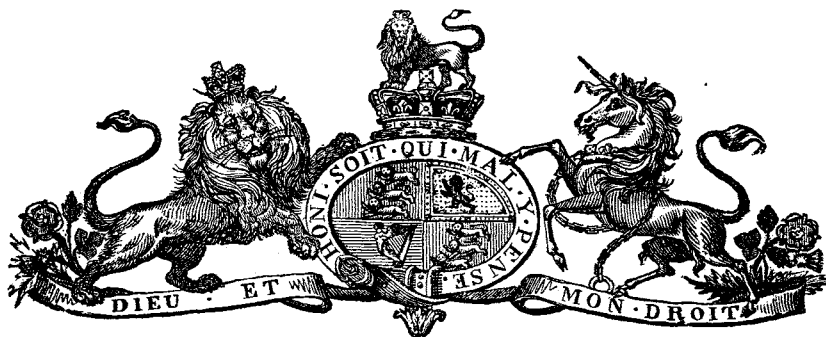


T A S M A N I A



1858. Amended by 49 Vic No. 35.  
6 Geo. V. - 8

ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ,

*English Acts*  
*16 & 17 Geo. 4 c. 97* No. 23.  
*20 & 21 Geo. 4 c. 11*



AN ACT for the Regulation of the Care and Treatment of the Insane, and for the Appointment, Maintenance, and Regulation of Hospitals for the Insane. [5 November, 1858.]

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 In the construction and for the purposes of this Act, and of all Interpretation. proceedings under this Act, the following expressions shall have the meanings hereunder assigned to them :—

“The Commissioners” shall mean and include the whole Body of “The Commissioners of any Hospital for the Insane appointed under this Act, and any quorum of such Body : Commissioners.”

“Medical Practitioner” shall mean a person duly authorised by “Medical Practitioner.” the Law in force for the time being to practise as a Physician, Surgeon, or Apothecary in this Colony :

“The Insane” and “Insane Person” shall extend to and include “The Insane” every person being a Lunatic, or an Idiot, or of unsound mind : “Insane Person.”

“Hospital” shall mean any place appointed under this Act to be a “Hospital.” Hospital for the confinement, treatment, care, and maintenance therein of the Insane :

“Justice” shall mean Justice of the Peace. “Justice.”

Governor in Council may appoint Hospitals for the Insane.

*Case codes, No 81.  
- Gaz 79 - 1313*

**2** It shall be lawful for the Governor in Council, by Proclamation published in the *Gazette*, from time to time as occasion requires, to appoint any place within this Colony which appears to the Governor in Council to be necessary and proper as and to be a Hospital for the confinement, treatment, care, and maintenance therein of the Insane, and in and by such Proclamation to assign a name to such Hospital; and any such appointment may be revoked in like manner.

Governor to appoint Commissioners of Hospitals.

*Gaz 1869  
1164  
P. Gaz 77 - 529*

**3** The Governor in Council shall appoint any number of persons not being less than Five, of whom Two shall be Medical Practitioners, to be Commissioners for the purposes of this Act of each such Hospital; and such Commissioners shall respectively hold their offices during pleasure.

In case of death, &c. of Commissioners others to be appointed.

**4** When any Commissioner dies or is removed, or resigns or refuses to act, or becomes unable by illness or otherwise to perform the duties or exercise the powers of this Act, the Governor in Council shall appoint a person to be a Commissioner in his stead, but so that Two Members of every such Commission shall always be Medical Practitioners; and until such appointment it shall be lawful for the continuing Commissioners to act as if there were no such vacancy.

Governor in Council to appoint President of Commissioners.

**5** The Governor in Council shall appoint One of the Members of each Body of Commissioners, being a Medical Practitioner, to be the President of such Commissioners; and in case such President, or any other President who is thereafter appointed in pursuance of this provision, dies, or declines or becomes incapable to act as President, or ceases to be a Commissioner, then, and as often as the same happens, the Governor in Council shall appoint another of such Commissioners, being a Medical Practitioner, to be the President of the Commissioners in his stead; and in case the President for the time being is absent from any meeting, it shall be lawful for the majority of the Commissioners present at any such meeting to elect a Chairman for that meeting; and in all cases every question shall be decided by a majority of the Commissioners present at the meeting, the President or Chairman, as the case may be, having both a deliberative and a casting vote.

Quorum.

**6** Such number of the Commissioners as the Governor in Council from time to time appoints for that purpose, not being less than Three, and of whom One shall be a Medical Practitioner, shall form a quorum.

Superintendent and other Officers of Hospitals.

**7** Every Hospital, and the Insane confined therein, shall, subject to the general control and direction of the Commissioners, be under the immediate control and management of such person, to be called the Superintendent of such Hospital, as the Governor in Council, from time to time, thinks fit to appoint; and every such Hospital shall have a Medical Officer, and such other Officers and Servants as by the Governor may be deemed to be necessary; and such Superintendent, Medical Officer, and other Officers and Servants, shall severally receive such salaries and wages as the Governor thinks proper.

Commissioners may suspend Officers of Hospital.

**8** It shall be lawful for the Commissioners to suspend from office the Superintendent, or any other Officer or Servant of the Hospital, in any case in which the misconduct or neglect of such Superintendent, Officer, or Servant in the opinion of the said Commissioners merits his suspension, and, if necessary, temporarily to appoint another Superintendent, Officer, or Servant to fulfil the duties of the Superintendent, Officer, or Servant so suspended; and a special report of the suspension of any such Superintendent, Officer, or Servant, and of the occasion

thereof, shall be forthwith made by the Commissioners to the Governor, and the Governor in Council shall thereupon make such order in the matter as he may think proper.

**9** It shall be lawful for the Superintendent of any Hospital to be also the Medical Officer thereof.

Superintendent  
may be also  
Medical Officer.

**10** The Commissioners, over and above the powers by this Act specially committed to them, shall have the superintendence, management, direction, and regulation of all matters arising under this Act in relation to the Hospital of which they are appointed Commissioners, and to the Insane confined therein; and it shall be lawful for the Commissioners from time to time to make and establish such Rules and Regulations as they may deem necessary towards the good order and management of the Hospital, the conduct and duties of the Superintendent and other Officers and Servants thereof, and the admission, confinement, care, treatment, and maintenance of the Insane therein: Provided always, that all such Rules and Regulations shall be approved of by the Governor in Council before being put into execution.

Powers of Com-  
missioners.

Rules and Regu-  
lations.

**11** Not less than Two Commissioners shall together, once at the least in every Three months, inspect every part of the Hospital of which they are Commissioners, and also the Order and Certificate or other authority for the admission of every Insane Person admitted since the last visitation of the Commissioners; and shall also, as far as circumstances will permit, see and examine every Insane Person in such Hospital, and the general Books kept therein, and shall enter in a book to be kept for that purpose a Statement that they have inspected every such Order and Certificate as aforesaid, and also any remarks which they may deem proper in regard to the condition and management of such Hospital and the Insane therein, and shall sign such book upon every such visit.

Two Commis-  
sioners at least to  
visit Hospital  
once in every  
Three months.

**12** The Commissioners of every Hospital shall in every year lay before the Governor in Council a Report in writing of the state and condition of such Hospital, and as to its sufficiency for the proper accommodation of the number of the Insane for whom it may be requisite to provide accommodation, and as to the management of such Hospital, and the conduct of the Officers and Servants thereof, and the care of the Patients therein, and the Commissioners may in such Report make such remarks or observations in relation to any matters connected with such Hospital as they may think fit; and a copy of such Report shall be laid before the Parliament of *Tasmania*.

Annual Reports  
to be made by  
Commissioners.

**13** Every Constable who has knowledge that any person wandering at large is deemed to be an Insane Person, shall immediately apprehend and take, or cause such person to be apprehended and taken, before any Two Justices; and it shall also be lawful for any Justice, upon its being made to appear to him by the information upon oath of any person whomsoever that any person wandering at large is deemed to be an Insane Person, by an order under the hand of such Justice, to require any Constable to apprehend him and bring him before any Two Justices; and every Constable who has knowledge that any person not wandering at large as aforesaid is deemed to be an Insane Person, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall, within Three days after obtaining such knowledge, give information thereof upon oath to a Justice; and in case it is made to appear to any Justice, upon such

Insane Persons  
wandering at  
large, not being  
properly taken  
care of, or being  
cruelly treated,  
&c., may be con-  
fined in Hospitals.

information or upon the information upon oath of any person whomsoever, that any person not wandering at large is deemed to be an Insane Person, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, such Justice shall, either himself visit and examine such person and make inquiry into the matters so appearing upon such information, or by an order under his hand direct and authorise some Medical Practitioner to visit and examine such person, and make such inquiry; and to report in writing to such Justice his opinion thereupon; and in case upon such personal visit, examination, and inquiry by such Justice, or upon the Report of such Medical Practitioner, it appears to such Justice that such person is an Insane Person, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, it shall be lawful for such Justice, by an order under his hand, to require any Constable to bring him before any Two Justices; and the Justices before whom any such person as aforesaid, in the respective cases aforesaid, is brought under this enactment, shall call to their assistance a Medical Practitioner, and shall examine such person, and make such inquiry relative to such person as they may deem necessary; and if upon examination of such person or other proof such Justices are satisfied that such person so brought before them is an Insane Person, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, or that such person so brought before them is an Insane Person, and is not under proper care and control, or is cruelly treated or neglected by any person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, and if such Medical Practitioner signs a Certificate with respect to every such person so brought before such Justices according to the form in the Schedule, (Form 1.) it shall be lawful for the said Justices, by an Order under their hands according to the form in the Schedule, (Form 2.) to direct such person to be received into a Hospital; and the said Constable who may have brought such person before the said Justices, or any Constable whom such Justices may require so to do, shall forthwith convey such person to such Hospital accordingly: Provided always, that it shall be lawful for the Justices, upon such information on oath as aforesaid, or upon their own knowledge, to examine the person deemed to be an Insane Person, at his abode or elsewhere, and to proceed in all respects as if such person were brought before them as herein-before mentioned: Provided also, that it shall be lawful for the said Justices to suspend the execution of any such Order for removing any such person as aforesaid to a Hospital for such period not exceeding Fourteen days as they may deem meet, and in the meantime to give such directions or make such arrangements for the proper care and control of such person as they may consider necessary: Provided also, that if the Medical Practitioner by whom such person is examined certifies in writing that he is not in a fit state to be removed, the removal of such person shall be suspended until the same or some other Medical Practitioner certifies in writing that such person is fit to be removed; and every such Medical Practitioner is hereby required to give such last-mentioned certificate as soon as in his judgment it ought to be given: Provided also, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend from retaining or taking such Insane Person under his own care, if such relation or friend satisfies the Justices that such Insane Person will be properly taken care of.

*Power to temporarily  
detain patient in hospital.*

*13.a. See 6 Geo V. Nos 5 & 6.*

**14** It shall be lawful for any Justice or Justices causing any person to be examined by any Medical Practitioner, under the provisions hereinbefore contained, if he or they think fit so to do, to grant a Certificate under his or their hand or hands for the payment of such reasonable remuneration to any such Medical Practitioner for the examination of such person, and of all other reasonable expenses in or about the examination of such person, and the bringing him before such Justices, and in case he is ordered to be conveyed to a Hospital, of conveying him hereto, as to such Justice or Justices may seem proper; and such expenses shall be defrayed from the General Revenue, and shall be repaid from the estate, if any, of the person examined in the manner herein-after provided.

Power to Justices to grant expenses upon examination of Insane Person.

**15** Any person may be received and detained as a Patient in a Hospital, if accompanied by an Order under the hand of some person according to the form in the Schedule, (Form 3.) together with such Statement of particulars as is contained in the same Form, and the Medical Certificate, according to the form and containing the particulars required in the Schedule, (Form 1.) of Two persons, each of whom shall be a Medical Practitioner, not in partnership with or an assistant to the other, and each of whom has separately from the other personally examined the person to whom it relates, not more than Ten clear days previously to the reception of such person into such Hospital; and such Order as aforesaid may be signed before or after the Medical Certificates or either of them; and every person who receives any person into any such Hospital, save under some proper legal authority or under the provisions in this Act contained, without such Order and Medical Certificates as aforesaid, shall be guilty of a misdemeanor: Provided always, nevertheless, that any person may, under special circumstances which prevent the examination of such person by Two Medical Practitioners as aforesaid, be received into any such Hospital upon the Certificate of One Medical Practitioner alone, provided that the Statement accompanying such Order sets forth the special circumstances which prevent the examination of such person by Two Medical Practitioners; but in every such case another Certificate shall, within Fifteen clear days after the reception of such Patient into such Hospital, be signed by One other Medical Practitioner, not in partnership with or an assistant to the Medical Practitioner who signed the Certificate on which the Patient was received, and who has, within such time and separately from such last-named Medical Practitioner, personally examined the person so received as an Insane Person; and any person who, having received any person into any such Hospital as aforesaid upon the Certificate of One Medical Practitioner alone as aforesaid, keeps or permits such person to remain in such Hospital beyond the said period of Fifteen clear days, without such further Certificate as aforesaid, shall be guilty of a misdemeanor.

Any person to be received into a Hospital, upon an Order and Two Medical Certificates.

**16** Every Medical Practitioner signing any Certificate under or for the purposes of this Act, shall specify therein the facts upon which he has formed his opinion that the person to whom such Certificate relates is an Insane Person, distinguishing in such Certificate facts observed by himself from facts communicated to him by others; and no person shall be received into any such Hospital under any Certificate which purports to be founded only upon facts communicated by others.

Medical Certificate to specify facts upon which opinion of Insanity has been formed.

**17** If after the reception of any Insane Person it appears that the Order or the Medical Certificate, or, if more than One, both or either

Orders and Medical Certifi-

ates may be amended.

of the Medical Certificates, upon which he was received, is or are in any respect incorrect or defective, such Order and Medical Certificate or Certificates may be amended by the person signing the same at any time within Thirty days next after the reception of such Insane Person: Provided nevertheless, that no such amendment shall have any force or effect unless the same receives the sanction of Two or more of the Commissioners.

Who not to sign Certificate for reception of a Patient.

**18** No Medical Practitioner who, or whose father, brother, son, partner, or assistant, signs the Order for the reception of a Patient, shall sign any Certificate for the reception of the same Patient.

Provision for case of prisoner exhibiting Insanity when in confinement as a prisoner.

**19** If any person, while imprisoned in any prison or other place of confinement under any sentence of death, penal servitude, or imprisonment, or under any civil process, appears to be an Insane Person, it shall be lawful for the Sheriff, or for his Deputy by his order, to inquire, with the aid of Two Medical Practitioners, as to the Insanity of such prisoner; and if it is certified by the Sheriff and such Medical Practitioners that such prisoner is an Insane Person, it shall be lawful for the Governor, upon the receipt of such Certificate, to direct, by Warrant under his hand, that such person shall be removed to such Hospital as the Governor may appoint; and every prisoner so removed under this Act, by reason of his Insanity, shall remain in confinement in such Hospital until it is duly certified to the Governor, by the Medical Officer of the Hospital, that such person has become of sound mind, whereupon the Governor is hereby authorised, if such person remains subject to be continued in custody, to issue his Warrant to the Superintendent of such Hospital, directing that such person shall be removed back from thence to the prison or other place of confinement from whence he has been taken, or, if the period of imprisonment of such person has expired, that he shall be discharged.

*Rep*  
Provision for case of persons acquitted of misdemeanors on ground of Insanity.

*84 37 C. No 6*  
**20** In all cases where it is given in evidence upon the trial of any person charged with any misdemeanor that such person was insane at the time of committing such offence, and such person is acquitted, the Jury shall be required to find specially whether such person was acquitted by them on account of such Insanity; and if they find that such person was insane at the time of the committing of such offence, the Court before which such trial is had shall order such person to be kept in strict custody, in such place and in such manner as to the Court seems fit, until Her Majesty's pleasure is known; and it shall thereupon be lawful for the Governor to give such order for the safe custody of such person during Her Majesty's pleasure, in such place and in such manner as to the Governor seems fit.

Discharge of Insane Persons from Hospitals.

**21** It shall be lawful for the Commissioners, by writing under their hands, to order the discharge of any person detained in the Hospital, whether such person is recovered or not, and also for any Two of such Commissioners with the advice in writing of the Medical Officer of such Hospital, to discharge any person detained therein, or to permit any such person to be absent from the Hospital upon trial for such period as such Commissioners think fit; and in case any person so allowed to be absent on trial for any period does not return at the expiration of such period, and a Medical Certificate as to his state of mind, certifying that his detention in a Hospital is no longer necessary, is not sent to the Superintendent,

he may, at any time within Three months after the expiration of such period, be retaken, as herein provided in the case of an escape.

**22** Where application is made to the Commissioners of any Hospital by any relative or friend of an Insane Person confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, it shall be lawful for the said Commissioners, or for any Two of them with the advice in writing of the Medical Officer of the Hospital, if they think fit, and upon the undertaking in writing of such relative or friend to the satisfaction of such Commissioners that such Insane Person shall be properly taken care of, and shall be prevented from doing injury to himself or others, to discharge such Insane Person.

Commissioners may discharge Insane Person on undertaking of friend that he shall be taken care of.

**23** It shall be lawful for the Governor, by writing under his hand, to order and direct the removal of any Insane Person from any Hospital to any other Hospital; and every such Order shall be made in duplicate, and one duplicate shall be delivered to and left with the Superintendent of the Hospital from which the Patient is removed, and the other shall be delivered to and left with the Superintendent of the Hospital to which the Patient is removed, and such Order shall be a sufficient authority for the removal of such Patient, and also for his reception into the Hospital to which he is ordered to be removed.

Governor may order removal of Insane Persons.

**24** If and when any person who signed the Order on which any Patient was received into any Hospital, whether or not such Patient has since been removed under any Order made under this Act or otherwise, to any other Hospital, by writing under his hand directs that such Patient be discharged, then and in such case such Patient shall forthwith be discharged.

Person who signed Order for reception of Patient may order his discharge.

**25** If the person who signed the Order on which any Patient was received into any Hospital is dead, or is incapable, by reason of Insanity, absence from the Colony, or otherwise, of giving an Order for the discharge of such Patient, then the person who made the last payment on account of such Patient, or the husband or wife, or, if there is no husband or wife, or the husband or wife is incapable as aforesaid, the father, or if there is no father, or he is incapable as aforesaid, the mother of such Patient, or if there is no mother, or she is incapable as aforesaid, then any one of the nearest of kin for the time being of such Patient, may, by writing under his or her hand, give such direction as aforesaid for the discharge of such Patient, and thereupon such Patient shall be forthwith discharged accordingly.

Provision where the person who signed the Order for reception is dead or incapable of acting.

**26** Provided always, that no Patient shall be discharged under either of the Two last foregoing provisions if the Medical Officer of the Hospital in which such Patient is, certifies in writing under his hand that in the opinion of such Medical Officer such Patient is dangerous and unfit to be at large, together with the grounds on which such opinion is founded, unless the Commissioners of such Hospital, after such Certificate has been produced to them, give their consent in writing to such Patient being so discharged.

Patient not to be discharged where certified to be dangerous without Commissioners' consent.

**27** Provided always, that no such discharge shall be competent or take place in regard to any Insane Person detained under the sentence or process of any Court of Justice, or the Order of the Governor, without the authority of such Court, or the Warrant of the Governor: Provided further, that if, by the expiration of the period of confinement awarded by the sentence of any Court of Law, any Insane Person would be entitled to be set at large, and such Insane Person is then uncured, it shall be

Exception of Insane Persons detained by Courts of Law.

lawful, upon Certificate to that effect by the Medical Officer of the Hospital, and upon an Order granted by the Governor, to detain such Insane Person in the Hospital in which such Insane Person then is.

Patient released to have Copy of Order and Certificates, &c. on which he was confined.

**28** In the event of the release from confinement in any Hospital of any person who considers himself to have been unjustly confined, a Copy of the Order, Statement of particulars, and Certificates, or other authority upon which he has been confined, shall, at his request, be furnished to him or his Agent by the Superintendent of the Hospital, without any fee or reward for the same.

Proper Order and Certificates a justification for reception of Insane Person.

**29** Every Superintendent of a Hospital who receives a proper Order in pursuance of this Act, accompanied by the required Medical Certificates or Certificate, or any other proper legal authority for the reception or taking charge of any person as an Insane Person, and the Officers and Servants of such Hospital, shall have power and authority to take charge of, receive, and detain such Insane Person until he dies, or is removed or discharged by legal authority; and in case of the escape at any time of such Insane Person, he may, by virtue of such Order and Certificates or Certificate, or other proper legal authority as aforesaid, be retaken at any time within Three months of his escape by the Superintendent of such Hospital, or any Officer or Servant belonging thereto, or any other person authorised in writing in that behalf by such Superintendent, and conveyed to, and received and detained in, such Hospital; and in every writ, information, action, and other proceeding which is preferred or brought against any Commissioner or the Superintendent, or any other Officer or Servant of any Hospital, for taking, confining, detaining, or retaking any person as an Insane Person, the party complained of may plead such Order and Certificates or Certificate, or other proper legal authority as aforesaid, in defence to such writ, information, action, or other proceeding; and such Order and Certificates or Certificate, or other proper legal authority, shall, as respects such party, be a justification for taking, confining, detaining, or retaking such Insane Person or alleged Insane Person.

In case of escape Insane Persons may be retaken.

Officers of Hospitals may plead Order for reception in bar to legal proceedings.

Orders for reception to remain in force in case of escape.

**30** In case an Insane Person escapes from a Hospital, and is retaken within Three months next after such escape, the Certificate or Certificates, if any, relating to, and the original authority for the reception of, such Insane Person shall, respectively, remain in force in the same manner as the same would have done if such Insane Person had not so escaped and been retaken.

Superintendent on receiving an Insane Person into Hospital to make an entry thereof.

**31** The Superintendent of every Hospital shall, immediately on the admission of any person as an Insane Person into such Hospital, make an entry with respect to such Insane Person in a book to be kept for that purpose, to be called "The Register of Patients," according to the form and containing the particulars specified in the Schedule, (Form 4.) except as to the form of disorders, the entry as to which is to be supplied by the Medical Officer of the Hospital within One month after the admission of the Patient; and any Superintendent omitting so to make such entry, shall for every such offence forfeit any sum not exceeding Twenty Pounds.

Weekly Journal and Case Book to be kept in every Hospital.

**32** In every Hospital the Medical Officer thereof shall once in every week enter in a book to be kept for that purpose, to be called "The Medical Journal," a statement according to the form in the Schedule, (Form 5.) showing the number of Patients of each sex then in such Hospital, the Christian name and surname of every Patient who



is or has been under restraint or in seclusion since the last entry, and when and for what period and reasons, and in case of restraint by what means, and the Christian name and surname of every Patient under medical treatment, and for what, if any, bodily disorder, and every death, injury, and violence which has happened to or affected any Patient since the then last preceding entry, and shall also enter into a book to be called "The Case Book," as soon as may be after the admission of any Patient, the mental state and bodily condition of every Patient at the time of his admission, and also the history from time to time of his case whilst he continues in the Hospital; and such books shall from time to time be regularly laid before the Commissioners for their inspection and signature; and every Medical Officer omitting to make such entries, or any of them, shall for every such offence forfeit any sum not exceeding Twenty Pounds.

**33** In case of the death of any Patient in any Hospital, a notice and statement, according to the form in the Schedule, (Form 6.) of the death and cause of the death of such Patient, and the names of any persons who were present at the death, shall be drawn up and signed by the Superintendent and Medical Officer of such Hospital, and a copy thereof shall, within Forty-eight hours of the death of such Patient, be transmitted by the Superintendent to the Officer appointed to register deaths for the District, and to some Coroner who may reside near such Hospital, and also to the person, if any, who signed the Order for the admission of the Insane Person, or who made the last payment on account of such Insane Person; and the Superintendent shall also submit a special report of such death for the investigation of the Commissioners at their next meeting after such death; and every Superintendent or Medical Officer who neglects or omits to draw up, sign, or transmit such notice or statement as aforesaid, within the time aforesaid, or to submit such report as aforesaid, shall respectively forfeit and pay any sum not exceeding Twenty Pounds.

In case of death of Insane Person cause of death to be stated, and sent to Registrar of Deaths and Coroner, and special report made to the Commissioners.

**34** The Superintendent of every Hospital shall, within Three clear days after the death, discharge, or removal of any Patient, make an entry thereof in the said Register of Patients, and also in a book to be kept for that purpose according to the form and containing the particulars in the Schedule, (Form 7.) and shall also, within Three clear days after the discharge, removal, escape, or recapture of any Patient, transmit a written notice of such discharge or removal, according to the form in the Schedule, (Form 6.) or of such escape or recapture, to the Commissioners; and every such Superintendent who neglects or omits to make such entry as aforesaid, or transmit such notice as aforesaid within the time aforesaid, shall forfeit and pay any sum not exceeding Ten Pounds; and every such Superintendent who knowingly and wilfully in such entry untruly sets forth any of the particulars required shall be guilty of a misdemeanor.

Entries to be made of deaths, discharges, and removals, and notice given to Commissioners in case of discharge, removal, escape, and recapture of Insane Person.

**35** The charges of the maintenance, clothing, medicine, and care of any Insane Person received and detained in a Hospital by the Order of any person in pursuance of the provisions of Section 15 of this Act shall be recoverable from the person who signed such Order; and if not paid on demand, may, from time to time, be recovered from such person in a summary way before any Two or more Justices, on the complaint of the Superintendent of the Hospital or any Commissioner.

Charges for maintenance of Insane Person detained by Order of private person recoverable from such person.

**36** Where an Insane Person is sent to a Hospital under any Order made by virtue of the authority hereinbefore given to Justices, or is detained or taken charge of in a Hospital as an Insane Person under any other proper legal authority, if at the time of making such Order

How Justices are to proceed where it appears to them that the Insane Person has pro-

perty applicable to his maintenance.

it is made to appear to such Justices, or if at any time it is made to appear to any Two or more Justices that such Insane Person has an estate applicable to his maintenance, and more than sufficient to maintain his family, if any, such Justices shall make an application in writing under their hands to the nearest known relative or friend of such Insane Person, for the payment of the charges of the examination, lodging, removal, maintenance, clothing, medicine, and care of such Insane Person; and in case there is no known relative or friend of the Insane Person to whom such application can be made, or in case upon any such application being made such charges are not paid within One month after such application, the same or any Two or more Justices shall, by an Order under their hands, in the form or to the effect in the Schedule, (Form 8.) direct some person to be named in such Order to take so much of the money, and to take and sell so much of the goods and chattels, and take and receive so much of the rents and profits of the lands and tenements of such Insane Person, and of any other income of such Insane Person, as may be necessary to pay the charges of the examination, lodging, removal, and also of the maintenance, clothing, medicine, and care of such Insane Person, whether past or prospective, or both, accounting for the same to the same or any other Justices, such charges or the probable amount thereof having been first proved to the satisfaction of the said Justices, and the amount set forth in such Order; and so, from time to time, subsequently, as occasion may require, a like Order may be made by any Two or more Justices for obtaining payment from the estate of such Insane Person of the charges incurred, or to be incurred, for the maintenance, clothing, medicine, and care of such Insane Person, but in any such proceeding subsequent to the first Order it shall be unnecessary to make any such application as aforesaid to the relative or friend of such Insane Person; and if any Trustee or other person having the possession, custody, or charge of any property of such Insane Person, or if any person having in his hands any interest, dividend, or annuity belonging or due to such Insane Person, pays the whole or any part thereof according to such Order, or pays any money without any such Order to the Superintendent of the Hospital, to defray the charges paid or incurred for any of the purposes aforesaid, the receipt of the person authorised to receive the money under such Order, or of such Superintendent, as the case may be, shall be a good discharge to such Trustee or person as aforesaid.

Order for payment of charges of maintenance in Hospitals to extend to any Hospital to which Insane Person may be removed.

**37** Where any Order has been made for the payment of the future charges of the lodging, maintenance, medicine, clothing, and care of any Insane Person in any Hospital, such Order shall extend to and be applicable in respect of the charges of the lodging, maintenance, medicine, clothing, and care of such Insane Person in any Hospital to which he may be removed under the powers of this Act, in like manner as if such charges had by such Order been directed to be paid to an Officer of the Hospital in which such Insane Person may for the time being be confined.

Commissioners to report if property of Insane Person is not duly protected.

**38** Whenever the Commissioners have reason to suppose that the property of any person detained or taken charge of in the Hospital as an Insane Person is not duly protected, or that the income thereof is not duly applied for his maintenance, such Commissioners shall report thereon to the Supreme Court.

Supreme Court may direct Officer of Court to report as to Insanity of any person de-

**39** When any person has been received or taken charge of in a Hospital as an Insane Person in pursuance of the provisions of this Act, or under any other proper legal authority, and has either been detained as an Insane Person for the Twelve months then last past, or has been the

subject of a Report by the Commissioners in pursuance of the provision lastly hereinbefore contained, it shall be lawful for the Supreme Court or any Judge thereof, on petition or motion by or on behalf of the Commissioners or any relative or friend of such person, or on the motion or application of the Attorney-General, to direct that such Officer of the Court as the Court or Judge may think proper shall, and thereupon such Officer shall personally examine such person, and take such evidence and call for such information as to such Officer seems necessary to satisfy him whether such person is an Insane Person, and shall report thereon to the Supreme Court, and such Report shall be filed in the said Court; and it shall be lawful for the Court or any Judge thereof, from time to time, to make Orders for the appointment of a Guardian or otherwise for the protection, care, and management of the person of any person who by any such Report as last aforesaid is found to be an Insane Person, and such Guardian shall have the same powers and authorities as a Committee of the person of a Lunatic found such by Inquisition now has; and also to make Orders for the appointment of a Receiver or otherwise for the protection, care, and management of the estate of such Insane Person, and such Receiver shall have the same powers and authorities as a Receiver of the estate of a Lunatic found such by Inquisition now has; and also to make Orders for the application of the income of such Insane Person or a sufficient part thereof for his maintenance and support, and in payment of the costs, charges, and expenses attending such enquiry, and the protection, care, and management of the person and estate of such Insane Person; and also as to the investment or other application for the purpose of accumulation of the overplus, if any, of such income for the use of such Insane Person, as to the Court or Judge from time to time in each case seems fit: Provided always, that such protection, care, and management shall continue only during such time as such Insane Person continues to be detained as an Insane Person in the Hospital, and for such further time not exceeding Six months as the Court or Judge may fix: Provided also, that it shall be lawful for the Court in any such case, either before or after the directing of any such inquiry by such Officer as aforesaid, and whether such Officer has made a Report as aforesaid or not, to direct a Commission in the nature of a Writ *de lunatico inquirendo* to issue to inquire of the Insanity of such person: Provided also, that any Order or direction of a Judge under this enactment shall be liable to be reversed or altered by the full Court, subject to any General Orders made by the Court in that behalf.

tained as an Insane Person, and appoint guardians of his person and estate, and direct application of his income.

**40** Such Officer shall have power, in the prosecution of all inquiries and matters which may be referred to him as aforesaid, to summon persons before him, and to administer oaths and take evidence, either *vivâ voce* or on affidavit, and to require the production of books, papers, accounts, and documents; and any person disobeying any such summons, or refusing to be sworn or to give evidence as aforesaid, shall be guilty of a contempt of the said Court, and be dealt with accordingly.

Officer of Court to have necessary powers of inquiry.

**41** It shall be lawful for the Court, from time to time, to make such General Orders as to the Court seems fit for regulating the form and mode of proceeding before the Court or Judge in respect of the matters aforesaid, and also before any such Officer, for the due protection, care, and management of the persons and estates of Insane Persons as to whom such Reports are made by any such Officer as aforesaid, and also for fixing, altering, and discontinuing the Fees to be received and taken in respect of such proceedings.

Court may make Orders and Regulations, and fix Fees.

**42** The travelling and other expenses of any such Officer, and all Expenses of

inquiry how to be paid.

other expenses incidental to the inquiry, shall be defrayed, in the first instance, from the General Revenue, and shall be repaid from the estate, if any, of the Insane Person.

Medical men signing false Certificates, &c., guilty of misdemeanor.

**43** Any Medical Practitioner who signs any Certificate contrary to any of the provisions herein contained shall, for every such offence, forfeit any sum not exceeding Twenty Pounds; and any Medical Practitioner who falsely states or certifies anything in any Certificate under this Act, and any person who signs any Certificate under this Act, in which he is described as a Medical Practitioner, not being a Medical Practitioner within the meaning of this Act, shall be guilty of a misdemeanor.

Penalty on Officers, &c. ill-treating Insane Persons.

**44** If the Superintendent, or any Officer, Nurse, Attendant, Servant, or other person employed in any Hospital, strikes, wounds, ill-treats, or wilfully neglects any Insane Person confined therein, he shall be guilty of a misdemeanor, and shall be liable to be prosecuted accordingly, or to forfeit for every such offence, on a summary conviction thereof before any Two or more Justices, any sum not exceeding Twenty Pounds.

Penalty on Officers, &c., allowing Insane Persons to escape.

**45** If the Superintendent, or any Officer or Servant in any Hospital, through wilful neglect or connivance, permits any Patient in any case to quit or escape from such Hospital, or to be at large without such Order as in this Act mentioned, save in the case of temporary absence authorised by this Act, or secretes, or abets, or connives at the escape of any such person, he shall for every such offence forfeit and pay any sum not exceeding One hundred Pounds.

Justices may visit Hospitals.

**46** It shall be lawful for any Justice at all times to enter and inspect any Hospital, and the treatment of the Insane confined therein, subject to such Rules and Regulations as are in that behalf made by the Commissioners, and approved of by the Governor in Council.

Recovery of penalties.

**47** All offences against this Act, and all penalties and sums of money imposed or made payable by this Act, shall, where no other mode of proceeding is by Law provided, be heard, determined, and recovered in a summary way by and before any Two or more Justices, not being Commissioners under this Act, in the mode prescribed by *The Magistrates Summary Procedure Act*; and any person aggrieved by any penalty or sum of money imposed or made payable in a summary way, under the authority of this Act, may appeal therefrom in the mode prescribed by *The Appeals Regulation Act*.

19 Vict. No. 8. Appeals.

19 Vict. No. 10.

Repeals 10 Vict. No. 9.

**48** The Act of Council of the 10th *Victoria*, No. 9, is hereby repealed.

Continues existing Asylums as Hospitals and the Officers thereof till superseded.

**49** All places appointed to be Lunatic Asylums by virtue of the said Act of Council of the 10th *Victoria*, No. 9, shall be deemed to have been appointed, and to be Hospitals for the Insane under this Act, and shall continue to be such Hospitals until the appointment of such Hospitals is revoked under the powers of this Act; and all Regulations made under the authority of the said Act shall continue in force until repealed or altered under the authority of this Act; and all Officers and Servants appointed under the said Act shall continue to discharge the duties of their respective offices until they are re-appointed, or removed, or superseded by the appointment of other persons, officers, and servants, to discharge the duties now performed by them; and all orders, matters, and things granted, made, done, or directed to be done,

in pursuance of the said Act, shall be and remain as good, valid, and effectual, to all intents and purposes, as if the said Act had not been repealed, excepting in so far as such orders, matters, or things are expressly made void or affected by this Act.

**50** All persons detained as Insane Persons in any Lunatic Asylum appointed by virtue of the said Act of Council of the 10th *Victoria*, No. 9, at the time when this Act takes effect, shall be deemed to have been and to be, and may henceforth be legally detained in such Asylum notwithstanding that any such Insane Person when received into such Asylum was unaccompanied by any document which by this Act is required to authorise the receiving a Patient into a Hospital for the Insane; and all such Insane Persons shall be deemed to have been received into such Asylums in pursuance of this Act, and the provisions of this Act shall apply to such Insane Persons, who may be removed, discharged, or otherwise dealt with as Insane Persons received into Hospitals under this Act.

Insane Persons  
now in confinement.

**51** This Act shall commence and take effect on the Thirty-first day of *December*, 1858.

Commencement  
of Act.

**52** In referring to this Act it shall be sufficient to use the expression *The Insane Persons' Hospitals Act*.

Short Title.

## SCHEDULE.

### FORM 1.

Sects. 13. 15.

#### MEDICAL CERTIFICATE.

I, the undersigned, being a Medical Practitioner, hereby certify, That I, on the day of [in any case where more than One Medical Certificate is required by this Act, here insert separately from any other Medical Practitioner,] personally examined *A.B.* of [insert residence and profession or occupation, if any,] and that the said *A.B.* is a Lunatic, [or an Idiot, or a person of unsound mind,] and a proper person to be taken charge of and detained under care and treatment, and that I have formed this opinion upon the following grounds; viz.

1. Facts indicating Insanity observed by myself [here state the facts.]
2. Other facts [if any] indicating Insanity communicated to me by others [here state the information, and from whom.]

Dated this day of 1858.

(Signed)

Place of Abode.

### FORM 2.

Sect. 13.

#### JUSTICES' ORDER FOR THE RECEPTION OF AN INSANE PERSON.

WE, *C.D.* and *E.F.* the undersigned, having called to our assistance *G.H.* a Medical Practitioner, and having personally examined *A.B.*, and being satisfied that the said *A.B.* is a Lunatic [or an Idiot, or a person of unsound mind,] [add the words "wandering at large," or "not under proper care and control," or "and is cruelly treated [or neglected] by the person having the care or charge of him," as may appear to the Justices to be the case], and a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a Patient into the [name of Hospital] Hospital for the Insane. Subjoined is a Statement respecting the said *A.B.*

Dated this day of 1858.

(Signed)

*C.D.*  
*E.F.*

Justices of the Peace.

To Superintendent of the [name of Hospital] Hospital for the Insane.

#### STATEMENT.

[If any of the particulars in this Statement are not known, the fact to be so stated.]

Name of Patient, and Christian name, at length.

Sex and age.

Married, single, or widowed.  
 Condition of life, and previous occupation, *if any*.  
 The Religious persuasion, *as far as known*.  
 Previous place of abode.  
 Whether first attack.  
 Age, *if known*, on first attack.  
 When and where previously under care and treatment.  
 Duration of existing attack.  
 Supposed cause.  
 Whether subject to Epilepsy.  
 Whether suicidal.  
 Whether dangerous to others.  
 Name and Christian name and place of abode of the nearest known Relative of the Patient, and degree of Relationship, *if known*.

I certify that to the best of my knowledge the above particulars are correctly stated.

(Signed) Name.

*Where the person signing the Statement is not one of the Justices making the Order, the following particulars concerning the person signing the Statement are to be added; viz.—*

Occupation, *if any*.  
 Place of abode.  
 Degree of relationship, *if any*, or other circumstance of connection with the Patient.

Sect. 15.

### FORM 3.

#### ORDER BY A PRIVATE PERSON FOR THE RECEPTION OF AN INSANE PERSON.

I, the undersigned, hereby request you to receive *A.B.*, a Lunatic, [*or an Idiot, or a person of unsound mind,*] as a Patient into the [*name of Hospital*] Hospital for the Insane. Subjoined is a Statement respecting the said *A.B.*

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 1858.

(Signed)

Name.  
 Occupation, *if any*.  
 Place of abode.  
 Degree of relationship, *if any*, or other circumstance of connection with the Patient.

To Superintendent of the [*name of Hospital*] Hospital for the Insane.

#### STATEMENT.

[*If any of the particulars in this Statement are not known, the fact to be so stated.*]

Name of Patient, and Christian name, at length.  
 Sex and age.  
 Married, single, or widowed.  
 Condition of life, and previous occupation, *if any*.  
 The Religious persuasion, *as far as known*.  
 Previous place of abode.  
 Whether first attack.  
 Age, *if known*, on first attack.  
 When and where previously under care and treatment.  
 Duration of existing attack.  
 Supposed cause.  
 Whether subject to Epilepsy.  
 Whether suicidal.  
 Whether dangerous to other.  
 Whether found Lunatic by Inquisition, and date of Commission or Order for Inquisition.  
 Special circumstances, *if any*, preventing the Patient being examined, before admission, separately by Two Medical Practitioners.

I certify that, to the best of my knowledge, the above particulars are correctly stated.

(Signed) Name.

*Where the person signing the Statement is not the person who signs the Order, the following particulars concerning the person signing the Statement are to be added; viz.—*

Occupation, *if any*.  
 Place of abode.  
 Degree of relationship, *if any*, or other circumstance of connection with the Patient.



Sect. 32.

FORM 5.

THE MEDICAL JOURNAL.

Date.	Number of Patients.		Patients who are, or since the last Entry have been, under Restraint or in Seclusion, when and for what Period, and Reasons, and, in case of Restraint, by what Means.		Patients under Medical Treatment, and for what, if any, bodily Disorder.		Deaths, Injuries, and Violence to Patients since the last Entry.
	M.	F.	MALES.	FEMALES.	MALES.	FEMALES.	

Sects. 33, 34.

FORM 6.

NOTICE OF DISCHARGE, REMOVAL, OR DEATH.

I HEREBY give you notice, that *A.B.*, who was admitted as a Patient into this Hospital on the            day of           , was discharged therefrom recovered [or relieved, or not improved, or was removed to *mentioning the Hospital, &c.* relieved or not improved], by the authority of           , [or died therein in the presence of           ,] on the            day of            1858.

Dated this            day of            1858.

(Signed)

Superintendent of the [*name of Hospital*] Hospital for the Insane.

*In case of death add, "I certify that the apparent cause of death of the said A.B. [as ascertained by post mortem examination, if so,] was"*

(Signed)

Medical Officer of the [*name of Hospital*] Hospital for the Insane.



Sect. 4.

FORM 7.

REGISTER OF DISCHARGES, REMOVALS, AND DEATHS.

Date of Death, Discharge, or Removal.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at length.	Sex.		DISCHARGED.						REMOVAL, AND TO WHAT HOSPITAL.				Died.		Assigned Cause of Death.	Age at Death.		Observations.
						Re- covered.		Relieved.		Not improved.		Relieved.		Not improved.					M.	F.	
						M.	F.	M.	F.	M.	F.	M.	F.	M.	F.				M.	F.	
1859 : Sept. 1 .....	1859 : Jan. 3 .....	1	William Johnson	1	—	1															
1860 : Dec. 2 .....	1860 : June 9.....	4	William Johnson	1	—	1															
1862 : June 8 .....	1861 : May 6 .....	7	William Johnson	1	—	—	—	—	—	—	—	—	—	—	—	1	—	Phthisis.....	27		

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## FORM 8.

Sect. 36.

## JUSTICES' ORDER FOR APPLICATION OF INSANE PERSON'S ESTATE TO HIS MAINTENANCE.

WHEREAS by an Order made by us on the                    day of                    1858, pursuant to the provisions of *The Insane Persons' Hospitals Act*, we did direct *A.B.* of [*insert residence and profession or occupation, if any*] to be received as a Patient into the [*name of Hospital*] Hospital for the Insane: And whereas it was made to appear to us at the time of making such Order that the said *A.B.* had an estate applicable to his maintenance [and more than sufficient to maintain his family, *if any*]: And whereas it was proved to our satisfaction that the charges of the examination [lodging] and removal of the said *A.B.* by virtue of the said Act amounted [*or would probably amount*] to the sum of                    : And whereas we did by writing under our hands apply on the                    day of                    1858, to *G.H.* of [*insert residence and profession or occupation, if any*] the nearest known relative [*or friend*] of the said *A.B.* for payment of the said sum of                    the amount [*or probable amount*] of the said charges: And whereas the said *G.H.* has not paid the said charges although the space of One month has now elapsed since the time of making application for the same as aforesaid, and the said charges still remain unpaid: We do therefore, in pursuance of the said Act, hereby order *J.K.* of [*insert residence and profession or occupation, if any*] to take the sum of                    of the moneys of the said *A.B.* for the purpose of defraying the said charges of the examination [lodging] and removal of the said *A.B.*, accounting for the same to us or any other Two Justices of the Peace; and for so doing this shall be a sufficient warrant and authority to the said *J.K.*

Dated this                    day of                    1858.

*C.D.*  
*E.F.*  
Justices of the Peace.

To *J.K.* of [*insert residence and profession or occupation, if any.*]

*THE following are examples of the variations which will be required in the above Form to suit the circumstances of the cases provided for by Section 36:—*

“Whereas it has been proved to us that *A.B.* of [*insert residence and profession or occupation, if any*] is duly detained and taken charge of as an Insane Person in the [*name of Hospital*] Hospital for the Insane:”

“And whereas it has been made to appear to us that the said *A.B.* has an estate applicable to his maintenance [and more than sufficient to maintain his family, *if any*]:”

“And whereas it has been made to appear to us that the said *A.B.* has no known relative or friend:”

“And whereas it has been proved to our satisfaction that the charges for the maintenance, clothing, medicine, and care of the said *A.B.* for the period of [Three months] now last past [*or next ensuing*] amounted [*or will probably amount*] to the sum of                    :”

“And whereas *C.D.* and *E.F.*, Two Justices of the Peace, did, pursuant to the said Act, duly apply on the                    day of                    1858 to *G.H.* of [*insert residence and profession or occupation, if any*] the nearest known relative [*or friend*] of the said *A.B.* for payment of the sum of                    the amount of the charges which were proved to the satisfaction of the said *C.D.* and *E.F.* to have accrued [*or which it was proved to the satisfaction of the said C.D. and E.F. would probably accrue*] for”

“to take and sell so much of the goods and chattels of the said *A.B.* as will realise the said sum of                    :”

“to take and receive the rents and profits of the land [and tenements] of the said *A.B.* situate [*describe same*] until the said sum of                    is realised:”

“for the purpose of defraying the said charges for the maintenance, clothing, medicine, and care of the said *A.B.*:”