



BY AUTHORITY.

ANNO TRICESIMO OCTAVO VICTORIÆ REGINÆ.

CAP. XXXIV.

An Act relating to the protection of the property of habitual Drunkards.

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Passed 10th April, 1875.

WHEREAS it is desirable to make provision for the protection of the property of habitual drunkards;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. The word "Judge," when used herein, shall mean any Judge of the Supreme Court sitting in Equity, and the word "Court" shall mean the Supreme Court on the Equity side.

2. That on petition under oath, sworn before a Commissioner for taking affidavits to be read in the Supreme Court, (which oath the said Commissioner is hereby empowered to administer), presented to a Judge by any relative, whether by blood or affinity, or in default of such relative by any friend of any alleged habitual drunkard, and endorsed with the name of the petitioner's Solicitor, setting forth that such alleged habitual drunkard, being a resident of this Province, and being possessed of or entitled to property of the value of six hundred dollars and upwards, is so given over to drunkenness as to render himself unable to control himself, and is incapable of managing his affairs, or that by reason of such drunkenness he either squanders or mismanages his property, or transacts his business prejudicially to the interest of his family, and praying that a hearing and an examination of the matters and allegations set forth in the said petition may be had, such Judge shall cause and direct that a copy of said petition shall forthwith be served on such alleged habitual drunkard, and with such copy there shall be served an appointment signed by the Judge, appointing a time and place for the hearing on the matters and allegations contained in the said petition, and such service shall be at least fourteen clear days before the time fixed for such hearing, and such petition shall immediately after such service be filed in the office of the Clerk of the said Court.

3. The Judge shall attend at the time and place named in the appointment, and then and there proceed to enquire into the matters and allegations set forth in the petition, and the Judge may in his discretion adjourn the said enquiry from time to time.

4. In proceeding to the examination of the matters and charges contained in the petition, it shall not be necessary that the person charged with such habitual drunkenness be

interrogated before the Judge, nevertheless the Judge shall have power to do so; but it shall be sufficient that he be satisfied with the evidence given before him by the relations or such other persons as are acquainted with the said alleged habitual drunkard.

5. It shall be lawful for the petitioner or for the alleged habitual drunkard to produce before the Judge witnesses to substantiate or contradict upon oath (which oath the Judge is hereby authorized to administer) the matters and allegations of the petition.

6. Either the said petitioner or the said alleged habitual drunkard, or their Solicitors, may issue subpœnas for the summoning of witnesses to attend and give evidence at such hearing, in like manner and subject to like penalties as in ordinary causes in the Supreme Court in Equity.

7. If the Judge upon such examination find the person petitioned against to be an habitual drunkard, and so given over to drunkenness as to render him unable to control himself and incapable of managing his affairs, or for the like reason squanders or mismanages his property, or transacts his business prejudicially to the interest of his family, he shall make a declaratory order accordingly, which said order shall be filed as a record of said Court.

8. Provided, that if it appears to the Judge on the hearing of the petition, where it is presented by a friend, that such person has acted without the consent, express or implied, of some one member of the family over the age of fourteen years, where there is such member of the family, the Judge shall dismiss the petition as vexatious.

9. After such declaratory order has been made and filed, the Judge shall appoint one or more persons a Committee of the estate of the said habitual drunkard, in like manner and subject to the same rules for the giving of security or otherwise as in the case of a person found of unsound mind under a Commission *de lunatico inquirendo*; and the real and personal property of the said habitual drunkard shall, on the appointment of such Committee, vest in them and be afterwards dealt with in every respect as though the said habitual drunkard had been found of unsound mind and incapable of managing his affairs under a Commission *de lunatico inquirendo*.

10. No suit in any Court to which said habitual drunkard is a party, either as a plaintiff or defendant, shall abate by reason of such Committee being appointed, but a suggestion shall be entered of such appointment, and such suit may be continued by or against such Committee if the said habitual drunkard be sole plaintiff or defendant, or by or against such Committee and such other person or persons as may be plaintiffs or defendants.

11. The Judge may from time to time, on the application of the Committee, make such order relative to the property of the said habitual drunkard for its lease, sale, or incumbrance by way of mortgage, pledge, or lien, and the investment of any moneys belonging to said habitual drunkard, or arising from the sale of his estate or any portion of it, and for his support and the support of his family, as the circumstances of the case may in the opinion of the Judge demand or justify.

12. The said habitual drunkard may at any time after the lapse of six months from the appointment of such Committee, and after thirty days' notice to his Committee, make application to a Judge for an order annulling and superseding the said declaratory order and proceedings had thereunder, and if the Judge shall on the hearing of the said application