 25, altered.

20. No person, except by permission of the Judge or Special Magistrate, or Justices adjudicating (the proof of which permission shall lie on such person), shall publish a report of any proceedings under this Act, and no report published in contravention of this section shall in any action for defamation be deemed to be privileged. Any person who publishes a report of any proceedings in contravention of this section shall be liable to a penalty not exceeding One Hundred Pounds, or to be imprisoned for any term not exceeding three months.

Proceedings not to be published without permission.

Vict. No. 1940, 1904, s. 15.

21. The

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Judges may make rules.

Ibid, s. 16.

21. The Judges of the Supreme Court may make rules for regulating the form and mode of proceeding under this Act before such Court, or a Judge, or a Special Magistrate, and for carrying out the powers and duties of such Court, or a Judge, or a Special Magistrate under this Act.

Governor may establish or license and subsidise institutions for inebriates.

Ibid, s. 16, altered.

22. The Governor may, by Proclamation published in the *Government Gazette*, establish any house or premises as a place for the reception, control, and treatment of inebriates, and may at any time revoke any such Proclamation; and may license institutions for the reception, control, and treatment of inebriates; and may grant subsidies towards the cost of erecting or purchasing institutions, whether now existing or hereafter coming into existence, so licensed or to be so licensed, and the maintenance and extension thereof, and towards the maintenance, care, and custody of subjects of orders placed in institutions under orders made under this Act.

Governor may make regulations.

Ibid, s. 16.

23. (1) The Governor may, by order in Council, make regulations—

- (a) For the issue and revocation of such licences as mentioned in the next preceding section;
- (b) For regulating and managing institutions, and for their inspection by persons appointed by the Governor for that purpose;
- (c) For determining the fees and charges payable by subjects of orders placed in any institution;
- (d) For the treatment, control, and discipline of subjects of orders and their release from any institution on probation, and the discipline of officers and attendants under this Act, whether in institutions or otherwise; and
- (e) Generally for carrying out the provisions of this Act;

and may in such regulations impose any penalty not exceeding Fifty Pounds for any breach thereof, or of any other regulations made by him under this Act.

(2) All such regulations shall be published in the *Government Gazette*, and when so published shall have the force of law and shall be judicially noticed, and shall be laid before both Houses of Parliament within twenty-eight days after such publication, if Parliament is then in Session, and if not, then within twenty-eight days after the commencement of the next Session, but if either House of Parliament passes a resolution at any time within thirty sitting days after such regulations have been laid before such House disallowing any regulation, or part thereof, such regulation, or part thereof, shall thereupon cease to have effect: Provided that if Parliament shall not be in Session for thirty days after such regulations shall have been laid before it then no regulation shall continue to have any force or effect if disapproved by either House of Parliament within thirty days after the commencement of the next Session of Parliament.

24. All

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24. All proceedings in respect of offences against this Act shall be by complaint or information, and shall be heard and determined in a summary way before any Special Magistrate or any two or more Justices, under the Ordinance No. 6 of 1850 and the Act No. 298 of 1883-4, or any Act for the time being in force relating to the duties of Justices as to summary proceedings. Proceedings for offences.

25. There shall be an appeal from any decision of a Special Magistrate or Justices in any proceeding in respect of offences against this Act to the Local Court of Adelaide of Full Jurisdiction, or, except in the case of a decision of a Special Magistrate, to the Local Court of Full Jurisdiction nearest to the place where the decision was given. Such appeal shall be regulated by the said Ordinance No. 6 of 1850 and the said Act No. 298 of 1883-4, or any Act for the time being in force relating to appeals to such Local Court. The Court on such appeal may make any order as to costs which it thinks fit, although such costs exceed Ten Pounds. Appeal.

26. (1) The Local Court may state a special case for the opinion of the Supreme Court. Special case.

(2) The Supreme Court shall deal with such special case according to the practice of the Supreme Court on special cases, and may make such order therein, including any order as to costs of the proceedings in that Court and in the Courts below, as to the said Supreme Court appears just.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

GEORGE R. LE HUNTE, Governor.