

Grant towards the capital cost of providing additional accommodation for patients and staff at St. Giles Home, Launceston, (on the basis of £ for £ of the amount actually expended upon or in connection with the erection of new buildings or the extension or repair of existing buildings proposed to be used for the purposes of the said Home)	6,000
Grant to Mission to Seamen Club and Hostel in aid of the purchase of land and the cost of erection of premises thereon (progress payments to be made when the land is purchased and as the erection of the premises proceeds)—Additional	5,000
Grant to Launceston Y.M.C.A. towards cost of construction of War Memorial Building (on the basis of £ for £ of the amount actually expended on or in connection with the erection of new buildings or the extension or repair of existing buildings proposed to be used for the purposes of the said Y.M.C.A., at Launceston)	5,000
Grant to St. John Bosco Boys' Town towards the cost of building extensions to and furnishings of Boys' Town on the basis of £ for £ of the amount expended from contributions by Public Appeal for that purpose.	7,500

EDUCATION DEPARTMENT.

Grant to the Board of Management of the Woodlands Girls' Hostel towards the capital cost of modernisation and extensions to the Hostel (on the basis of £ for £ of the amount actually expended upon or in connection with the modernisation of, or extensions to, the existing Hostel building)	2,500
Grant in aid of cost of erection of a Memorial Hall at Wilmot (conditional upon the Hall being made available for educational purposes, when required)	500
	<u>£49,000</u>

SEXUAL OFFENCES.

No. 48 of 1951.

AN ACT to provide for the Protection of Women and Children and for the Treatment of Sexual Offenders and to amend the *Police Offences Act 1935*.
[12 October, 1951.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as the *Sexual Offences Act 1951*, and shall come into force on a day to be proclaimed.

Short title and commencement.

Interpretation.

2 In this Act, unless the contrary intention appears—

“court” means Supreme Court;

“Director” means Director of Mental Hygiene;

“examination order” means an order that a person shall be examined under this Act;

“examinee” means a person liable to examination under an examination order; and

“sexual offence” means an offence against the enactments mentioned in sections four and six.

Amendment of Police Offences Act 1935, s. 35.

3 Section thirty-five of the *Police Offences Act 1935** is amended by inserting after subsection (2) the following subsections:—

Common assault: Aggravated assault on female or child.

“(3) Whoever with indecent intent assaults any child apparently under the age of fourteen years or any female shall be liable to a fine of twenty pounds or to imprisonment for six months, and, in addition, may be required to enter into a recognisance, with such sureties as the court thinks necessary, to be of good behaviour for any period not exceeding six months.

(4) If on a complaint under subsection (3) of this section the court finds the assault proved but not the intent, it may amend the complaint to one under subsection (1) for the same assault and convict accordingly.”.

When examination orders may be made on conviction in Supreme Court.

4 If on a conviction under a section of the *Criminal Code* mentioned in the first schedule the Court is of opinion that the person convicted is likely by reason of his moral, mental, or physical disposition to repeat the offence charged or some similar offence, notwithstanding the sentence to be imposed, it may order his examination under this Act in accordance with the entry set out in form I. in the second schedule.

When examination orders may be made in Supreme Court without conviction.

5—(1) If any person charged with an offence referred to in section four makes a defence involving a confession that he did the act charged the court may, if it thinks that section four would be applicable were he convicted, require the jury to find specially whether or not the accused committed the act charged, and the jury shall be bound so to find.

(2) This section shall not affect the form of verdict to be returned where the jury acquits the accused on the ground of insanity.

(3) This section shall not affect the form verdict to be returned where the jury acquits the accused on the ground if he had been convicted of it.

Examination orders by justices.

6—(1) Where any person is tried by a police magistrate or justices—

(a) under paragraphs IV. or V. of section eight;

(b) on a charge of behaving in an indecent manner in a public place, under section thirteen;

* 26 Geo. V. No. 44. For this Act as amended to 1936, see Reprint of Statutes, Vol. V., p. 808. Subsequently amended by 4 Geo. VI. No. 12, 5 Geo. VI. No. 46, 7 Geo. VI. No. 66, and 11 Geo. VI. No. 52.

(c) under section twenty-six; or

(d) under subsection (3) of section 35,

of the *Police Offences Act 1935** he or they shall have the powers of the court under sections four and five, making such findings of fact as a jury should if the trial had been on indictment.

(2) An examination order under this section shall be recorded in accordance with form II. in the second schedule.

7—(1) Where a person is ordered to be examined under this Act— Provisions for examinations.

(a) the examinee, if not sentenced to be imprisoned, shall be committed to a gaol or receiving house to be detained there till further order or bound by recognisance with such sureties as the court thinks necessary to submit to examination when summoned as provided in subsection (2) of this section (including any adjourned examination and any fresh examination under subsection (6));

(b) the Director shall be required in accordance with forms III. or IV. in the second schedule (whichever is appropriate) to take the necessary action, and he shall then by warrant under his hand appoint and empower three persons of whom one shall be a registered medical practitioner, one a practising psychiatrist (who may be in the service of the Crown), and one a psychologist who is a Fellow or Associate of the British Psychological Society and of whom one shall be named in the warrant as and be the chairman, to examine the examinee with the assistance of such police officers and others as they may call to their assistance.

(2) The chairman may—

(a) where the examinee is at large and bound by recognisance to submit to examination, issue a summons to the examinee in accordance with form V. in the second schedule, which summons shall be served personally on the examinee; or

(b) where the examinee is in a gaol or receiving house, issue a warrant to the keeper thereof to have the examinee at some place convenient for his examination, in accordance with form VI. in the second schedule.

(3) Examinees summoned in accordance with subsection (2) shall be entitled to conduct money and free travel as prescribed, which conduct money and any necessary tickets or warrants for travel shall be obtainable at police stations upon presentation of summonses a reasonable time before the examination.

* 26 Geo. V. No. 44. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 808. Subsequently amended by 4 Geo. VI. No. 12, 5 Geo. VI. No. 46, 7 Geo. VI. No. 66, and 11 Geo. VI. No. 52.

(4) The persons named in the warrant may make such examination of the examinee as they think proper, using force if necessary, and shall report to the Director whether in their opinion the examinee is likely by reason of his moral, mental, or physical disposition to repeat the offence in respect of which the examination order has been made or some similar offence notwithstanding the legal penalty therefor, and if so whether and if so how he can in their opinion be treated for that disposition, and whether in their opinion he is likely if at large grievously to harm or vex any person by committing or attempting to commit such an offence.

(5) If the persons named in the warrant can not complete their examination in one day they may adjourn as often as is necessary to another day, and their chairman may issue such summonses or warrants under subsection (2) as are necessary and further conduct money, tickets, travel warrants, and board and lodging money as prescribed.

(6) When it appears to the Director that by reason of the death or incapacity of a person named in his warrant or of some other cause no report can be had thereunder at all or within a reasonable time, he may issue another warrant to other persons (including one or two of those previously named if he thinks fit), and a third or more if necessary until he obtains a report in proper form.

Proceedings
after examina-
-tion.

8—(1) Upon receipt of a report in proper form of the examination under section seven the Director shall—

- (a) if the examination order was made by the court, make his return as commanded; or
- (b) if the examination order was made by a police magistrate or justices, lodge his certificate as commanded,

in either case setting out the warrant on which the report was made and attaching the report itself.

(2) Where the Director's certificate has been lodged as provided in subsection (1) a writ of *certiorari* may be issued on the Attorney-General's *fiat* to bring up the proceedings into the court, and upon the return of the writ the court may in addition to its own powers exercise in respect of the matter all the powers of the court from which the proceedings were removed, or of a justice.

(3) The Director's return or certificate being in the court, the Crown or the examinee may traverse it, and the court may quash it on the ground—

- (a) of irregularities in the examination; or
- (b) of material omissions, uncertainty or obscurity in the report,

and may make a fresh examination order, the writ thereon commanding the Director to cause the examinee "to be again and more diligently so examined".

(4) Upon the Director's return or certificate being in court, the Crown may upon notice to the examinee move the court for a segregation order or a treatment order.

(5) Upon the hearing of the motion—

- (a) the court may examine the persons making the report on the grounds of their opinions expressed in the report;
- (b) the examinee may cross-examine those persons on the same subject and on their examination, if any, by the court;
- (c) counsel for the Crown may, if the examinee has cross-examined, re-examine;
- (d) evidence by affidavit or otherwise may be tendered by the Crown of the personal history of the examinee;
- (e) the examinee may show by affidavit or otherwise that no order should be made against him; and
- (f) the court may, if it thinks that the examinee is likely by reason of his moral, mental, or physical disposition to commit and notwithstanding due punishment therefor again to commit a sexual offence—
 - (i) and is likely if left at large grievously to harm or vex any person by committing or attempting to commit such an offence, make a segregation order against him;
 - (ii) and can by undergoing treatment be rendered unlikely to harm or vex any person by committing or attempting to commit such an offence, make a treatment order against him.

(6) Where a cause has been removed into the court before sentence, the court may after making or refusing a segregation or treatment order remit the cause for sentence to be given.

(7) The court, if seized of the proceedings, or otherwise any two justices, may on the application of the examinee order that his detention for examination be ended unless within a certain time the next proper step be taken under the examination order.

9—(1) A segregation order shall be in accordance with form VII. in the second schedule, and shall empower the Governor to cause the person against whom it is made to be detained at some place appointed by him for the purpose. Segregation orders.

(2) A segregation order may reserve liberty to apply for its discharge or for its discharge and a treatment order instead, either at any time or after a specified time.

(3) A person detained under a segregation order and not undergoing a sentence of imprisonment—

- (a) shall, except as warranted by other process, be subjected only to such restraint as is necessary—
 - (i) to ensure that he remains in the appointed place; and
 - (ii) for the good order of that place; and
- (b) shall be entitled to all reasonable and proper treatment calculated to make him fit for discharge.

Review and extension of segregation orders.

10—(1) Every segregation order shall expire on the quarter day next after the end of one year from the date of the order, unless upon motion by the Crown before its expiry the court extends the order.

(2) Upon the hearing of the motion—

- (a) the Crown shall by affidavit or otherwise satisfy the court that the order ought, for the same reasons for which it was made, to be extended;
- (b) the respondent may show by affidavit or otherwise that the order should not be extended; and
- (c) the court may extend the order or discharge it, and if it discharges it, may make a treatment order.

(3) Every extended order shall expire on the quarter day next after the end of four years from the date of the original order, but may likewise be extended by three more years or discharged, and so on until the discharge or death of the person detained under it.

(4) If on a motion to extend a segregation order the person detained under it appears and consents to the extension, the court may grant the rule sought without further inquiry.

(5) A person detained under a segregation order may at any time petition the court to discharge the order, but the court may on dismissing any such petition direct that no further petition by him be received for a specified period.

(6) Such a petition shall be served on the Attorney-General.

(7) Upon its hearing the court may make an examination order and adjourn the petition until the return of the writ by the Director, and may dismiss the petition or discharge the order.

(8) The Director may at any time give to a person detained under a segregation order his certificate that in his opinion that person is now fit to be at large and should no longer be subject to the order, and upon filing the certificate in the court that person shall be entitled to have the discharge of the order entered as of the day of filing the certificate.

(9) For the purposes of this section quarter days shall be the first days of March, June, September, and December.

Segregation order at own instance.

11—(1) Any person may apply to the Director for his own examination, and the Director may obtain a report similar to that on an examination order, and thereon that person may petition the court for a segregation order against himself.

(2) The petition shall be served on the Attorney-General, and thereon the same proceedings shall be had as nearly as possible as on a motion under subsection (4) of section eight.

Treatment orders.

12—(1) A treatment order shall be in accordance with form VIII. in the second schedule, and shall require the person against whom it is made to submit himself at such times and places as the Director may specify by order under his hand (with power to vary them) there to be treated in accordance with the instructions of the Director, written or verbal, to the person appointed to give the treatment.

(2) If the person against whom the order is made fails to attend as ordered or refuses to be treated, he shall be liable, upon conviction thereof in a summary manner to be imprisoned for three months unless he submits in the meantime to be treated, and may be convicted as often as he fails to attend as ordered or refuses to be treated.

13—(1) If the Director is of opinion that a person against whom a treatment order has been made is cured of the indisposition which the order was made to cure, he may give that person his certificate to that effect; and that person upon filing the certificate in the court shall be entitled to have the discharge of the treatment order entered as of the day of filing the certificate. Termination and discharge of treatment orders.

(2) A person against whom a treatment order has been made may petition the court to discharge the order upon the ground—

- (a) that the treatment is unreasonable;
- (b) that the treatment is ineffective;
- (c) that the treatment is not being given or is unduly protracted; or
- (d) that the Director ought to be of opinion that the petitioner is cured of the indisposition which the order was made to cure.

(3) The petition shall be served on the Attorney-General.

(4) If the court finds—

- (a) the first, second, or third ground proved, it may discharge the order or adjourn the hearing upon condition that the treatment is properly given, with liberty to apply on condition broken; or
- (b) the fourth ground proved, it shall discharge the order.

14—(1) If during the currency of a treatment order it appears that there is evidence tending to prove that the person subject to the order is likely if left at large grievously to harm or vex any person by committing or attempting to commit a sexual offence, which evidence was not before the court when the treatment order was made, the Crown may, upon notice to the person subject to the order, move the court for the discharge of the order and for a segregation order in lieu thereof. Substitution of segregation for treatment orders.

(2) Upon the hearing of the motion the Crown may adduce only such evidence as was not adduced at the hearing on which the treatment order was made and the respondent may show only that the evidence now adduced by the Crown does not justify a change of orders.

(3) The court may make the order sought or may make a fresh examination order, moulding the writ as the case requires, or may refuse the motion.

(4) If the court orders a fresh examination it may, if it thinks fit, suspend the operation of the treatment order and may deal with the examinee as provided in paragraph (a) of subsection (1) of section seven.

Imprisonment concurrent with segregation or treatment.

15—(1) When a person against whom a segregation order is made is liable to serve a term of imprisonment whether in respect of the charge in respect of which the segregation order was made or not, his imprisonment shall be either—

(a) in a gaol at a place of detention appointed under section nine; or

(b) notwithstanding section nine, in some other gaol; as the Governor may direct.

(2) Such a person, if imprisoned elsewhere than at a place of detention under section nine, shall as far as possible be kept apart from other prisoners not subject to segregation or treatment orders.

(3) When a person against whom a treatment order is made is liable to a term of imprisonment, whether in respect of the charge in respect of which the treatment order was made or not, he shall, if the Governor so directs, be detained in a gaol at a place of detention appointed under section nine, but otherwise he shall be detained as if the treatment order were not in existence, but shall at his place of detention be liable and entitled to the treatment ordered.

Confinement of persons segregated.

16 If on the making of a segregation order or at any later time while the order is in force it appears to the court, upon motion by the Crown, that the person against whom it is made is likely otherwise to do grievous bodily harm or to commit indecent assaults, it may order him to be closely confined; and by virtue of such an order he may be confined and restrained as prescribed.

Control of places of detention under this Act.

17—(1) Subject to the regulations every place of detention appointed under this Act shall be under the control of the Controller of Prisons.

(2) The following sections of the *Prisons Act 1868** shall apply to places of detention appointed under section nine as if they were gaols and as if the persons lawfully detained therein under this Act were prisoners detained in lawful custody under a sentence of imprisonment lawfully passed and as if all other necessary adaptations were made:—

sections thirteen to eighteen;

section twenty-seven, so far as it relates to fermented and spirituous liquors;

section twenty-nine;

section thirty-one;

section fifty-seven.

Crown may pay costs.

18 In proceedings under sections eight, ten, eleven, thirteen, and sixteen of this Act the Attorney-General may give the opposite party to the Crown a warrant for his solicitor and client costs to be taxed, and upon presentation by that person to the Treasurer of the warrant and the *allocatur* of the taxing officer of the court the Treasurer shall pay that person the amount allowed, out of such moneys as Parliament may provide for the purpose.

* 32 Vict. No. 11. For this Act, as amended to 1936, see Reprint of Statutes, Vol. V., p. 872.

19—(1) Subject to this Act the Governor may make Regulations.
regulations—

- (a) for the management and control of places of detention under section nine;
- (b) for the welfare and good order of persons detained under this Act, including—
 - (i) their accommodation, diet, dress, work, and recreation;
 - (ii) issues and allowances to them at public expense;
 - (iii) payment by them for goods and services provided at public expense;
 - (iv) the disposal and proceeds of their work and labour;
- (c) the duties and conduct of persons employed in the control of such places of detention and persons detained and the treatment of such persons detained;
- (d) for the payment of conduct money and board and lodging to examinees and for providing them with tickets or warrants for travel; and
- (e) generally for the purposes of this Act.

(2) Regulations under this Act may—

- (a) impose a liability to reimburse the State for any issue or allowance under them;
- (b) impose a penalty on persons not detained under this Act not exceeding ten pounds; and
- (c) provide that for breaches of the regulations persons detained under this Act shall be liable to—
 - (i) imprisonment not exceeding one month;
 - (ii) a fine not exceeding twenty pounds;
 - (iii) restriction to a prescribed diet; and
 - (iv) loss of privileges or amenities.

(3) Without limiting the generality of subsections (1) and (2), they shall be deemed to authorise that the following matters be prescribed:—

- (a) That persons subject to segregation orders may, if they so wish, be employed in and about their place of detention and be paid therefor;
- (b) That such persons shall keep themselves and their quarters clean and tidy;
- (c) That such persons shall not spend all their time in idleness but take exercise or do work;
- (d) That no such person shall be entitled to certain things unless either he pays for them or lacks means to pay.

20 Rules of court may be made for the purposes of this Act. Rules of Court.

THE FIRST SCHEDULE.

(Section 4.)

Sections of the *Criminal Code*.

122, 123, 124, 126, 127, 129, 130, 133, 137, 138, 185, 188

THE SECOND SCHEDULE.

FORM I.

(Section 4.)

It is considered by the court here that the said *A.B.* is likely by reason of his moral mental or physical disposition to repeat the offence charged against him or some similar offence, notwithstanding the sentence imposed [or to be imposed] upon him and it is therefore ordered by the said court here that he be examined in accordance with the *Sexual Offences Act 1951* [and be committed to for that purpose].

FORM II.

(Section 6.)

And [I] considering that the said *A.B.* is likely [as in form I.] order that the said *A.B.* be examined in accordance with the *Sexual Offences Act 1951* [and be committed to for that purpose].

[To be inserted in the memorandum of conviction, or where there is no conviction in a memorandum modified accordingly.]

FORM III.

(Section 7.)

In the Supreme Court of Tasmania,
Criminal Jurisdiction.

THE KING against *A.B.*

GEORGE THE SIXTH by the Grace of God, &c.

To the Director of Mental Hygiene of the State of Tasmania.

GREETING:

Whereas lately in our Supreme Court of Tasmania it was ordered that *A.B.* be examined in accordance with the *Sexual Offences Act 1951* [and the said *A.B.* was committed to for that purpose].

Therefore we command you that without delay you cause the said *A.B.* to be so examined: And in what manner you have executed this our writ make appear to us in our Supreme Court immediately after execution hereof: And have there then this writ.
Witness, &c.

FORM IV.

(Section 7.)

To the Director of Mental Hygiene of the State of Tasmania.

Whereas *A.B.* of _____, in the said State, _____, was on the _____ day of _____,

19 _____, at _____ convicted before _____ of an offence against the provisions of the _____ section of the *Police Offences Act 1935* [or charged before, &c., and found though not guilty of the offence to have committed the act charged] and it was ordered that the said *A.B.* be examined in accordance with the *Sexual Offences Act 1951* [, and the said *A.B.* was committed to for that purpose]: These are therefore to command you in His Majesty's name, forthwith to cause the said *A.B.* to be so examined and that in what manner you have executed this warrant you do, immediately after the execution hereof, certify to me or to such of His Majesty's justices as shall hold the next court of petty sessions at the place aforesaid.

Given under my hand, at _____, in the said State, this _____ day of _____, 19 _____
J.S., J.P.

FORM V.

(Section 7 (2).)

Sexual Offences Act 1951.

ORDER TO SUBMIT TO EXAMINATION.

To A.B. of

Whereas the Director of Mental Hygiene was on the day of by writ of our Lord the King [or by warrant of X.Y. esquire, one of His Majesty's Justices of the Peace] commanded to cause you the said A.B. to be examined in accordance with the Sexual Offences Act 1951 and

Whereas the said Director by warrant under his hand dated the day of duly appointed C.D. of , E.F. of and G.H. of , so to examine you and me the said C.D. to be their chairman:

Now therefore I the said C.D. by virtue of the said Act hereby summon you the said A.B. to submit yourself at [place] at [time] to be examined accordingly.

Given under my hand at this day of

C.D.

NOTE: If you present this summons to the nearest police station at a reasonable time before the time of examination you may obtain conduct money and tickets or warrants for travel to the place of examination.

If you are too sick to obey this summons you should notify the nearest police station.

FORM VI.

(Section 7 (2).)

Sexual Offences Act 1951.

To the Keeper of the Gaol [or Receiving House] at in the State of Tasmania.

Whereas A.B. of , was by virtue of an examination order under the Sexual Offences Act 1951 made in the on the day of committed to your custody, and

Whereas the Director of Mental Hygiene was on the day of by writ of our Lord the King [or by warrant of X.Y., esquire, one of His Majesty's Justices of the Peace] commanded to cause the said A.B. to be examined in accordance with the Sexual Offences Act 1951, and

Whereas the said Director by warrant under his hand dated the day of duly appointed C.D. of and G.H. of , E.F. of , so to examine him and the said C.D. to be their chairman:

These are therefore to command you in His Majesty's name to have the said A.B. at [place] at [time] to be examined as aforesaid.

Given under my hand at this day of

C.D.

FORM VII.

(Section 9.)

SEGREGATION ORDER.

In the Supreme Court of Tasmania,
Criminal Jurisdiction.

THE KING against *A.B.*

Upon motion this day made unto this Court by
of counsel for the King and upon hearing
counsel for the defendant and upon reading the report of
made pursuant to the order of the Court herein made the
day of _____ and _____ of

IT IS ORDERED by the Court here that the Governor be at liberty to
cause the said *A.B.* to be detained in accordance with section nine of the
Sexual Offences Act 1951.

By the Court

(L.S.)

Registrar.

FORM VIII.

(Section 12.)

TREATMENT ORDER.

In the Supreme Court of Tasmania,
Criminal Jurisdiction.

THE KING against *A.B.*

Upon motion this day made unto this Court by
of counsel for the King and upon hearing
counsel for the defendant and upon reading the report of
made pursuant to the order of the Court herein made the
day of _____ and _____ of

IT IS ORDERED by the Court here that the said *A.B.* do attend at such
places and times as may be ordered by the Director of Mental Hygiene
and there submit to be treated under the *Sexual Offences Act 1951* for
a disposition to commit
and similar offences in accordance with the instructions of the said
Director.

By the Court

(L.S.)

Registrar.

HYDRO-ELECTRIC COMMISSION (No. 2).

No. 49 of 1951.

AN ACT to amend the *Hydro-Electric Commission Act 1944* and the *Hydro-Electric Commission Act 1947*; and to authorise the borrowing of certain sums of money, and the application thereof for the purposes of new power development.

[12 October, 1951.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—