

LUNATICS ACT 1849

ACT No. IV. of 1849

(Rep., Act 10 of 1875)

[10th February, 1849.]

Passed by the Hon'ble the President of the Council of India in Council, on the 10th February, 1849.

An Act for the Safe Custody of Criminal Lunatics.

WHEREAS it is expedient to declare what unsoundness of mind excuses the commission of criminal acts, and to provide for the safe custody of persons found to have committed such acts, but acquitted by reason of unsoundness of mind, It is enacted as follows:

I. No person, who does an act which if done by a person of sound mind, is an offence, shall be acquitted of such offence for unsoundness of mind, unless the Court or Jury, as the case may be, in which, according to the constitution of the Court, the power of conviction or acquittal is vested, shall find that, by reason of unsoundness of mind, not willfully caused by himself, he was unconscious, and incapable of knowing, at the time of doing the said act, that he was doing an act forbidden by the Law of the land.

II. Whenever a person charged with any offence shall be acquitted, because he is within the exception made by the foregoing Section the Court or Jury shall give a special judgment or verdict, that he did the act charged against him, being then of unsound mind, so to excuse him according to law.

III. Whenever such special judgment or verdict, as aforesaid, shall have been given against any person, the court, before which the trial was had, shall order him to be kept in safe custody, in such place and manner as to the Court shall seem fit, until the pleasure of the Government can be known thereon; and thereupon the Government may order such person to be kept in strict custody, for such time and in such manner as to the Government shall seem fit.

IV. In all cases in which, before the passing of this Act, any person has been acquitted of any offence, on the ground of insanity, lunacy, idiocy, or unsoundness of mind such person may be kept in the same strict custody in which persons may be kept, who shall be hereafter acquitted, for unsoundness of mind.

V. No person, against whom any such special judgment or verdict shall have been given, shall be entitled to be discharged out of custody on being restored to soundness of mind, unless by order and at the discretion of the Government.

VI. Whenever it shall appear to the Government that any person imprisoned by the sentence of any Court, is of unsound mind, the Government, by a warrant which shall set forth the grounds of belief that such prisoner is of unsound mind, may order the removal of such prisoner to a Lunatic Asylum, or other fit place of safe custody, there to be kept and treated as the Government shall order; and when it shall appear to the Government that such prisoner has become of sound mind, the Government, by a warrant directed to the person having charge of him, shall remand such prisoner to the prison from which he was

removed, if then still liable to be kept in custody, or if not, shall order him to be discharged out of custody.

VII. The word 'Government' in this Act shall be taken to mean the Governor, or Governor in Council, or other person or persons administering the Government of the Presidency or place where the trial is had.
