



1854.

No. 6.

*An Act to authorize the sale, or mortgage, or letting of the Estates of Persons found lunatic, and for other purposes therein mentioned.*

[Assented to, November 18, 1854.]

**W**HEREAS great injury frequently happens to persons found lunatic, or of unsound mind, and incapable of managing their affairs, and the creditors of such persons are delayed in obtaining payment of their demands, for want of sufficient power to apply the property of such persons in discharge of their debts and engagements—Be it Enacted by the Lieutenant-Governor of South Australia, with the advice and consent of the Legislative Council thereof, as follows:

Preamble.

1. It shall be lawful for the Supreme Court, or any Judge thereof, whenever any persons shall be lunatic, or of unsound mind, so as to be incapable of managing their affairs, and shall be so found by the said Court, or any Judge thereof, either by inspection, or upon inquiry before a jury, or otherwise, to order the freehold and leasehold estate of such persons respectively, to be sold, or charged, or encumbered, by way of mortgage or otherwise, as shall be deemed most expedient, for the purpose of raising such sum or sums of money as shall be necessary for the payment of the debts, and for performing the contracts or engagements of any such persons respectively, and for the payment of the costs and charges attending the same, and attending such sale, mortgage, or encumbrance, respectively; and to direct the Committee of the estate of such persons respectively, to execute, in the name and behalf of such persons respectively, conveyances of the estate so to be sold, mortgaged, or encumbered; and to do all such acts as shall be necessary to effectuate the same, in such manner as such Court or Judge shall direct.

Court may order estates of lunatics to be sold, &c., for payment of debts.

2. In

Surplus—how to be disposed of.

2. In case there shall be any surplus of money to be raised as aforesaid, after answering the purposes aforesaid, the same shall be applied and disposed of for the benefit of the lunatic in such manner as the said Court or a Judge thereof shall direct.

Money not required for maintenance of lunatic to be invested by the Committee.

3. Whenever any money shall be received by or become payable to the Committee of the estate of any person so found lunatic or of unsound mind as aforesaid, over and above the sum requisite for the maintenance of such person, it shall be lawful for such Committee, under the direction of the said Court or of any Judge thereof, to invest the same, or any part thereof, upon mortgage of real estate, or in the purchase of Government securities.

Powers of lunatic may be exercised by Committee.

4. Every power of leasing lands, tenements, and hereditaments, which shall be vested in any person so found lunatic, or of unsound mind, having a limited estate only, shall and may be executed by the Committee of the estate of such person, under the direction or order of the said Court, or a Judge thereof.

Court may order the making of leases.

5. It shall be lawful for the said Court, or any Judge thereof, to order and direct the Committee of the estate of such person so found lunatic, or of unsound mind, to make such leases of the freehold or leasehold estates of such person, according to his interest therein, for such term of years, and subject to such reuts and covenants, as the said Court or Judge shall direct.

Conveyances, &c., binding.

6. Every conveyance, mortgage, and lease, which shall be made, and every act which shall be done by a Committee of the estate of a person so found lunatic, or of unsound mind, by virtue of this Act and the order of the said Court or a Judge, shall be as valid and binding against the person so found lunatic, or of unsound mind, as if he had been of sound mind, and had personally executed such conveyance, mortgage, or lease, or done such act.

Act not to extend to increase liability of estate of lunatic.

7. Provided, nevertheless, that nothing in this Act contained shall extend, or be construed to extend, to subject any part of the freehold or leasehold estate of any person found lunatic, or of unsound mind, to the debts or demands of his creditors, otherwise than as the same are now subject or liable by due course of law; but only to authorize the Supreme Court, and the several Judges thereof, to make orders in such cases as are hereinbefore mentioned, when the same shall be deemed for the benefit and advantage of a person so found lunatic, or of unsound mind, so as to be incapable of managing his own affairs.

No. 10 of 1844.

8. And whereas, by an Ordinance, No. 10 of 1844, intituled "An Ordinance to make provision for the safe custody of and prevention of offences by persons dangerously insane, and for the care and maintenance of persons of unsound mind," two Justices of the Peace are authorized to commit any person who may be a dangerous lunatic, or a dangerous idiot, to some Gaol or House of Correction,

or

or public Hospital, there to be kept in strict custody until such person shall be discharged as in the said Ordinance is provided, or until such person shall be removed to some public Colonial Lunatic Asylum by order of the Governor as thereafter provided: And whereas no provision is made in the said Ordinance for the discharge of any person who may have been so committed and removed to some public Colonial Lunatic Asylum by such order as aforesaid—Be it further Enacted, That whenever any person shall have been committed to any Gaol, House of Correction, or public Hospital, as a dangerous lunatic or a dangerous idiot, under authority of the said Ordinance, and shall have been removed to some public Colonial Lunatic Asylum by order of the Governor, it shall be lawful for two Justices, either of whom shall be one of the Justices who has signed the warrant of committal of such person, or for a Judge of the Supreme Court, to order the discharge of such person, in the same manner as though he had not been removed to such public Colonial Lunatic Asylum.

Justices or a Judge  
may order discharge  
of person committed  
as a dangerous lunatic  
after removal to  
Asylum.