Definitions.

4. In this Act—

The expression "Lord Chancellor" means the Lord High Chancellor of Great Britain, and, if there is a Lord Keeper or Lords Commissioners of the Great Seal of the United Kingdom, this Act shall apply as if such Lord Keeper or Lords Commissioners were substituted for the Lord Chancellor, and a warrant may be countersigned by any two of such Lords Commissioners.

The expression "instrument" in this Act includes any letters patent, letters close, writ, commission, and grant, and any document requiring to be passed under the Great Seal of the United Kingdom.

Repeal.

5. The enactments specified in the Schedule to this Act are hereby repealed.

Provided that such repeal shall not affect anything done or suffered before the passing of this Act.

SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
27 Hen. 8. c. 11.	An Act concerning clerks of the Signet and Privy Seal.	The whole Act.
14 & 15 Vict. c. 82.	An Act to simplify the forms of appointments to certain offices and the manner of passing grants under the Great Seal.	The whole Act.
43 & 44 Vict. c. 10.	The Great Seal Act, 1880	Section 3.

CHAPTER 31.

An Act to make further provision respecting the removal of Prisoners and Criminal Lunatics from Her Majesty's possessions out of the United Kingdom.

[28th July 1884.]

WHEREAS it is expedient to provide for the removal of prisoners undergoing sentence, and of criminal lunatics from one British possession to another British possession, or to the United Kingdom:

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, as follows:

Preliminary.

Short title.

1. This Act may be cited as the Colonial Prisoners Removal Act, 1884.

Prisoners Removal.

Removal of prisoners from British possessions in certain cases.

2. Where as regards a prisoner undergoing sentence of imprisonment in any British possession for any offence it appears to the removing authority herein-after mentioned either—

(*a.*) that it is likely that the life of the prisoner will be endangered or his health permanently injured by further imprisonment in such British possession; or,

(*b.*) that the prisoner belonged, at the time of committing the said offence, to the Royal Navy or to Her Majesty's regular military forces; or,

(*c.*) that the offence was committed wholly or partly beyond the limits of the said British possession; or,

(*d.*) that by reason of there being no prison in the said British possession in which the prisoner can properly undergo his sentence or otherwise the removal of the prisoner is expedient for his safer custody or for more efficiently carrying his sentence into effect; or,

(*e.*) that the prisoner belongs to a class of persons who under the law of the said British possession are subject to removal under this Act;

in any such case the removing authority may, subject nevertheless to the regulations in force under this Act, order such prisoner to be removed to any British possession or to the United Kingdom to undergo his sentence or the residue thereof.

Return of removed prisoner.

3.—(1.) Where a prisoner has been removed in pursuance of this Act, a Secretary of State or the Government of a British possession to which the prisoner has been so removed, may order the prisoner, for the purpose of undergoing the residue of his sentence, to be returned to the British possession from which he was removed.

(2.) If a Secretary of State or the Government of a British possession to which a prisoner is removed under this Act, requires the prisoner to be returned for discharge to the British possession from which he was removed, the prisoner shall, in accordance with the regulations under this Act, be returned to the said British possession for the purpose of being there discharged at the expiration of his sentence. In any other case a prisoner when discharged at the expiration of his sentence shall be entitled to be sent free of cost to the British possession from which he was removed;

Provided that where a prisoner at the date of his sentence belonged to the Royal Navy or to Her Majesty's regular military forces, nothing in this section shall require such prisoner to be returned to the British possession from which he was removed, or entitle him to be sent there free of cost.

Regulations as to removal.

4.—(1.) It shall be lawful for Her Majesty in Council from time to time to make, and when made, revoke and vary regulations as to the removal, return, and discharge of prisoners under this Act.

(2.) The regulations may provide for varying the conditions of a sentence of imprisonment passed in a British possession, where they differ from the conditions of a sentence of imprisonment in the part of Her Majesty's dominions to which the prisoner is removed, with a view to bringing them into conformity with the latter conditions, but the prisoner shall not by reason of such variation undergo an

imprisonment of any longer duration; and where the latter conditions appear to a Secretary of State to be more severe than the former conditions, the Secretary of State may remit a portion of the imprisonment, so that the punishment undergone by the prisoner shall not in the opinion of the Secretary of State be more severe than the punishment to which the prisoner was originally sentenced, and the sentence of imprisonment shall, so long as the prisoner remains in the part of Her Majesty's dominions to which he is removed, be carried into effect as if the conditions thereof as so varied were the conditions of the original sentence.

(3.) The regulations may also provide for the forms to be used under this Act and generally for the execution of this Act.

(4.) All regulations made under this section shall be duly observed by all persons, and shall be laid before both Houses of Parliament as soon as may be after they are made.

Removing authority.

5. The removing authority for the purposes of this Act shall be a Secretary of State acting with the concurrence of the Government of every British possession concerned.

Evidence of act of government of British possession or Secretary of State.

6.—(1.) The concurrence of the Government of a British possession, and any requisition by the Government of a British possession, may be given or made by the Governor in Council or such other authority as may be from time to time provided by the law of that possession, but shall be signified by writing under the hand of the Governor or of the Colonial Secretary or of any other officer appointed in this behalf by the law of that possession.

(2.) Any writing purporting to give such concurrence or make such requisition, and to be signed by the Governor or Colonial Secretary or other officer for the time being, shall be conclusive evidence that the concurrence of or requisition by the Government of the British possession has been duly given or made according to law; and any writing purporting to be under the hand of a Secretary of State, and to order the removal of a prisoner from a British possession, shall be conclusive evidence that such order has been duly given by the Secretary of State, and every such writing as above in this section mentioned shall be admissible in evidence in any court in Her Majesty's dominions without further proof.

Warrant for removal of prisoner.

7.—(1.) Where the removal of a prisoner from a British possession is ordered in pursuance of this Act, a Secretary of State or the Governor of the British possession may by warrant under his hand direct the prisoner to be removed to the part of Her Majesty's dominions mentioned in the said order, and for that purpose to be delivered into the custody of the persons named or described in the warrant or some one or more of them, and to be held in custody and conveyed by sea or otherwise to the said part of Her Majesty's dominions, there to undergo his sentence, or the residue thereof, until returned in pursuance of this Act or discharged, and such warrant shall be forthwith executed according to the tenor thereof.

(2.) Where a prisoner is to be returned to a British possession, a Secretary of State or the Governor of the possession in which he has been undergoing his sentence, shall issue a like warrant, which shall be duly executed according to the tenor thereof.

(3.) Every warrant purporting to be issued in pursuance of this Act, and to be under the hand of a Secretary of State or Governor of a British possession, shall be received in evidence in every court of justice in Her Majesty's dominions without further proof, and shall be evidence of the facts therein stated, and all acts done in pursuance of such warrant shall be deemed to have been authorised by law.

Dealing with removed prisoner.

8.—(1.) Every prisoner removed in pursuance of this Act shall, until he is returned in pursuance of this Act, be dealt with in the part of Her Majesty's dominions to which he is removed, in like manner as if his sentence (with such variation, if any, of the conditions thereof as may have been duly made in pursuance of regulations under this Act) had been duly awarded in that part, and shall be subject accordingly to all laws and regulations in force in that part, with the following qualifications, that his conviction judgment and sentence may be questioned in the part of Her Majesty's dominions from which he has been removed in the same manner as if he had not been removed, and that his sentence may be remitted and his discharge ordered in the same manner and by the same authority as if he had not been removed.

(2.) The officer in charge of any prison, on request by any person having the custody of a prisoner under a warrant issued in pursuance of this Act, and on payment or tender of a reasonable amount for expenses, shall receive such prisoner and detain him for such reasonable time as may be requested by the said person for the purpose of the proper execution of the warrant.

Escape of prisoner from custody.

9.—(1.) If a prisoner while in custody in pursuance of this Act, or under a warrant issued in pursuance of this Act escapes, by breach of prison or otherwise, out of custody, he may be retaken in the same manner as a person convicted of a crime against the law of the place to which he escapes may be retaken upon an escape.

(2.) A person guilty of the offence of so escaping or of attempting so to escape, or of aiding or attempting to aid any such prisoner so to escape, may be tried in any of the following parts of Her Majesty's dominions, namely, the part to which and the part from which the prisoner is being removed or returned, and the part in which the prisoner escapes, and the part in which the offender is found, and such offence shall be deemed to be an offence against the law of the part of Her Majesty's dominions in which he may be so tried, and for all purposes of and incidental to the apprehension, trial, and punishment of the person accused of such offence, and of and incidental to any proceedings and matters preliminary, incidental to or consequential thereon, and of and incidental to the jurisdiction of any court constable or officer with reference to such offence, and to the person accused thereof, such offence shall be deemed to have been committed in the said part, and such person may be punished in accordance with the Courts (Colonial) Jurisdiction Act, 1874. 37 & 38 Vict. c. 27.

Criminal Lunatics.

Application of Act to removal of criminal lunatics.

10.—(1.) The provisions of this Act shall apply to a person in custody as a criminal lunatic in like manner, so far as consistent with the tenor thereof, as they apply to a prisoner undergoing

sentence of imprisonment; and separate regulations may be made by Her Majesty in Council under this Act in relation to criminal lunatics and (subject to those regulations) all laws and regulations in force in the part of Her Majesty's dominions in which a criminal lunatic removed or returned is for the time being in custody under a warrant issued in pursuance of this Act, shall apply to such criminal lunatic as if he had become a criminal lunatic in that part.

(2.) Where a person, who is a criminal lunatic by reason of being unfit to be tried for an offence, is removed in pursuance of this Act, and a Secretary of State or the Government of the British possession to or from which such person was removed considers that such person has become sufficiently sane to be tried for the said offence, and requires him to be returned for trial to the British possession from which he was removed, he shall, in accordance with the regulations under this Act be returned as a prisoner to the said British possession for the purpose of being there tried for the said offence, and shall be removed thither in custody in like manner as if he had been arrested under a warrant on a charge for the said offence.

Miscellaneous.

Cost of removal.

11.—(1.) The cost of the removal of any prisoner or criminal lunatic under this Act and of his maintenance while in confinement, and of his return, and of his being sent after discharge to any place, shall be paid in such manner as may be arranged between the Governments of the British possessions concerned and the Secretary of State, subject, as regards any cost to be paid out of moneys provided by Parliament, to the consent of the Commissioners of Her Majesty's Treasury.

(2.) Nothing in this Act shall affect any power to recover the expenses of removing or returning any prisoner or criminal lunatic from the property of such prisoner or criminal lunatic or otherwise.

Power of legislature of British possession to pass laws for carrying Act into effect.

12. If the legislature of a British possession pass any law—

(*a.*) for determining the authority by whom and the manner in which any jurisdiction, power, or concurrence under this Act is to be exercised or given; or

(*b.*) for payment of the costs incurred in the removal, maintenance, return, or sending back after discharge of a prisoner or criminal lunatic; or

(*c.*) for dealing in such possession with prisoners or criminal lunatics removed thereto in pursuance of this Act; or

(*d.*) for making any class of prisoners subject to removal under this Act; or

(*e.*) otherwise in any manner for the carrying of this Act or any part thereof into effect as regards the said possession,

it shall be lawful for Her Majesty in Council to direct that such law or any part thereof shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

Power as to making and revocation of Orders in Council.

13.—(1.) It shall be lawful for Her Majesty in Council from time to time to make Orders for the purposes of this Act, and to revoke and vary any Order so made, and every Order so made

shall while it is in force have the same effect as if it were enacted in this Act.

(2.) An Order in Council made for the purposes of this Act shall be laid before Parliament as soon as may be after it is made if Parliament is then in session, or, if not, as soon as may be after the commencement of the then next session of Parliament.

Application of Act to Channel Islands and Isle of Man.

14. This Act shall extend to the Channel Islands and Isle of Man as if they were part of England and the United Kingdom.

Application of Act to place under foreign jurisdiction Acts. See 41 & 42 Vict. c. 67.

15. It shall be lawful for Her Majesty in Council from time to time to direct that this Act shall apply, as if, subject to the conditions, exceptions, and qualifications (if any) contained in the Order, any place out of Her Majesty's dominions in which Her Majesty has jurisdiction, and which is named in the Order, were a British possession and part of Her Majesty's dominions, and to provide for carrying into effect such application

Savings. 44 & 45 Vict. c. 58.

16.—(1.) Nothing in this Act shall affect the provisions of the Army Act, 1881.

32 & 33 Vict. c. 10.

(2.) This Act shall not affect any agreement made either before or after the passing of this Act under the Colonial Prisoners Removal Act, 1869, nor any provisions contained in the Act of the session of the fourteenth and fifteenth years of the reign of Her present Majesty, chapter eighty-one, intituled "An Act to authorise the "removal from India of insane persons charged with offences, and "to give better effect to inquisitions of lunacy taken in India."

Application of Act to existing prisoners and criminal lunatics.

17. This Act shall apply to a prisoner who has been convicted, and to a criminal lunatic who has become a criminal lunatic, before the passing of this Act, in like manner as if he had been convicted and become a criminal lunatic after the commencement of this Act.

Definitions.

18. In this Act, unless the context otherwise requires, the following expressions have the following meanings; that is to say,

The expression "British possession" does not include any place within the United Kingdom, the Isle of Man, or the Channel Islands, but includes all other territories and places being part of Her Majesty's dominions, and all territories and places within Her Majesty's dominions which are not part of India and are under one legislature shall be deemed to be one British possession, and any part of India under a Governor or Lieutenant Governor shall be deemed to be one British possession.

The expression "India" means all territories and places within Her Majesty's dominions which are subject to the Governor General of India in Council.

The expression "legislature," where there are local legislatures, as well as a central legislature, means the central legislature only, and in every part of India means the Governor General in Council.

The expression "Secretary of State" means one of Her Majesty's Principal Secretaries of State.

The expression "Governor" means any person or persons administering the government of a British possession, and includes the Governor General of India and also the Governor and Lieutenant Governor of any part of India.

The expression "Colonial Secretary" includes a person performing the like duties as a Colonial Secretary, whether known as

Government Secretary, Chief Secretary to the Government, or by any other title.

The expression "prison" includes any place for the confinement or detention of prisoners whether convicted or unconvicted.

The expression "sentence of imprisonment" means any sentence involving confinement in a prison, whether combined or not with labour, and whether known as penal servitude, imprisonment with hard labour, rigorous imprisonment, imprisonment, or otherwise, and includes a sentence awarded by way of commutation as well as an original sentence passed by the court.

The expression "criminal lunatic" means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time of such offence, or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane.

CHAPTER 32.

An Act for transferring the Royal Military Asylum at Chelsea from the Commissioners of Her Majesty's Woods, Forests, and Land Revenues to the Commissioners of Her Majesty's Works and Public Buildings.

[28th July 1884.]

WHEREAS the Royal Military Asylum at Chelsea and the lands and buildings connected therewith and described in the Schedule to this Act are now under the management of the Commissioners of Her Majesty's Woods, Forests, and Land Revenues (herein-after termed the Commissioners of Woods), and it is expedient that the same be vested in and placed under the management of the Commissioners of Her Majesty's Works and Public Buildings (herein-after termed the Commissioners of Works):

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, as follows:

Short title.

1. This Act may be cited as the Royal Military Asylum Chelsea (Transfer) Act, 1884.

2. From and after the passing of this Act the Royal Military Asylum at Chelsea, with the lands and buildings thereon described in the Schedule to this Act, shall by virtue of this Act be vested, free and discharged from the leasehold interest in any part thereof of any one of Her Majesty's Principal Secretaries of State, in the Commissioners of Works and their successors as incorporated by the Works and Public Buildings Act, 1874, for the estate or interest and purposes, and upon the trusts, and subject to the leases (save as aforesaid) rights of way and other rights (if any), for upon and subject to which the said Asylum and premises or any of them were respectively vested in the Crown or any person or persons on

37 & 38 Vict. c. 84.