



ANNO VICESIMO NONO

VICTORIÆ REGINÆ.

A.D. 1865.

No. 3.

An Act to protect certain persons from actions by reason of the omission of certain matters required to be done by "The Lunatics Act, 1864."

[Assented to, 5th December, 1865.]

WHEREAS the Lunatics Act, 1864, requires all Asylums for the reception of Lunatics, to be proclaimed as in such Act is mentioned: And whereas such Act likewise provides for the appointment of a Resident Medical Officer for every such Asylum: And whereas, since the passing of such Act, the house or place on the North Park Lands theretofore used as an asylum for lunatics, has continued to be used as an asylum, but the same was not duly proclaimed until the sixth day of July, one thousand eight hundred and sixty-five: And whereas no Resident Medical Officer was appointed under the provisions of such Act until the sixth day of July, one thousand eight hundred and sixty-five, and after the passing of such Act up to the date of such appointment as aforesaid, Robert Waters Moore, Esquire, the Colonial Surgeon of the said Province, acted in the capacity of Resident Medical Officer, as aforesaid: And whereas, after the passing of such Act, and before the due proclamation of such asylum, and the appointment of such Resident Medical Officer as aforesaid, divers persons were, under the provisions of such Act, committed to such lunatic asylum as aforesaid, and there detained, as if such asylum had been duly proclaimed, and such Resident Medical Officer had been duly appointed as aforesaid, and it is expedient to protect all Justices of the Peace, police officers, and the Colonial Surgeon, and all officers of the said lunatic asylum, and all persons acting under their authority or the authority of any of them, from all actions,

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actions, suits, or other proceedings that may have been, and but for this Act might hereafter be commenced against them, or any of them, for any such matter or thing done or authorized to be done by any such Justices, police officers, and officers of such lunatic asylum, in pursuance of the powers they or any of them might have exercised if such asylum had been duly proclaimed, and Resident Medical Officer appointed—Be it therefore Enacted, by the Governor-in-Chief of the Province of South Australia, with the advice and consent of the Legislative Council and House of Assembly of the said Province, in this present Parliament assembled, as follows :

Short title.

1. This Act may be cited as "The Lunatics Amendment Act, 1865."

No action to be brought against Justices, &c., by reason only of Lunatic Asylum, at Adelaide, not being duly proclaimed, and Resident Medical Officer appointed.

2. No action, suit, or other proceeding shall be commenced or prosecuted against any Justice of the Peace or Police Officer, or against the Colonial Surgeon or any officer of the lunatic asylum, situated on the Park Lands north-east of Adelaide, or any person or persons acting under or by the authority of them, or any of them, in respect of the making or obeying any order for the reception of any supposed lunatic into any lunatic asylum, or for arresting any supposed lunatic, or for keeping any supposed lunatic confined in the lunatic asylum before mentioned, or for any other act, matter, or thing in connection therewith, by reason only that the lunatic asylum at Adelaide had not at the time of the committing of the act, matter, or thing complained of, been duly proclaimed under the provisions of the said Lunatics Act, 1864, or that at such time no Resident Medical Officer for such asylum had been appointed as prescribed by the said Act, or that any order for the reception of any patient into such asylum was directed to the Resident Medical Officer of the asylum, at Adelaide, without mentioning the name of such Resident Medical Officer.

In any such action, Robert Waters Moore, Esq., to be taken to have been Resident Medical Officer from passing of Act.

3. If any such action has been commenced, or shall hereafter be commenced, Robert Waters Moore, Esquire, the Colonial Surgeon of the said Province, shall, for the purposes of such action, be taken to have been duly appointed Resident Medical Officer of the lunatic asylum at Adelaide as from the date of the passing of the said Lunatics Act, 1864, and to have lawfully exercised the functions of the Resident Medical Officer of such Asylum as prescribed by such Act from that date up to the sixth day of July, one thousand eight hundred and sixty-five, anything in the said Act to the contrary notwithstanding.

If any such action brought, same to be discontinued.

4. If any such action shall have been commenced before the passing of this Act, the same shall, on the application of the defendant by summons to a Judge of the Supreme Court at Chambers, be ordered to be discontinued without costs.

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5. In any such action which has been commenced, or which may hereafter be commenced, the defendant may plead the general issue and give this Act and the special matter in evidence; and if on the trial no cause of action shall be proved other than such as are hereinbefore mentioned, the plaintiff shall be nonsuited or a verdict shall be entered for the defendant, in either of which events the defendant shall be entitled to his costs as between attorney and client.

General issue may be pleaded and Act given in evidence. Defendant to have his cost as between attorney and client.

In the name and on behalf of the Queen I hereby assent to this Act.

D. DALY, Governor.