

A BILL

To simplify Proceedings under Commissions of Lunacy.

WHEREAS it is expedient to empower the Supreme Court in certain Preamble.

cases to simplify the Inquiry under Commissions of Lunacy
Be it therefore enacted by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled and by the
authority of the same as follows :—

1. In every case of a Petition to the Supreme Court for Inquiry Alleged Lunatic may demand Inquiry by Jury.
respecting the alleged Lunacy of any person such person shall be
personally served with a notice of the presentation thereof and may by
10 a Notice signed by him and attested by his Solicitor and filed with the
Master in Equity within days after such service demand an
Inquiry before a Jury.

2. Whenever such demand is made unless the Court shall be Court to fix number of Jurors if Jury demanded.
satisfied by personal examination of the alleged Lunatic that he is not
15 mentally competent to form and express a wish for an Inquiry before a
Jury the Commission if any be issued shall contain a direction that the
Inquiry shall be by a Jury consisting of so many Jurors not exceeding
 nor fewer than as the Court shall determine
Provided that of such number whatever it may be shall concur
20 in the verdict.

3. Whenever the Court shall be satisfied as aforesaid that the Otherwise Commissioner to inquire without Jury.
alleged Lunatic is not mentally competent as aforesaid or if he has not
demanded an Inquiry before a Jury the Commission if any be issued
shall be framed accordingly and the Commissioner shall without a Jury
25 personally examine the alleged Lunatic and take such Evidence upon
Oath or otherwise and call for such information as he may think fit or as
the Court may by any Special Order direct in order to ascertain whether
or not the alleged Lunatic is of unsound mind and incapable of managing
himself and his affairs and shall certify his finding thereon to the Court.

Certificate to be
equivalent to an In-
quisition.

4. The Certificate of the Commissioner whether it be that the alleged Lunatic is of unsound mind and incapable of managing himself and his affairs or that he is of sound mind shall be and be held to be of the same force and effect to all intents and purposes and be proceeded on in the same manner in all respects as an Inquisition taken upon the 5 Oath of a Jury.

Regulations and
forms.

5. The Court may make Regulations and frame forms of proceedings for carrying this Act into full effect and the same shall have the force of Law when published in the *Gazette*.

Not to affect Lunacy
matters except as
enacted.

6. This Act shall not affect the Law or Practice in matters of 10 Lunacy except as is herein expressly enacted.

Short Title.

7. This Act shall be styled and may be cited as the "Lunacy
"Jurisdiction Amendment Act of 1860."

23^o VICTORIÆ, 1860.

A BILL

(As amended in Committee of the whole.)

To simplify Proceedings under Commissions of Lunacy.

WHEREAS it is expedient to empower the Supreme Court in certain Preamble.
cases to simplify the Inquiry under Commissions of Lunacy
Be it therefore enacted by the Queen's Most Excellent Majesty by and
with the advice and consent of the Legislative Council and Legislative
5 Assembly of New South Wales in Parliament assembled and by the
authority of the same as follows:—

1. In every case of a Petition to the Supreme Court for Inquiry Alleged Lunatic may demand Inquiry by Jury.
respecting the alleged Lunacy of any person such person shall be
personally served with a notice of the presentation thereof and may by
10 a Notice signed by him and attested by his Solicitor and filed with the
Master in Equity within **seven** days after such service **or at or within**
such other time as the Court shall in the particular case order demand
an Inquiry before a Jury.

2. Whenever such demand is made ~~unless the Court shall be~~ Court to fix number of Jurors if Jury demanded.
15 ~~satisfied by personal examination of the alleged Lunatic that he is not~~
~~mentally competent to form and express a wish for an Inquiry before a~~
~~Jury~~ the Commission if any be issued shall contain a direction that the
Inquiry shall be by a Jury consisting of so many Jurors not exceeding
twelve nor fewer than **four** as the Court shall determine Provided
20 that **three-fourths** of such number whatever it may be shall concur
in the verdict **and the verdict of such three-fourths shall be sufficient.**

3. Whenever the Court ~~shall be satisfied as aforesaid that the~~ Otherwise Commissioner to inquire without Jury.
~~alleged Lunatic is not mentally competent as aforesaid or if he has not~~
demanded an Inquiry before a Jury the Commission if any be issued
25 shall be framed accordingly and the Commissioner shall without a Jury
personally examine the alleged Lunatic and take such Evidence upon
Oath or otherwise and call for such information as he may think fit or as
the Court may by any Special Order direct in order to ascertain whether
or not the alleged Lunatic is of unsound mind and incapable of managing
30 himself and his affairs and shall certify his finding thereon to the Court.

4.

Certificate to be
equivalent to an In-
quisition.

4. The Certificate of the Commissioner whether it be that the alleged Lunatic is of unsound mind and incapable of managing himself and his affairs or that he is of sound mind shall be and be held to be of the same force and effect to all intents and purposes and be proceeded on in the same manner in all respects as an Inquisition taken upon the Oath of a Jury.

Judges to make Rules.

5. The Judges of the said Court or any two of them shall and may from time to time make all such Rules as such Court or Judges may think necessary or proper for carrying this Act into execution and revoke repeal alter and amend the same when and as they shall think fit 10
Provided always that all such Rules shall be laid before both Houses of Parliament within one month from the making thereof if Parliament be then sitting or if Parliament be not then sitting within one month from the commencement of the then next Session of Parliament.

Rules to be laid before
Parliament.

Regulations and
forms.

~~5. The Court may make Regulations and frame forms of proceedings for carrying this Act into full effect and the same shall have the force of Law when published in the Gazette.~~

Not to affect Lunacy
matters except as
enacted.

6. This Act shall not affect the Law or Practice in matters of Lunacy except as is herein expressly enacted. 20

Short Title.

7. This Act shall be styled and may be cited as the "Lunacy Jurisdiction Amendment Act of 1860."

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY, for its concurrence.

*Legislative Council Chamber,
Sydney, 17 May, 1860.*

*R. O'CONNOR,
Clerk of the Legislative Council.*

New South Wales.



ANNO VICESIMO TERTIO.

VICTORIÆ REGINÆ.

No. .

[1860 1861]

An Act to simplify Proceedings under Commissions of Lunacy.

WHEREAS it is expedient to empower the Supreme Court in certain cases to simplify the Inquiry under Commissions of Lunacy Preamble.
Be it therefore enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled and by the authority of the same as follows :—

1. In every case of a Petition to the Supreme Court for Inquiry respecting the alleged Lunacy of any person such person shall be personally served with a notice of the presentation thereof and may by Alleged Lunatic may demand Inquiry by Jury.
- 10 a Notice signed by him and attested by his Solicitor and filed with the Master in Equity within seven days after such service or at or within such other time as the Court shall in the particular case order demand an Inquiry before a Jury.
2. Whenever such demand is made the Commission if any be Court to fix number of Jurors if Jury demanded.
- 15 issued shall contain a direction that the Inquiry shall be by a Jury consisting of so many Jurors not exceeding twelve nor fewer than four as the Court shall determine Provided that three-fourths of such number whatever it may be shall concur in the verdict and the verdict of such three-fourths shall be sufficient.
- 20 3. Whenever the alleged Lunatic has not demanded an Inquiry before a Jury the Commission if any be issued shall be framed accordingly and the Commissioner shall without a Jury personally examine the alleged Lunatic and take such Evidence upon Oath or otherwise and call for such information as he may think fit or as the Court may by Otherwise Commissioner to inquire without Jury.
- 25 any Special Order direct in order to ascertain whether or not the alleged Lunatic is of unsound mind and incapable of managing himself and his affairs and shall certify his finding thereon to the Court.

4. The Certificate of the Commissioner whether it be that the alleged Lunatic is of unsound mind and incapable of managing himself and his affairs or that he is of sound mind shall be and be held to be of the same force and effect to all intents and purposes and be proceeded on in the same manner in all respects as an Inquisition taken upon the Oath of a Jury. Certificate to be equivalent to an Inquisition.
5. The Judges of the said Court or any two of them shall and may from time to time make all such Rules as such Court or Judges may think necessary or proper for carrying this Act into execution and revoke repeal alter and amend the same when and as they shall think fit Provided always that all such Rules shall be laid before both Houses of Parliament within one month from the making thereof if Parliament be then sitting or if Parliament be not then sitting within one month from the commencement of the then next Session of Parliament. Judges to make Rules.
Rules to be laid before Parliament.
- 15 6. This Act shall not affect the Law or Practice in matters of Lunacy except as is herein expressly enacted. Not to affect Lunacy matters except as enacted.
7. This Act shall be styled and may be cited as the "Lunacy Short Title.
Jurisdiction Amendment Act of 1860."

VICTORIA REGINA

Sydney: Thomas Richards, Government Printer.—1860.

[Price, 6d.]