

Supplementary Order Paper

HOUSE OF REPRESENTATIVES

Wednesday, the 25th Day of September 1957

MENTAL HEALTH AMENDMENT BILL

Hon. Mr HANAN, in Committee, to move the following amendment:

New Clause

To insert, after clause 14, the following new clause:

14A. Powers of committee—(1) Section one hundred and sixteen of the principal Act is hereby amended by repealing subsection two, and substituting the following subsection:

“(2) Where any order is made under this section, the following provisions shall apply:

“(a) For the purpose of exercising any powers conferred by the order, the committee shall have the powers conferred on the Public Trustee by section one hundred and five of this Act, and the provisions of that section shall apply accordingly, with the necessary modifications:

“(b) In the exercise of any of the powers conferred by the order and by the said section one hundred and five, the committee shall be subject to any orders that may be made in the matter by the Court:

“(c) Without restricting the powers so conferred on the committee, he may from time to time apply to the Court for directions with respect to the exercise of any of those powers; and on any such application the Court may make such order as it thinks fit:

“(d) On the application of the Public Trustee or of the committee or of any relative of the mentally defective person, any order made under this section may at any time be varied or rescinded by the Court.”

(2) The said section one hundred and sixteen is hereby further amended by omitting from subsection one the words “and in the exercise of such powers he shall be subject to any orders that may be made in the matter by the Supreme Court”.

EXPLANATORY NOTE

UNDER section 116 of the Mental Health Act 1911, where the Supreme Court appoints someone other than the Public Trustee as the committee of the estate of a mentally defective person, the Court may by order confer on the committee any of the powers conferred on the Public Trustee by sections 99 to 104 of the Act (which relate to the administration of the estate). Section 116 does not, however, confer on the committee the power to execute assurances (for example, discharges, renewals, or variations of mortgages on behalf

of the mentally defective person as mortgagee) that may be necessary to give effect to the powers conferred by the order. Where the Public Trustee is the committee he has that power under section 105 of the Act.

Subclause (1) of the proposed *new clause 14A* amends section 116 of the principal Act by providing, in paragraph (a) of the new subsection (2), that where the Court confers on the committee powers to administer the estate, section 105 of the Act will apply, so that all necessary documents may be executed by the committee. Paragraph (b) re-enacts the latter part of section 116 (1), by making the committee subject to any orders that may be made by the Court. Paragraph (c) confers on the committee the right to apply to the Court for directions as to the exercise of his powers. (Cf. section 114 of the principal Act.) Paragraph (d) re-enacts subsection (2) of section 116, but extends it to enable the committee to apply to the Court for a variation or rescission of an order made by the Court. At present, only the Public Trustee or a relative of the mentally defective person may make such an application.

Subclause (2) consequentially amends section 116 (1) by omitting words now included in the new subsection (2) (b).
