

proper manner for his property and safeguard his interests. Such a person requires the protection of the law as much as a lunatic or an infant. He is, indeed, in what may be termed his second childhood, as much susceptible of subjection to fraud or folly as a minor. On consideration it will be seen that the legal machinery to make effective the protection which the law relating to mentally defective persons gives does not work until it is set in motion. It is cold comfort for the dutiful sons and daughters of an aged parent whose powers have in the decline of his life become so weakened or impaired that he has no true appreciation of the nature and value of his property that they can protect his interests by having him officially declared insane or a mental defective. To provide against a painful situation like this is one of the main objects of the Act.

83. The second object is to protect the interests of certain other classes of persons who are, according to any normal standard, incompetent to manage their property, whether the cause of their incompetence be immaturity of years, mental deficiency, or certain other defined causes—namely, (1) age, (2) disease, (3) illness, (4) physical infirmity, (5) the taking or using in excess of alcoholic liquors, or intoxicating, stimulating, narcotic, or sedative drugs. The classes of persons for whom the act is specially suitable may be divided as follows: (a) Mentally defective persons whose circumstances are such that it is not necessary or desirable in their own interests or that of society to have them declared insane or detained in a mental hospital or under other lawful authority. (b) Old people whose senility is such that their powers may be enfeebled to such an extent as to make it in their interests that a protection order be granted, but not to an extent sufficient to secure a verdict of mental deficiency. Of course, the line at which it is possible to confirm that a person is mentally defective is not always easy to draw: the weakness which does not amount to unsoundness shades off into that which does. (c) The chronic drunkards or drug-addicts. As an eminent writer on the subject says, “Psychologically the drunkard is in much the same position as the mental defective, but, while the latter has been the subject of protection from the earliest time, the drunkard has had little attention and still less sympathy from the law, probably because intoxication is usually due to a man’s own fault, whereas lunacy is his misfortune.” The effects of habitual indulgence in intoxicating liquor and drugs are such that a person addicted to this vice may by neglect of business and wanton expenditure reduce himself and his dependents to penury and may eventually become a burden on the community. Addiction to drink or drugs is not of itself sufficient to obtain such protection, but where it is accompanied by one or other of the disabilities mentioned in the Aged and Infirm Persons Protection Act, 1912, such as inability to manage property, it may be not only in the interests of the victim, but of those dependent upon him and of society generally, that a protection order should be made. Once such an order is made, the protected person is incapable, without the further leave of the Court, of making any transfer, lease, mortgage, or other disposition of such part of his estate as is the subject-matter of the protection order. The Court can direct that any testamentary disposition made by the protected person after the making of the protection order shall be made only with such precautions as the Court thinks fit; otherwise such testamentary direction is ineffectual. In making the protection order the Court also appoints a manager, who thereupon becomes authorized, unless the Court in any particular case orders otherwise, to exercise the following powers:—

- (a) To take possession of the protected estate, and to recover possession thereof from any person holding the same:
- (b) To repair and insure against fire or accident any part of the estate:
- (c) To demand, recover, and receive moneys and personal effects payable to or belonging to the protected person:
- (d) To apply any moneys (whether arising from real or personal property, and whether income or capital) for the maintenance of the protected person, and the wife or husband, and the children of the protected person, and in payment of the debts and liabilities of the protected person:
- (e) To carry on any trade or business theretofore carried on by the protected person, and to carry on the business of any partnership in which the protected person may be a partner.