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1st Session, 4th Parliament, 16th Victoria, 1852.

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**B I L L.**

**An Act to make better provision touching the expense of maintaining patients in the Lunatic Asylums in Lower Canada.**

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**HON. A. N. MORIN.**

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(217)

BILL.

An Act to make better provision touching the expense of maintaining patients in the Lunatic Asylums in Lower Canada.

**W**HEREAS it is inexpedient that persons known to be insane should be committed to or confined in the Gaols or other places of detention for sane persons in Lower Canada, and it is necessary to make better provision for the payment by the proper Municipalities of the expenses incurred in respect of Insane Persons committed to any Public Lunatic Asylum in Lower Canada, when they or their families are unable to provide for their care and maintenance, as hereinafter mentioned, and for that purpose to amend the Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, and intituled, *An Act to authorize the confinement of Lunatics in cases where their being at large may be dangerous to the public*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled: *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That any appropriation which shall be made for the year one thousand eight hundred and fifty-three, or any future year, for the support of Destitute Insane Persons in Lower Canada, shall be dealt with and apportioned as follows:

Preamble.

14 & 15 V. c 83.

How future appropriations for the Insane shall be apportioned, &c.

The expenses incurred or to be incurred for the maintenance of Destitute Insane Persons, received into the Temporary Lunatic Asylum at Beauport, or into any Private Asylum in Lower Canada, by order of the Governor of this Province, before the first day of January, in the year one thousand eight hundred and fifty-three, shall be the first charge upon such appropriation;

First charge.

Any expenses of a general nature to be incurred by the Government in carrying into effect this Act or any other Law touching Destitute Insane Persons, shall be the second charge upon such appropriation;

Second charge.

All expenses incurred on the part of this Province for the maintenance of Destitute Insane Persons, in any such Lunatic Asylum in Lower Canada, which could not, in case of any deficiency in the said appropriation, be chargeable against any Municipality on account of such persons being "Emigrants," within the meaning of this Act, or otherwise, shall be the third charge upon such appropriation;

Third charge.

Who shall be deemed emigrants.

And all persons who shall not have been more than one year in this Province, or who having been in the same for a longer period, were insane at the time of their coming into it, or who are foreigners, or unknown persons, shall be deemed Emigrants for the purposes of this Act ;

Fourth charge.

All expenses incurred for the maintenance of Insane Persons in any such Lunatic Asylum, who being convicted or accused of some crime, or declared by the committing authority, upon sufficient proof upon oath, to be dangerous to the life and property of others, may have been committed thereto by any competent authority under the Act aforesaid, or by any three Justices of the Peace in the manner hereinafter provided, shall be the fourth charge upon such appropriation, subject to the provisions of this Act concerning the recovery from the proper Municipalities or parties of any sum so advanced from time to time ;

Apportionment of any surplus among Municipalities in L. C.

The surplus which shall remain after the payment of the charges aforesaid, shall at the end of each year, be divided by the Receiver General, among the several County, City, Town and Village Municipalities in Lower Canada, in proportion of the population of each of such Municipalities by the then last census, and the particulars of such division shall be entered in a book to be kept for that purpose by the Receiver General ; and the share assigned to each Municipality, shall be entered to its credit in such book, and shall be from time to time applied towards defraying the expense of maintaining Lunatics in any such Asylum who are chargeable on such Municipality.

Except in certain cases the expense of maintaining any Lunatic to be recoverable from the Municipality from which he came.

II. And be it enacted, That except in so far as such expense may be permanently or temporarily provided for under the foregoing provisions, out of any such appropriation as aforesaid, or made good by the families and friends of the parties, or out of their own means, the expense of maintaining in any such Public Lunatic Asylum, any Insane person sent thither by order of the Governor of this Province, or by any Court or Judge thereto authorized, or by the authority of any Municipal Council or Municipality, or by any two or more Justices of the Peace, in conformity to the provisions of this Act, shall be borne by the Municipality from which such Insane person shall have been sent to such Lunatic Asylum, or to the Gaol or other place of confinement whence he may have been sent to such Asylum, or by the Municipality to which such expense may be otherwise chargeable under this Act, and the amount of any such expenses, after deducting therefrom any sum which may be at the credit of such Municipality under the next preceding section, shall be a debt due to the Crown from such Municipality, and may be recovered from it, with interest and costs, in any way in which debts due to the Crown can be recovered, on the certificate of the Receiver General, and without other proof or evidence, saving always the right of such Municipality to recover the amount so paid and the costs, from any other Municipality in which such Insane person may

have had his last legal settlement at the time of his being sent to the Lunatic Asylum, or from such Insane person or those bound by Law to maintain him ; and any price or sum agreed upon as the cost of maintaining Insane persons in any Asylum, 5 either for cases generally or for any class of cases, or otherwise, between any authority acting under order of the Governor and the proprietors of such Asylum, shall form the amount chargeable to any Municipality or party, unless such amount be otherwise agreed upon ; Provided that when it shall appear 10 to the authority committing such Insane person found in any Municipality, that such person has his legal settlement in any other Municipality, and ought to be chargeable thereon, it shall be lawful for such authority to declare the same in such commitment, subject always to appeal and final decision in conformity to the seventh section of the said Act, and to the provisions 15 of the eighth section of this Act.

Cost of maintenance, how determined.

Proviso.

III. Provided always, and be it enacted, That the expense of maintaining any Insane person, whether he be an inhabitant of this Province or an Emigrant, in the Lunatic Asylum, shall 20 be borne by himself, or by those who are bound by law to maintain him, if he or they have the means of paying the same, and may be recovered with interest and costs, from him or his Curator, or from those bound by law to maintain him, either directly by the Crown upon such certificate as aforesaid, or by 25 any Municipality which shall have paid the same to the Crown under the next preceding section.

Expense of maintaining to be borne by themselves, or parents, &c., if able.

IV. And be it enacted, That no insane person shall, after the passing of this Act, be committed to any Gaol or other place for the detention of sane persons, by reason of his being 30 insane, or as a dangerous person suspected of being insane, but in every case where without this Act any person might be so committed for any such cause, such person may be locked up and detained in some safe place until he can be examined by two licensed Physicians or Surgeons, to be summoned for 35 that purpose by any Judge of the Superior Court or Circuit Judge, or by any two or more Justices of the Peace, upon whose warrant he shall have been arrested, and if such Physicians or Surgeons shall be of opinion that such person is insane, and it shall appear to the said Judge or Justices either that such person 40 was discovered and apprehended under circumstances that denote a purpose of committing some crime, for which if committed he would be liable to be indicted, or that he is furiously mad, or so disordered in his senses as to endanger the persons or property of others, if permitted to go at large, then the Judge 45 or Justices (being such as might without this Act commit such person to custody) may commit such person to the custody of the Keeper of the Public Lunatic Asylum, to be there securely kept, until it shall be certified to the Governor of this Province, in the manner provided by law with regard to prisoners 50 becoming insane, and removed to the Lunatic Asylum, that he

Insane persons not hereafter to be committed to Gaol. How they shall be dealt with, and sent to the Asylum.

Proviso. has become of sound mind, in which case the Governor may issue a warrant for his discharge, or until he be otherwise discharged in due course of law; Provided always, that if it shall appear that such person, although insane, is not otherwise in any of the cases hereinbefore mentioned, the Governor may order his discharge and his removal to the Municipality from which he came at the cost of such Municipality, unless means are provided for and secured for his maintenance in conformity to this Act.

How such Insane persons shall be conveyed to the Asylum.

V. And be it enacted, That any person so committed as hereinbefore last mentioned to any such Lunatic Asylum, shall be conveyed thereto in like manner, and by the like officers and persons, and under like provisions, as if he were committed to the common gaol, and such common gaol were at the place where the Lunatic Asylum shall be, unless he be so conveyed at the expense and under the care of the Municipality or other parties; and the Keeper of such Lunatic Asylum shall have the like power and authority to detain any such person, according to the tenor of the Warrant of Committal, or to retake him in case of an escape, as the Keeper of the Common Gaol would have had if such person had been committed to the gaol; and all officers and persons shall be bound to aid such Keeper of the Lunatic Asylum, or the officer or person in whose charge he shall be conveyed to the Lunatic Asylum, in detaining or retaking such person, in like manner as they would be bound to aid the Keeper of any Common Gaol in detaining or retaking such prisoner committed to his charge; and the warrant of the Judge or Justices committing such person to the Lunatic Asylum, shall be of full force and effect in each and every District of Lower Canada, as if such Judge or Justices were specially appointed for and acting in such District, in whatever District such warrant may have been issued; Provided however, that the Mayor of any Municipality as aforesaid, may send any Insane Person from such Municipality, under the care and at the cost thereof, to be committed to such Lunatic Asylum as aforesaid, after having procured the certificate of two Physicians in the manner and for the purposes above stated, in any case where sufficient funds may be at the credit of such Municipality for the maintenance of such person, or satisfactory security for payment shall have been given to the satisfaction of all parties concerned.

Proviso.

Part of Sect. 5, of 14 & 15 V. c. 83, repealed as to L. C.

VI. And be it enacted, That so much of the fifth section of the Act first above cited, as requires or provides that any person apprehended under the said Section, shall or may be sent to the place of his last legal settlement, shall not after the passing of this Act be in force in Lower Canada.

What shall be presumed to be the place of

VII. And be it enacted, That as well in cases where any person shall by virtue of the first and second sections of the said

Act be kept in custody as a Lunatic or Insane Person by order of any Court, or by order of the Governor of this Province subsequent thereto, as in other cases hereinbefore provided for, the County, City or Incorporated Town or Village in which such person shall have been apprehended, shall be deemed the place of his last legal settlement, unless he be an Emigrant, or some other place of last legal settlement shall be ascertained in the manner provided by the seventh section of the said Act, or declared in the manner before stated; and in all cases, the cost of his maintenance in any Lunatic Asylum shall, if he be not an Emigrant, be recoverable by the Crown from the Municipality of the County, City, Town or Village in which he shall have been apprehended, or which may have been declared by the committing authority to be liable as aforesaid, saving the course of any Municipality against any other which shall be ascertained to be the place of his last legal settlement; and the Justices who shall in the manner provided by the said seventh section of the said Act, enquire concerning the place of the last legal settlement of any person, shall not fix the amount to be paid for his maintenance in any such Lunatic Asylum, but the amount to be paid for the same shall, unless fixed by some agreement as before mentioned, be the actual cost thereof, as ascertained by the Certificate of the Receiver General in the manner hereinbefore provided.

last legal settlement.

What Municipality shall be liable in the first instance.

Justices not to fix the sum to be paid for maintenance.

VIII. And be it enacted, That in Lower Canada, whenever any person of full age shall have been a resident in or an inhabitant of any part of any County, City or Incorporated Town, or Village for one year, he shall, for the purposes of this Act and of the Act above cited, be deemed settled in the same; and the said Act shall, as regards Lower Canada, be construed and have effect as if the words "County, City or Incorporated Town or Village" had been inserted in the eighth section of the said Act, instead of the words "City, Town, Village, Township, Parish or place," wherever they occur in the said section.

Sect. 8 of 14 and 15 V., c. 83, amended as regards L. C.

IX. And be it enacted, That the Municipality of each and every County, City, Incorporated Town or Village in Lower Canada, shall be and are hereby authorized and empowered to apply, for the purposes of this Act and of the Act above cited, any sum of money in their hands not otherwise appropriated, and to impose and levy any assessment for the same purposes in the manner now authorized for other objects.

Municipalities in L. C. may apply money to the purposes of this Act.

X. And be it enacted, That the Interpretation Act shall apply to this Act; that the expression "insane person" shall include Lunatics, Idiots, and persons of unsound mind; and the words "Public Lunatic Asylum" in this Act, and in the Act hereinbefore cited, so far as regards Lower Canada, shall mean the Temporary Lunatic Asylum at Beauport, or such other Asylum as may be from time to time designated in any Order of the

Interpretation clause.

In what cases only persons shall be admitted at the charge of the Province.

Governor in Council in that behalf, published in the Official Gazette; and no person shall hereafter be admitted into any such Asylum as one for the cost of whose maintenance the Provincial Government is responsible in any part, except in accordance with the provisions of this Act and of the Act above cited, or unless ample security shall have been given to the satisfaction of the Governor, and before the order for the admission of such person, for the repayment to the Crown of the expenses of the maintenance of such persons. . 5