

INEBRIATES ACT 1890.

54 VICTORIA, An Act to consolidate the Law relating to the Care and
No. 1101. Cure of Inebriates.

[10th July, 1890.]

"The Inebriate
Asylums Act
1888."

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say):—

Short title and
commencement.

1. This Act may be cited as the *Inebriates Act 1890*, and shall come into operation on the first day of August One thousand eight hundred and ninety.

Repeal.

First Schedule.

2. The Act mentioned in the First Schedule to this Act to the extent to which the same is thereby expressed to be repealed is hereby repealed. Provided that such repeal shall not affect any appointment rule regulation Order in Council order application or declaration made, or any certificate or security given, or any summons issued under the said Act before the commencement of this Act.

Interpretation.
Ib. s. 3.

3. In this Act unless inconsistent with the subject-matter or context the words and expressions following shall have the meanings hereinafter respectively assigned to them (that is to say):—

"Asylum."

"Asylum" shall mean any asylum within the meaning of the *Lunacy Act 1890*.

"Inebriate."

"Inebriate" shall mean any person in reference to whom whether by himself or by any other person any application for detention or treatment shall be or shall have been made under this Act.

"Patient."

"Patient" shall mean any person detained or who has been detained in any asylum for inebriates under the provisions of this Act.

Governor in
Council may
proclaim asylum
or inebriates.
Ib. s. 4.

4. The Governor in Council may from time to time by Order in Council, which shall be published in the *Government Gazette*, direct that any asylum or any part of any asylum or any other building named in such order shall be an asylum for inebriates, and he may from time to time alter or revoke any such order.

5. The Governor in Council may from time to time appoint for every asylum for inebriates a superintendent who shall be a medical practitioner and may subject to the provisions of the *Public Service Act* 1890 appoint such other officers as he thinks necessary.

The Inebriate Asylums Act 1889 s. 5.
Appointment of superintendent and officers.

6. The Governor in Council may from time to time make alter and repeal regulations, which shall be published in the *Government Gazette*, for the management supervision inspection and regulation of asylums for inebriates and for the care and treatment and release of and for the discipline and conduct to be observed by patients and residents therein and for the fees payable by patients and residents therein; such regulations shall if the Governor think fit provide for the separation of the said asylum into two divisions with a different scale of accommodation and of fees to be paid by patients and residents in each division, and such regulations may provide generally for the better carrying out the purposes of this Act as it affects the said asylums for inebriates and the officers patients and residents therein.

The Governor in Council may make regulations for management of asylum for inebriates.
Ib. s. 6.

7. Any person desirous of being committed to an asylum for inebriates may make application to the Master-in-Lunacy or to any judge of county courts or to a police magistrate or to any justice, and the Master-in-Lunacy or such judge of county courts police magistrate or justice, if he be satisfied that the applicant has habitually used excessive quantities of intoxicating drinks and that he is at the time of his application sober and that he fully understands the nature of his application, may make in the form in the Second Schedule hereto or to the like effect an order authorizing the conveyance of such person to some asylum for inebriates and his delivery to the superintendent or other proper officer thereof and his reception detention and curative treatment therein for any term not exceeding three months.^(a)

Inebriates may apply for admission.
Ib. s. 7.

Second Schedule.

8. Upon the application in the form or to the effect in the Third Schedule hereto of the husband or wife or any relation or friend of any person addicted to the habitual use in excess of intoxicating drinks the Master-in-Lunacy or any judge of county courts or any police magistrate may upon proof to him of the reasonableness of the application summon such person to appear before him on a day named at his chambers to show cause why such person should not be committed to an asylum for inebriates, and such summons may be in the form or to the effect in the Fourth Schedule.

Inebriates may be summoned to appear before Master-in-Lunacy or judge of county courts.
Ib. s. 8.
Third Schedule.

Fourth Schedule.

9. If upon the hearing of such summons in the presence or the absence of the inebriate it appears that by reason of his abuse of intoxicating drinks the person summoned is unable to control himself and incapable of managing his affairs or is dangerous to himself or to others or is suffering under or recovering from *delirium tremens* or chronic alcoholism or is in imminent danger of death from the continuous use of such drinks, and if two medical practitioners certify by statutory declaration in the form or to the effect in the Fifth

Inebriates may be committed.
Ib. s. 9.

Fifth Schedule.

(a) Under section 4 of "*The Inebriates Act 1872*," which gave inebriates a similar right to this section, it was decided that a judge of the Supreme Court would not order the release of a person who had been committed to an asylum under the said section before the period of his

detention had elapsed, on the mere ground that the inebriate had changed his mind, and considered he would be better elsewhere. If the inebriate seek to attack the order of committal or the means by which it was obtained, he must proceed by *habeas corpus*.—*Ex parte Burt*, 4 A.L.T., 112.

"The Inebriate Asylums Act 1868."

Sixth Schedule.

Duration and effect of orders. *Ib. s. 10.*

Inebriates may be retaken during continuance of order after escape. *Ib. s. 11.*

Inebriates to pay expenses of cure. *Ib. s. 12.*

Schedule hereto in writing that such person requires curative treatment in an asylum for inebriates, the Master-in-Lunacy or the judge or police magistrate before whom such application is made may make an order in the form or to the effect in the Sixth Schedule hereto authorizing the apprehension of such person his conveyance to some asylum for inebriates and his delivery to the superintendent or other proper officer thereof and his reception detention and curative treatment therein for any term not exceeding three months, or such summons may be dismissed with costs against the applicant.

10. Every order made in pursuance of this Act until and unless the same be rescinded by a judge of the Supreme Court the Master-in-Lunacy or any judge of county courts or any police magistrate upon application made to him in chambers for that purpose shall be a sufficient authority to all persons acting under and in conformity to such order, and any judge of the Supreme Court or county court master or police magistrate as aforesaid is hereby authorized upon application in chambers by or on behalf of the person named in such order to rescind the same order if he see fit to do so, and the judge master or police magistrate as aforesaid upon such application shall make such order as to costs as in each case he thinks fit.^(a)

11. Any person received into any asylum for inebriates under any such order as is required by this Act may be detained until the expiration of the time named in such order, or until he be discharged as hereinafter provided, and in case of escape before the expiration of the time limited in such order may by virtue of such order be retaken at any time after his escape and before the expiration of the time limited in such order by any officer or servant belonging to such asylum for inebriates or by any constable or by any person authorized in writing in that behalf by the superintendent or other manager of the asylum for inebriates and be conveyed to such asylum for inebriates and received and detained therein until the expiration of the said order or his discharge as hereinafter provided.

12. The Master-in-Lunacy judge of county courts or police magistrate or justice by whom any order is made authorizing the detention of any inebriate in any asylum for inebriates may by the same or a separate order direct the payment by the inebriate of all costs and charges of the proceedings before him and of the conveyance of the inebriate to an asylum for inebriates and of his maintenance and treatment therein, and the amounts so ordered to be paid shall be deemed to be a judgment debt due by the inebriate to Her Majesty; and upon receipt of a certificate from the superintendent of the asylum in which such inebriate is ordered to be detained of the amount due under such order a law officer shall cause a final judgment to be signed in the Supreme Court, and which judgment the prothonotary is directed to sign accordingly, for the amount named in such certificate and One guinea for costs, and every such judgment may be in the form or to the

(a) Under a former Act, "The Inebriates Act 1872," section 7, to which this section is analogous, it was decided that where an inebriate had been committed under the said section to a retreat by a warrant not showing jurisdiction, an action for false imprisonment might be maintained without

first having the judge's order of commitment set aside. The said section 7 afforded no protection where the commitment had not been strictly in compliance with the Act.—*Langley v. McCarthy*, 2 V.L.R. (L.), 278.

effect in the Seventh Schedule to this Act, and no writ of error or appeal shall lie or be had therefrom.

"The Inebriate Asylums Act 1898."
Seventh Schedule.
Rate of payment.
ib. s. 18.

13. In fixing the rate of payment to be made for maintenance and treatment by the inebriate, the Master-in-Lunacy judge of county courts or police magistrate or justice (as the case may be) making the order shall fix the scale of fees for maintenance and treatment to be paid by the inebriate in accordance with the scales fixed by the regulations made by the Governor in Council under this Act; and in the case of any inebriate desiring to receive and being ready to pay for the higher scale of accommodation if such be provided for in the regulations if the Master-in-Lunacy judge of county court or police magistrate or justice making the order be satisfied of the ability of the inebriate to pay for the same, the order for payment for maintenance and treatment shall be upon the higher scale and in all other cases upon the lower.^(a)

14. In any case in which a relative or friend of the inebriate is willing to enter into a security for the due payment by the inebriate of the whole or of any part of the expenses of his maintenance or treatment it shall be lawful for the Master-in-Lunacy to accept such security as he deems advisable and to enforce the same by action in which the Master-in-Lunacy shall be plaintiff.

Master-in-Lunacy may take collateral security for maintenance and treatment of inebriate.
ib. s. 14.

15. In all cases in which in the opinion of the Master-in-Lunacy or of any judge of county courts or police magistrate or of any justice it is necessary or desirable for the curative treatment or care of a patient that a second or other subsequent order for detention or treatment and costs charges and expenses should be made the Master-in-Lunacy or any judge of county courts or police magistrate or justice may make such second or any subsequent order either before or after the determination of detention under any previous order under similar circumstances and upon like evidence as are hereinbefore provided for an original order; and no recital of an original or any other order shall be necessary; and every such second or subsequent order shall be in the same form or to the like effect and shall be dealt with and shall confer the same powers as an original order under this Act.

Second and subsequent orders may be made.
ib. s. 15.

16. If any person ill-treats or being an officer servant or other person employed in or about an asylum for inebriates wilfully neglects any inebriate detained in such asylum, or if any person induces or knowingly assists an inebriate detained in an asylum for inebriates to escape therefrom, or if any person without the authority of the superintendent of the asylum of inebriates (proof of which authority shall lie on him) brings into any asylum for inebriates or without the authority of the superintendent of such asylum except in case of urgent necessity gives or supplies to any person detained therein any intoxicating liquor or sedative narcotic or stimulant drug or preparation the person so offending shall on conviction before justices be liable to a penalty not exceeding Twenty pounds or at the discretion of the court to be

Penalties for improper treatment of patients or supplying intoxicating drinks &c.
ib. s. 16.

(a) A charitable trust means any object of public utility and is permanent in character. The mere fact that a charge is made for admission of patients to an inebriate retreat does not make it less a public charity. It is the source whence the funds

are derived, and not the mere purpose to which they are dedicated, which constitutes the use charitable.—*The Attorney-General v. McCarthy*, 11 V.L.R., 617; and 12 V.L.R., 535.

"The Inebriate Asylums Act 1888."

imprisoned for any term not exceeding three months with or without hard labour.

Penalty on patient misconducting himself. *Ib. s. 17.*

17. If any inebriate while detained in any asylum for inebriates wilfully neglects or wilfully refuses to conform to the regulations for the time being in force therein or is wilfully guilty of any violent unruly or destructive conduct or escapes or attempts to escape therefrom he shall on conviction before justices be liable to a penalty not exceeding Five pounds, or at the discretion of the convicting justices to be detained for a period not exceeding one fortnight in the asylum after the expiration of the original term of his detention for the same purposes and on the same conditions as those on which he was originally detained, and shall also be liable to make good or pay for any damage which he may have caused to the property or furniture; and in reckoning the period of his detention whether original or under this section the time if any during which such person has been absent with leave of the superintendent from the asylum for inebriates shall be excluded from computation.

Persons acting under warrant protected. *Ib. s. 18.*

18. Where any order of commitment is made in accordance with the provisions of this Act or in any of the forms in the Schedules hereto or to the like effect no action or other proceeding shall be brought or maintained against any person for any Act done or forbearance observed *bonâ fide* in pursuance of such order by reason only of any wrongful act or omission of any person prior to or in the matter of the issue or execution thereof.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

Date of Act.	Title of Act.	Extent of Repeal.
52 Vict. No. 1009	"The Inebriate Asylums Act 1888"	The whole.

Section 7.

SECOND SCHEDULE.

FORM OF ORDER FOR CONVEYANCE OF INEBRIATE UPON HIS OWN APPLICATION TO ASYLUM FOR INEBRIATES.

To E.F., and all constables and peace officers, and to the superintendent or other proper officer of the asylum for inebriates at

WHEREAS on the day of 18 , A.B. of came before me, C.D., a judge of the county court at [or the Master-in-Lunacy or a police magistrate or one of Her Majesty's justices of the peace in and for], and applied to be committed under the provisions of the *Inebriates Act 1890* to the asylum situated at : And whereas it appears to me that the said A.B. has habitually used excessive intoxicating drinks, and that he was sober at the time of his application aforesaid, and that he fully understands the nature of his application and the consequences thereof: Now therefore I, the said C.D., a judge of the county court at [or the Master-in-Lunacy or one of Her Majesty's justices of the peace as aforesaid], do, in pursuance of the *Inebriates Act 1890* and by the authority on me thereby conferred, hereby order that you the said and all constables and peace officers to whom this warrant shall be shown apprehend the said A.B., and convey him to the said asylum, and deliver him to the said superintendent or other

SECOND SCHEDULE—*continued.*

proper officer thereof, and that you, the said superintendent or other proper officer, receive him into your custody in the said asylum, and him there safely keep and submit to curative treatment for the term of _____ months, unless he be sooner discharged according to law; and I hereby by this order direct that the said A.B. shall pay to E.F. the sum of £ _____ for the expenses of his conveyance to the said asylum, and to the superintendent the sum of £ _____ for every month of his stay therein and a proportionate part of such sum for any fraction of a month, being the amount of the fees in that behalf ordered to be paid by the regulations made by the Governor in Council in pursuance of the *Inebriates Act 1890*. And for these things shall be a sufficient warrant.

Given under my hand and seal this _____ day of _____ 18 _____.

C.D.,
 Judge of the County Court at
 [or the Master-in-Lunacy]
 [or Justice of the Peace].

THIRD SCHEDULE.

Section 8.

FORM OF APPLICATION FOR SUMMONS.

In the matter of C.D., of _____ in Victoria, and the *Inebriates Act 1890*.

To _____ Esquire, judge of the county court at [or A.B., Esquire, Master-in-Lunacy, or E.F., Esquire, police magistrate].

I, A.B., of _____ in Victoria [occupation], being [father, brother, relation, or friend, as the case may be] of the above-named C.D., do hereby solemnly and sincerely declare and state that the said _____ is addicted to the habitual use in excess of intoxicating drinks; and I do hereby apply for a summons against the said _____ requiring h to appear before you at a time therein to be named, calling upon h to show cause why h the said _____ should not be committed under the provisions of the *Inebriates Act 1890* to the asylum for inebriates at _____ for the reasons hereunder stated.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

Declared before me at _____ in }
 Victoria this _____ day of }
 hundred and _____ One thousand eight }

(Signed) A.B., C.D.
 [father, brother, relation, or friend, as the case may be] of the said _____
 Grounds of application.
 [Here state grounds of application.]

FOURTH SCHEDULE.

Section 8.

FORM OF SUMMONS.

Inebriates Act 1890.

In the matter of an application of A.B., of _____ in Victoria [here state relationship of A.B. to the patient as in the application] of C.D., charged with the habitual use in excess of intoxicating drinks.

To C.D., of _____ in Victoria.

You are hereby required to appear before [the judge of the county court at _____ at his chambers, in the county court house, _____ street, _____ or the Master-in-Lunacy at his chambers at the law courts, Melbourne, or E.F., police magistrate at his chambers at the place appointed for the holding of courts of petty sessions at _____] on _____ the _____ day of _____ 18 _____, at _____ o'clock in the _____ noon, to show cause why you should not be committed under the provisions of the *Inebriates Act 1890* to an asylum for inebriates as being addicted to the habitual use in excess of intoxicating drinks.

Dated at _____ this _____ day of _____ 18 _____.

Judge of the County Court at
 [or Master-in-Lunacy].

Section 9.

FIFTH SCHEDULE.

FORM OF DECLARATION OF MEDICAL PRACTITIONER.

I, _____ in Victoria, do solemnly and sincerely declare—(1) That I am a legally qualified medical practitioner. (2) That I have seen and examined C.D., of _____ who is at present suffering from the habitual use in excess of intoxicating drinks. (3) That I am of opinion that the said C.D. requires curative treatment in an inebriate asylum as defined in the *Inebriates Act 1890*.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

Declared before me at _____ in }
 Victoria this _____ day of }
 One thousand eight hundred and _____ }

Section 9.

SIXTH SCHEDULE.

FORM OF ORDER.

Inebriates Act 1890.

To _____, and all constables and peace officers, and to the superintendent or other proper officer of the asylum for inebriates at _____.

WHEREAS upon the application to me, _____, a judge of a county court of _____ [or the Master-in-Lunacy or police magistrate] of _____ being a relation or friend of _____, of _____, a person addicted to the habitual use in excess of intoxicating drinks, and upon proof to me by the said applicant of the reasonableness of his application, I did summon the said _____ to appear before me on the _____ day of _____, at my chambers [or at the court-house in the _____], to show cause why he should not be committed to an asylum: And whereas the said _____ appeared [or failed to appear] at the time and place specified in the said summons: And whereas upon the hearing of such summons in the presence of the said _____ [or in the absence of the said _____], and upon proof of the service upon him of the said summons, it appears to me that by reason of his abuse of intoxicating drinks the said _____ is unable to control himself, and is incapable of managing his affairs [or is dangerous to himself, or to others, or is suffering from *delirium tremens* or chronic alcoholism, or is recovering from *delirium tremens* or chronic alcoholism, or is in imminent danger of death from the continuous use of intoxicating drinks]: And whereas _____ and _____, being two medical practitioners, have certified by a statutory declaration in writing that the said _____ requires curative treatment in an asylum:

Now therefore I, the said _____, judge of county court [or Master-in-Lunacy or police magistrate], do, in pursuance of the *Inebriates Act 1890* and by the authority on me thereby conferred, hereby order that you the said _____, and all constables and peace officers to whom this warrant may be shown, apprehend the said _____, and convey him to the said asylum for inebriates at _____, and deliver him to the said superintendent or other proper officer thereof; and that you the said superintendent or other proper officer receive him into your custody in the said asylum, and there safely keep and submit to curative treatment for the term of _____ months, unless he be sooner discharged according to law. And I hereby by this order direct that the said _____ shall pay to _____ the sum of _____ pounds _____ shillings and _____ pence for the expenses of his conveyance to the said asylum, and to the said superintendent the sum of _____ pounds _____ shillings and _____ pence for every month of his stay therein, and a proportionate part of such sum for any fraction of a month, being the amount of the fees in that behalf ordered to be paid by the regulations made by the Governor in Council in pursuance of the *Inebriates Act 1890*. And for these things shall be a sufficient warrant.

Given under my hand and seal this _____ day of _____ A.D. One thousand eight hundred and _____

(L.S.) A.B.C.,

Judge of the County Court at
 [or the Master-in-Lunacy].

SEVENTH SCHEDULE.

Section 12.

JUDGMENT UNDER THE INEBRIATES ACT 1890.

In the Supreme Court.

VICTORIA (TO WIT): Be it remembered that A.B., Esquire, Attorney-[or Solicitor-] General of our Lady the Queen, for and on behalf of our said Lady the Queen, gives the court here to understand and be informed that Y.Z. is indebted to Her Majesty under the provisions of the *Inebriates Act 1890* in the sum of _____, as has been made to appear to the said A.B. as a law officer by the certificate of C.D., the superintendent of the asylum for inebriates at _____, and the said A.B. craves judgment for Her Majesty under the said Act for the said sum, and One guinea for costs: Therefore on the _____ day of _____ it is considered by the court here that our said Lady the Queen do recover against the said Y.Z. the said sum of _____, and also the sum of One guinea for costs, making together the sum of _____

INFANTS.

[*See Health Act 1890; Real Property Act 1890.*]

INFECTIOUS DISEASES.

[*See Health Act 1890.*]

INHERITANCE.

[*See Real Property Act 1890.*]

INNKEEPERS.

[*See Carriers and Innkeepers Act 1890.*]

INQUISITIONS.

[*See Lunacy Act 1890.*]