

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1847. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1847.

10 Victoria – Chapter 41

An Act for the safe custody of Insane persons charged with offences, and for the confinement of Insane Prisoners. Passed 7th April 1847.

Whereas persons charged with high treason, murder, felony, or misdemeanors, may have been or may be of unsound mind at the time of committing the offence wherewith they may have been or shall be charged, and by reason of such insanity may have been or may be found not guilty of such offence, and it may be dangerous to permit persons so acquitted to go at large;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That in all cases where it shall be given in evidence upon the trial of any person charged with treason, murder, felony, or any misdemeanor, that such person was insane at the time of the commission of such offence, and such person shall be acquitted, the Jury shall be required to find specially whether such person was insane at the time of the commission of such offence, the Court, before whom such trial shall be had, shall order such person to be kept in strict custody, in such place and in such manner as to the Court shall deem fit, until the pleasure of the Lieutenant Governor or Administrator of the Government for the time being shall be made known; and it shall thereupon be lawful for the said Lieutenant Governor or Administrator of the Government to give such order for the safe custody of such person, during his pleasure, in such place and in such manner as to the said Lieutenant Governor or Administrator of the Government for the time being shall seem fit; and in all cases where any person, before the passing of this Act, has been acquitted of any such offences on the ground of insanity at the time of the commission thereof, and has been detained in custody as a dangerous person by order of the Court before whom such person has been tried, and still remains in custody, it shall be lawful for the said Lieutenant Governor or Administrator of the Government to give the like order for the safe custody of such person during his pleasure, as the said Lieutenant Governor or Administrator of the Government is hereby enabled to give in the cases of persons who shall hereafter be acquitted on the ground of insanity.

II. And be it enacted, That if any person indicted for any offence shall be insane, and shall, upon arraignment, be found to be so by a Jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted, such person shall appear to the Jury charged with such indictment to be insane, it shall be lawful for the Court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until the pleasure of the said Lieutenant Governor or Administrator of the Government shall be known; and if any person charged with any offence shall be brought before any Court to be discharged for want of prosecution, and such person shall appear to be insane, it shall be lawful for such Court to order a Jury to be impannelled to try the sanity of such person, and if the Jury so impannelled shall find such person to be insane, it shall be lawful for such Court to order such person to be kept in strict custody in such place and in such manner as to such Court shall deem

fit, until the pleasure of the said Lieutenant Governor or Administrator of the Government shall be known; and in all cases of insanity so found, it shall be lawful for the said Lieutenant Governor or Administrator of the Government to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to the said Lieutenant Governor or Administrator of the Government shall seem fit.

III. And whereas it is expedient that provision should be made for the confinement of insane prisoners; Be it therefore enacted, That if any person, while imprisoned in any prison or other place of confinement under any sentence of death or imprisonment, or under a charge of any offence, or for not finding Bail for good behaviour, or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any Justice or Justices of the Peace, or under any other than Civil Process, shall appear to be insane, it shall be lawful for any two Justices of the Peace of the County, City and County, or place where such person is imprisoned, to inquire, with the aid of two Physicians or Surgeons, as to the insanity of such person; and if it shall be duly certified by such Justices and such Physicians or Surgeons that such person is insane, it shall be lawful for the said Lieutenant Governor or Administrator of the Government, upon receipt of such certificate, to direct, by Warrant under his hand, that such person shall be removed to such County Lunatic Asylum, or other proper receptacle for insane persons, as the said Lieutenant Governor or Administrator of the Government may judge proper and appoint; and every person so removed under this Act, or already removed or in custody under any former Act relating to insane prisoners, shall remain under confinement in such County Asylum or other proper receptacle as aforesaid, or in any other County Lunatic Asylum or other proper receptacle to which such person maybe removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it shall be duly certified to the said Lieutenant Governor or Administrator of the Government, by two Physicians or Surgeons, that such person has become of sound mind; whereupon the said Lieutenant Governor or Administrator of the Government is hereby authorized, if such person shall still remain subject to be continued in custody, to issue his Warrant or Order to the Keeper or other person or persons having the care of any such Asylum or receptacle as aforesaid, directing that such person shall be removed back from thence to the Prison or other place of confinement from whence he or she shall have been taken; or, if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged.

IV. And be it enacted, That this Act may be altered, amended or repealed by any Act to be passed in the present Session of the General Assembly.