

File No. 12402 Continued.

While Section 144 does permit the Board of Visitors to remove, in an informal manner, persons becoming insane in the Jail, I think the effect of Section 120-A would be to narrow that of Section 144, and confine the latter to cases of drunkenness and disorderly conduct.

It is hardly likely that the Legislature would have intentionally passed, at the same Session, two statutes - one giving to the Board of Visitors the right, whenever, in their judgment, it should be proper, to remove insane convicts from the Jail, - and another statute giving the Board of Visitors the right to accomplish the removal of insane convicts by the more elaborate process of summoning the State Lunacy Commission, and causing the said Commission to apply to the Judge of the Criminal Court.

These two statutes cannot exist together, and each have the broadest scope attributed to it.

There can be no possible doubt as to the meaning of Section 120-A. Section 144 is not so clear, but is perfectly susceptible of a construction which will not render it inconsistent with 120-A. That construction is as follows: Whenever persons are committed to Jail on the charge of drunkenness or disorderly conduct, and are then or subsequently become affected with some form of disease which will require a longer time than the term of sentence to cure, or when the accommodations of the Jail are inadequate for the proper treatment of such disease, or in case any person committed on the charge of drunkenness or disorderly conduct may be insane or become insane during the term of committal, then, the Visitors to the Jail shall have the power to remove such person.

In other words, I am of opinion that the inevitable effect of construing the two sections together, (which must be done), is to narrow the scope of Section 144, so that it extends merely to persons charged with drunkenness or disorderly conduct.

Were there no Section 120-A I should be extremely reluctant to accord to Section 144 a broader scope because of the impossibility of limiting such scope once it is admitted that it extends beyond drunkenness or disorderly conduct.

When it is realized that Section 120-A fully covers all cases of insane convicts, I do not see how it is possible to accord to Section 144 any broader scope than above stated.