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VICTORIÆ REGINÆ.

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C A P. XIV.

An Act to repeal so much of an Act of the Thirty-ninth and Fortieth Years of King *George* the Third as authorizes Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing a Crime; and to make other Provisions for the safe Custody of such Persons.

[30th *March* 1838.]

WHEREAS by an Act passed in the Thirty-ninth and Fortieth Years of the Reign of His late Majesty King *George* the Third, intituled *An Act for the safe Custody of Insane Persons charged with Offences*, it was amongst other things enacted, "that if any Person should be discovered and apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing some Crime for which, if committed, such Person would be liable to be indicted, and any of His Majesty's Justices of the Peace before whom such Person may be brought shall think fit to issue a Warrant for committing him or her as a dangerous Person suspected to be insane, such Cause of Commitment being plainly expressed in the Warrant, the Person so committed shall not be bailed except by Two Justices of the Peace, one whereof shall be 39 & 40 G.3. c. 94.

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the Justice who has issued such Warrant, or by the Court of General Quarter Sessions, or by One of the Judges of His Majesty's Courts in *Westminster Hall*, or by the Lord Chancellor, Lord Keeper or Commissioners of the Great Seal"; and it is expedient to repeal so much of the said Act as has been herein-before recited, and to make other Provisions for the safe Custody of such Persons; 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and by the Authority of the same, That so much of the said Act as is herein-before recited shall be and is hereby repealed.

Recited Act in part repealed.

Persons in Custody under the repealed Provisions of recited Act, or hereafter apprehended as insane or dangerous Idiots, may be sent to Lunatic Asylums.

II. And be it enacted, That in all Cases where any Person shall be in Custody at the Time of the passing of this Act under or by virtue of any Warrant for Commitment made or issued by any of Her Majesty's Justices of the Peace under the Authority of the said herein-before recited Provisions of the said Act of the Thirty-ninth and Fortieth Years of His late Majesty King *George* the Third, and hereby repealed, and if at any Time after the passing of this Act any Person shall be discovered and apprehended under Circumstances that denote a Derangement of Mind and a Purpose of committing some Crime for which, if committed, such Person would be liable to be indicted, it shall and may be lawful for any Two Justices of the Peace of the County, City, Borough, or Place where such Person shall be so kept in Custody or apprehended to call to their Assistance a Physician, Surgeon, or Apothecary, and if upon View and Examination of the said Person so in Custody or apprehended, or from other Proof, the said Justices shall be satisfied that such Person is insane or a dangerous Idiot, the said Justices, if they shall so think fit, by an Order under their Hands and Seals, directed to the Keeper of the Gaol or House of Correction, if in Custody at the Time of passing this Act, or if hereafter apprehended, to the Constable or Overseers of the Poor of the Parish, Township, or Place where such Person shall be apprehended, shall cause the said Person to be conveyed to and placed in the County Lunatic Asylum, provided there be one situated within or belonging to the County, in which such Person shall be in Custody at the Time of passing this Act, or shall be hereafter apprehended, and if there be no such Asylum, then to some public Hospital, or some House duly licensed for the Reception of insane Persons; and it shall be lawful for the said Justices to inquire into and ascertain, by the best legal Evidence that can be procured under the Circumstances, of personal legal Disability of such insane Person or dangerous Idiot, the Place of the last legal Settlement of such Person; and it shall and may be lawful for such Two Justices to make an Order under their Hands and Seals upon the Overseers or Churchwardens of such Parish, Township, or Place where they adjudge him or her to be legally settled, to pay all reasonable Charges of examining such Person, and conveying him or her to such County Lunatic Asylum, Public Hospital, or licensed House, and to pay such weekly Sum for his or her Maintenance in such Place of Custody as they or any Two Justices shall, by Writing under their Hands, from Time to Time direct; and where such Place of Settlement cannot be ascertained, such Order shall be made upon

Justices may inquire into Settlement of Lunatics or dangerous Idiots, and make Order for Payment of their Maintenance, &c.

If Settlement cannot be ascertained.

upon the Treasurer of the County, City, Borough, or Place where such Person shall have been in Custody or apprehended: Provided always, that nothing herein contained shall be construed to extend to restrain or prevent any Relation or Friend from taking such insane Person or dangerous Idiot under their own Care and Protection, if he shall enter into sufficient Recognizance for his or her peaceable Behaviour or safe Custody, before Two Justices of the Peace, or the Court of Quarter Sessions, or One of the Judges of Her Majesty's Courts in *Westminster Hall*: Provided always, that the Church-wardens and Overseers of the Parish in which the Justices shall adjudge any insane Person or dangerous Idiot to be settled may appeal against any such Order to the next General Quarter Sessions of the Peace to be holden for the County 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 the County, Riding, or Division, or to the Town Clerk of the City, Borough, or Place, as the Case may be, upon whose Rates the Burden of maintaining such insane Person or dangerous Idiot might fall, if such Order should be invalid, and such Clerk of the Peace or Town Clerk 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.

Nothing herein to prevent Relations from taking Lunatics under their own Care.

Appeal.

III. And be it enacted, That if upon Examination it shall appear to the Physician, Surgeon, or Apothecary present at the Examination of any Person in Custody at the Time of passing this Act as aforesaid, that he or she is not an insane Person or a dangerous Idiot, and that such Person may be suffered to go at large with Safety, it shall and may be lawful for such Medical Person and he is hereby required to give a Certificate to that Effect, signed by him, to the Visiting Justices of the Gaol or House of Correction in which such Person is in Custody, who are hereby required to transmit the same forthwith to Her Majesty's Principal Secretary of State for the Home Department, who, if he shall so think fit, shall order the Liberation of such Person from Custody.

Persons proved not to be insane may be liberated.

IV. And be it enacted, That nothing herein contained, except where otherwise expressly mentioned, shall alter the Laws relating to the Discharge of Persons who may cease to be insane or dangerous Idiots from any County Lunatic Asylum, Public Hospital or House duly licensed for the Reception of insane Persons, nor authorize the Removal by any Parish Officer of any poor Person from such Asylum, Public Hospital, or licensed House, without an Order for that Purpose made by Two Justices of the Peace for the County in which such House shall be situated, after due Inquiry into the Circumstances of the Case, unless such Person shall have been discharged as cured.

Act not to alter Laws relating to the Discharge of recovered Lunatics.

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

Act to extend to England and Wales.

VI. And

Commencement of Act.

VI. And be it enacted, That this Act shall commence and take effect immediately from and after the passing thereof.

Act may be altered this Session.

VII. 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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