

[CHAPTER 324]

AN ACT

Authorizing the President to present the Distinguished Service Medal to Rear Admiral Reginald Vesey Holt, British Navy, and to Captain George Eric Maxia O'Donnell, British Navy, and the Navy Cross to Vice Admiral Lewis Gonne Eyre Crabbe, British Navy, and to Lieutenant Commander Harry Douglas Barlow, British Navy.

June 7, 1938
[S. 3522]
[Public, No. 581]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to present the Distinguished Service Medal to Rear Admiral Reginald Vesey Holt, British Navy, and to Captain George Eric Maxia O'Donnell, British Navy, in recognition of their initiative and courageous action in proceeding immediately with unselfish disregard of their own safety to render assistance in recovering the survivors of the United States ship Panay in the face of threatened force and armed opposition; and the Navy Cross to Vice Admiral Lewis Gonne Eyre Crabbe, British Navy, and to Lieutenant Commander Harry Douglas Barlow, British Navy, for their voluntary and unstinted cooperation in assisting with the recovery of the survivors of the United States ship Panay.

Approved, June 7, 1938.

U. S. S. Panay.
Presentation of medals, etc., authorized to designated British naval officers for assistance in recovery of survivors of.

[CHAPTER 326]

AN ACT

To provide for insanity proceedings in the District of Columbia.

June 8, 1938
[S. 1225]
[Public, No. 582]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person with whom an alleged insane person may reside, or at whose house he may be, or the father or mother, husband or wife, brother or sister, or the child of lawful age of any such person, or the nearest relative or friend available, or the committee of such person, or an officer of any charitable institution, home, or hospital in which such person may be, or any duly accredited officer or agent of the Board of Public Welfare, or any officer authorized to make arrests in the District of Columbia who has arrested any alleged insane person under the provisions of the Act of Congress approved April 27, 1904 (33 Stat. 316), may apply for a writ de lunatico inquirendo and an order of commitment, or either thereof, for any alleged insane person in the District of Columbia by filing in the equity court of the District Court of the United States for the District of Columbia a verified petition therefor containing a statement of the facts upon which the allegation of insanity is based. All writs de lunatico inquirendo shall issue from the equity court of the District Court of the United States for the District of Columbia, and a justice holding said court shall preside at all inquisitions of lunacy.

District of Columbia, insane persons.
Application for a writ de lunatico inquirendo, etc.

33 Stat. 316.

Writs to issue from equity court.

SEC. 2. There is hereby established a Commission on Mental Health (hereinafter referred to as the Commission), which shall examine alleged insane persons, inquire into the affairs of such persons, and the affairs of those persons legally liable as hereinafter provided for the support of said alleged insane persons, and make reports and recommendations to the court as to the necessity of treatment, the commitment, and payment of the expense of maintenance and treatment of such insane persons. The said Commission shall be drawn from a panel of nine bona-fide residents of the District of Columbia who have resided in said District for a continuous period of at least three years immediately preceding their appointment, who shall be appointed by the Judges of the District Court of the United States for the District of Columbia.

Commission on Mental Health, establishment; duties.
Investigations, reports, and recommendations.

Commission, how drawn; qualifications, appointment.

Eight of the panel to be practicing physicians; qualifications.

Ninth member to be of the District bar.

Assignments.

Personnel of Commission.

Physician members may practice during tenure of office.

Lawyer member to be chairman; duties in ascertainment of facts.

To devote entire time.

Alternate lawyer member, qualifications.

Compensation.

Terms of original appointments; thereafter.

Salaries.

5 U. S. C. §§ 661-674; Supp. III, §§ 673, 673c.

Expenses to be included in annual estimates.

Supervision of Commission by equity court.

Power to compel appearance of alleged insane; witnesses.

Examination elsewhere.

Representation of alleged insane at hearings.

Fees for services; payment.

Eight members of said panel shall be physicians who have been practicing medicine in the District of Columbia, and who have had not less than five years' experience in the diagnosis and treatment of mental diseases, none of whom is financially interested in the hospital in which the alleged insane person is to be confined, and the ninth member shall be a member of the bar of the District Court of the United States for the District of Columbia who has been engaged in the general active practice of law in the District of Columbia for a period of at least five years prior to his appointment. Each physician member of the panel shall be assigned by the chief justice of the District Court of the United States for the District of Columbia to active service on the Commission for three months in each calendar year, and the chief justice may change such assignments at any time at his discretion. The two physician members on active service and the lawyer member shall constitute the Commission for the purposes of this Act. The members to whom any case is referred shall continue to act in respect to that case until its final disposition, unless the court shall otherwise order. Physician members of the Commission may practice their profession during their tenure of office. The lawyer member of the Commission shall be chairman thereof, and it shall be his duty, and he shall have authority to direct the proceedings and hearings in such a manner as to insure dependable ascertainment of the facts, by relevant, competent, and material evidence, and so as to insure a fair and lawful conduct and disposition of the case. The lawyer member shall devote his entire time to the work of the Commission. The judges shall also appoint an alternate lawyer member of the Commission, who shall have the same qualifications as that member, and who may be designated by the chief justice to act as a member of the Commission in absence of the lawyer member; for such service the alternate shall receive \$10 for each day of actual service. Original appointments of physicians shall be two each for one, two, three, and four years, respectively, the lawyer member to be appointed for four years. Thereafter appointments shall be for four years each. The salaries of the members of the Commission and of employees shall be fixed in accordance with the provisions of the Classification Act of 1923, as amended. The Commissioners shall include in their annual estimates such amounts as may be required for the salaries and expenses herein authorized.

The said Commission shall act in all respects under the direction of the equity court. The court may compel, by subpoena, the appearance of alleged insane persons before the Commission for examination, and may compel the attendance of witnesses before the Commission. If it shall appear to the satisfaction of the Commission that the appearance before it of any alleged insane person is prevented by reason of the mental or physical condition of such person, the Commission may, in its discretion, examine such person at the hospital in which such person may be confined, or, with the consent of the relatives, or of the person with whom such person may reside, at the residence of the alleged insane person.

The court may in its discretion appoint an attorney or guardian ad litem to represent the alleged insane person at any hearing before the Commission or before the court, or before the court and jury, and shall allow the attorney or guardian ad litem so appointed a reasonable fee for his services. Such fees may be charged against the estate or property, if any, of the alleged insane person, or taxed as costs against the petitioner in the proceedings, or, in the case of an indigent person, charged against the funds of the Commission, as the court, in its discretion may direct.

The office and records of the sanitary officer, District of Columbia, are hereby transferred from the Metropolitan Police Department to the Commission and the sanitary officer shall be secretary of the Commission. Suitable quarters shall be provided for the Commission by the Commissioners of the District of Columbia.

Sanitary officer; transfer of office and records to Commission.
Designation as secretary.

SEC. 3. Upon the filing with the court of a verified petition as hereinabove provided, accompanied by the affidavits of two or more responsible residents of the District of Columbia setting forth that they believe the person therein named to be insane or of unsound mind, the length of time they have known such person, that they believe such person to be incapable of managing his or her own affairs, and that such person is not fit to be at large or to go unrestrained, and that if such person be permitted to remain at liberty the rights of persons and property will be jeopardized or the preservation of public peace imperiled or the commission of crime rendered probable, and that such person is a fit subject for treatment by reason of his or her mental condition, the court, or any judge thereof in vacation, may, in its or his discretion, issue an attachment for the immediate apprehension and detention of such person in Gallinger Municipal Hospital, or any other hospital, for the purpose of preliminary examination. Any person so apprehended and detained shall be given an examination within forty-eight hours of his admission into Gallinger Municipal Hospital by the staff of Gallinger Municipal Hospital. If, as a result of such examination, the said staff of Gallinger Municipal Hospital shall certify that the said person is a proper subject for commitment the case shall be forthwith referred upon said certificate to the Commission; but, if as a result of such examination, the said staff shall find that the person is of sound mind he shall be discharged forthwith by said Gallinger Municipal Hospital and the petition dismissed. Nothing contained in this section shall deprive the alleged insane person of the benefit of existing remedies to secure his release or to prove his sanity, or of any other legal remedies he may have.

Issuance of attachment.

Prompt examination by Gallinger Municipal Hospital staff.

Reference to Commission if person proper subject for commitment.

Discharge, if found of sound mind; dismissal of petition.

Benefits of existing remedies not to be denied.

SEC. 4. Any petition filed in the equity court for a writ de lunatico inquirendo or for an order of commitment of any alleged insane person, unless said person shall have been discharged by the staff of Gallinger Hospital in accordance with the provisions of section 3 hereof, shall be referred by the court to the Commission for report and recommendation within such time as the court may designate, which time may be extended by the court for good cause shown. The Commission shall thereupon examine the alleged insane person and any other person, including any suggested by the alleged insane person, his relatives, friends, or representatives, whose testimony may be relevant¹, competent, and material upon the issue of insanity; and the Commission shall afford opportunity for hearing to any alleged insane person, his relatives, friends, or representatives. At all hearings the alleged insane person shall have the right to be represented by counsel.

Reference of petitions for writs by court to Commission; exception.

Examination and hearing.

Right to representation by counsel.

The Commission is hereby authorized to conduct its examination and hearings of cases elsewhere than at the offices of said Commission in its discretion, according to the circumstances of the case.

Examination and hearings elsewhere than at offices of Commission.

The Commission shall determine (1) the sanity or insanity of the alleged insane person, (2) the length of time the alleged insane person has resided within the District, and (3) the ability of the relatives, mentioned in section 11 of this Act, or the committee of the alleged insane person to pay all or a portion of the maintenance of such person if confined to Saint Elizabeths or any other hospital; and shall include such findings in its report.

Matters for determination.

¹ So in original.

Service of notice on person alleged to be insane, and others.

SEC. 5. Notice of the filing of any petition hereinbefore provided shall be served personally upon the person alleged to be insane, at least three days (exclusive of Sundays and legal holidays) before the time set for hearing by the Commission as provided in section 4 of this Act. If the petition be made by a person other than the wife, husband, father, mother, or other nearest relative, such notice shall also be served upon either such wife, husband, father, mother, or other nearest relative of said alleged insane person, if there be any such relative known to be within the District of Columbia; if not, upon the person with whom such alleged insane person may reside, or at whose home he may be or in their absence upon a friend of such alleged insane person; and if there be no such person or persons such service shall be dispensed with.

Recommendations; agreement by members of Commission.
Court proceeding in event of disagreement.

SEC. 6. Recommendations of the Commission must be the unanimous recommendation of the three members acting upon any case. If the three members of the Commission be unable to agree upon the recommendation to be made in any case, they shall immediately file with the court a report setting forth the fact that they are unable to agree on the case, and in that event the court shall hear and determine the case, unless the alleged insane person, or someone in his behalf, shall demand a jury trial, in which event the case shall be heard and determined by the court and a jury.

Jury trial if demanded.

Findings and recommendations to be filed with the court.

If the Commission shall agree upon a recommendation, it shall file with the court a report setting forth its findings of fact and conclusions of law and its recommendation based thereon which recommendation shall be in one of the following forms:

Person of sound mind.

(1) That the person is of sound mind and should be discharged forthwith and the petition dismissed.

Further study before diagnosis.

(2) That the mental condition of the alleged insane person is such that definite diagnosis cannot be made without further study, or that the mental incapacity of said person will probably be of short duration, and that said person should be temporarily committed to Gallinger Municipal Hospital or any other hospital in the District of Columbia, as provided in the Act approved April 27, 1904, for observation or treatment for a period of not more than thirty days, during which said period the Commission shall examine the said person and make a recommendation as to the final disposition of the case.

Incapacity of probable short duration; temporary detention, etc.

33 Stat. 316.

Of unsound mind and should be committed to Saint Elizabeths Hospital, etc.
Payment of expense.

(3) That the person is of unsound mind and (a) should be committed to Saint Elizabeths Hospital, or any other hospital provided by section 4 of the Act approved April 27, 1904, (1) at public expense, or (2) at the expense of those persons who are required by law, or who will agree to pay for the maintenance and treatment of said insane person, or (3) that the relatives of the said insane person, mentioned in section 11 of this Act are able to pay a specified sum per month toward the support and maintenance of said insane person; (b) is harmless and may safely be committed to the care of his relatives or friends (naming them) who are willing to accept custody, care, and maintenance of said insane person under conditions specified by the Commission.

Harmless and may be committed to care of relatives, etc.

Procedure if hearing or jury trial demanded.

SEC. 7. Upon the receipt of the report and recommendation of the Commission, a copy of which shall be served personally upon the alleged insane person, his guardian ad litem or his attorney, if he have one, together with notice that he has ten days within which to demand a jury trial, a demand for hearing by the court or a demand for jury trial for the purpose of determining the sanity or insanity of the alleged insane person may be made by the said alleged insane person or by anyone in his behalf, or a jury trial may be ordered by the court upon its own motion. If demand be

made for a jury trial, or such trial be ordered by the court on its own motion, the case shall be calendared for trial not less than ten days after demand for hearing by the court or for a jury trial, or unless the time is extended by the court. The Commission, or any of the members thereof, shall be competent and compellable witnesses at any trial or hearing of an alleged insane person. In any case in which a commitment at public expense, in whole or in part, is sought, the corporation counsel or one of his assistants shall represent the petitioner unless said petitioner shall be represented by counsel of his or her own choice.

The jury to be used in lunacy inquisitions in those cases where a jury trial shall be demanded or ordered shall be empaneled, upon order of the court, from the jurors in attendance upon other branches of the District Court of the United States for the District of Columbia, who shall perform such services in addition to, and as part of, their duties in said court.

Empanelling of jury.

SEC. 8. If no demand be made for a hearing by the court or by the court and a jury, the judge holding equity court shall determine the sanity or insanity of said alleged insane person, but such judge may, in his discretion, require other proofs, in addition to the petition and report of the Commission, or such judge may order the temporary commitment of said alleged insane person for observation or treatment for a period of not more than thirty days. The judge, may in his discretion, dismiss the petition notwithstanding the recommendation of the Commission. If the judge be satisfied that the alleged insane person is of sound mind, he shall forthwith discharge such person and dismiss the petition.

Procedure if no hearing demanded.

SEC. 9. If the judge be satisfied that the alleged insane person is insane, or if a jury shall so find, the judge may commit the insane person as he in his discretion shall find to be for the best interests of the public and of the insane person. In case of a temporary commitment, the court may make additional temporary commitments upon further examination by, and the recommendation of, the Commission.

Commitments.

SEC. 10. If an insane person be found by the Commission, subject to the review of the court, not to be a resident of the District of Columbia he may be committed by the court to Saint Elizabeths Hospital as a District of Columbia patient until such time as his residence shall have been ascertained. Upon the ascertainment of such insane person's residence in some other jurisdiction, he shall be transferred to the State of such residence. The expense of transferring such patient, including the traveling expenses of necessary attendants to insure his safe transfer, shall be borne by the District of Columbia only if the patient be indigent.

Nonresident insane.

Any insane person found by the Commission to have been a resident of the District of Columbia for more than one year prior to the filing of the petition, and any person found within the District of Columbia whose residence cannot be ascertained, who is not in confinement on a criminal charge, may be committed by the court to, and confined in, said Saint Elizabeths Hospital, or any other hospital in said District, which, in the judgment of the health officer of said District, is properly constructed and equipped for the reception and care of such persons, and the official in charge of which, for the time being, is willing to receive such persons.

Resident, etc., insane.

"Resident of the District of Columbia", as used in this section, means a person who has maintained his principal place of abode in the District of Columbia for more than one year prior to the filing of the petition provided for in section 1 of this Act.

"Resident of the District of Columbia" defined.

Ante, p. 625.

Placing of harmless insane in care of relatives.

If it appears that a person found to be insane is harmless and his or her relatives or committee of his or her person are willing and able properly to care for such insane person at some place or institution other than Saint Elizabeths Hospital, the judge may order that such insane person be placed in the care and custody of such relatives or such committee upon their entering into an undertaking to provide for such insane person as the court may direct.

Liability of relatives for cost of maintenance and treatment.

SEC. 11. The father, mother, husband, wife, and adult children of an insane person, if of sufficient ability, and the committee or guardian of his or her person and estate, if his or her estate is sufficient for the purpose, shall pay the cost to the District of Columbia of his or her maintenance, including treatment, in Saint Elizabeths Hospital, or in any other hospital to which the insane person may be committed. It shall be the duty of said Commission to examine, under oath, the father, mother, husband, wife, adult children, and committee, if any, of any alleged insane person whenever such relatives live within the District of Columbia, and to ascertain the ability of such relatives or committee, if any, to maintain or contribute toward the maintenance of such alleged insane person: *Provided*, That in no case shall said relatives or committee be required to pay more than the actual cost to the District of Columbia of maintenance of such alleged insane person.

Ascertainment of ability to pay.

Proviso.
Limitation.

Court procedure in event of nonpayment.

If any person hereinabove made liable for the maintenance of an insane person shall fail so to provide or pay for such maintenance, the court shall issue to such person a citation to show cause why he should not be adjudged to pay a portion or all of the expenses of maintenance of such patient. The citation shall be served at least ten days before the hearing thereon. If, upon such hearing, it shall appear to the court that the insane person has not sufficient estate out of which his maintenance may properly be fully met and that he has relatives of the degrees hereinabove mentioned who are parties to the proceedings, and who are able to contribute thereto, the court may make an order requiring payment by such relatives of such sum or sums as it may find they are reasonably able to pay and as may be necessary to provide for the maintenance of such insane person. Said order shall require the payment of such sums to the Board of Public Welfare annually, semiannually, or quarterly as the court may direct. It shall be the duty of the Board to collect the said sums due under this section, and to turn the same into the Treasury of the United States to the credit of the District of Columbia. Any such order may be enforced against any property of the insane person or of the person liable or undertaking to maintain him in the same way as if it were an order for temporary alimony in a divorce case.

Citation, hearing, etc.

Action by court.

Collections.

Enforcement against property of insane person or person liable.

Released or paroled patients, hearings to determine sanity, etc.

SEC. 12. Any insane person who has been committed to Saint Elizabeths Hospital, or any other hospital, and who shall have been released from such hospital as improved, or who shall have been paroled from such hospital (but who shall not have been discharged as cured), and who shall have been absent from the hospital on release or parole for a period of six months or longer, shall have the right to appear before the Commission for a hearing to determine the sanity and right to restoration to the status of a person of sound mind of said insane person by filing a petition therefor with the court upon a form to be provided by the Commission for that purpose. It shall be the duty of the Commission to make such examination and observation of the insane person as may be necessary to determine such questions, and to make a report and a recommendation to the court. In the event the Commission shall find that the said person is of sound mind and shall recommend to the court the restoration of said person to the status of a person of sound mind

Examination and observation by Commission.

If Commission finds person to be of sound mind.

such recommendation shall be sufficient to authorize the court to enter an order declaring such person to be restored to his or her former legal status as a person of sound mind. In the event the Commission shall find such person to be of unsound mind, it shall report that finding to the court. Upon the filing by the Commission of a report finding such person to be of unsound mind, the insane person shall have the right to a hearing by the court or by the court and a jury. For the purpose of making the examination and observations required by this section the Commission shall have the right to examine the records and to interrogate the physicians and attendants at Saint Elizabeths Hospital or any other hospital in which such patient shall have been confined, who have had the insane person under their care, and the Commission may recommend to the court the temporary recommitment, for a period of not more than thirty days, of such person for purposes of observation, and the court is hereby empowered to order the temporary recommitment of such person for said purpose. At such trial by the court or by the court and a jury, an adjudication shall be made as to whether the person is of sound mind or is still of unsound mind.

If Commission finds person to be of unsound mind.

Right to hearing.

Adjudication.

Witnesses, fees and mileage.

SEC. 13. The same fees and mileage as are paid in the courts of the United States shall be paid in the case of witnesses subpoenaed under the provisions of this Act.

Petitioner may be required to file undertaking with surety.

SEC. 14. The court in its discretion may require the petitioner to file an undertaking with surety to be approved by the court in such amount as the court may deem proper, conditioned to save harmless the respondent by reason of costs incurred, including attorney's fees, if any, and damages suffered by the respondent as a result of any such action.

Penalty provisions.

SEC. 15. Any person who executes a verified petition or affidavit as provided in this Act, by which he or she secures or attempts to secure the apprehension, detention, or restraint of any other person in the District of Columbia without probable cause for believing such person to be insane or of unsound mind, or any physician who knowingly makes any false certificate or affidavit, as to the sanity or insanity of any other person shall, upon conviction thereof, be fined not more than \$500 or imprisoned not more than three years, or both.

Repeal of conflicting Acts, etc.

SEC. 16. All Acts or parts of Acts in conflict herewith are hereby repealed.

Separability of provisions.

SEC. 17. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Approved, June 8, 1938.

[CHAPTER 327]

AN ACT

To require the registration of certain persons employed by agencies to disseminate propaganda in the United States and for other purposes.

June 8, 1938

[H. R. 1591]

[Public, No. 583]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dissemination of propaganda in the United States.
Terms defined.
"Person."

That as used in this Act—

(a) The term "person" means an individual, partnership, association, or corporation;

"United States."

(b) The term "United States" includes the United States and any place subject to the jurisdiction thereof;

(c) The term "foreign principal" means the government of a foreign country, a political party of a foreign country, a person domi-

"Foreign principal."