

**TASMANIAN SANATORIUM.****No. 69 of 1950.**

AN ACT concerning the Charity known as the Tasmanian Sanatorium to validate certain Acts done in the Administration thereof, to relieve certain former Trustees and to provide for the future Administration of the Property subject to certain Trusts.

[7 December, 1950.]

WHEREAS at Hobart in the year of Our Lord one thousand nine hundred and five certain persons associated themselves to establish a public charity called the Tasmanian Sanatorium for Consumptives; PREAMBLE.

And whereas the objects of the charity were expressed to be the treatment of men and women and children suffering from consumption in its incipient stages, irrespective of creed, to be conducted on Christian but strictly unsectarian principles;

And whereas the governors of the charity established an appropriate institution, building the necessary buildings, on land in Creek-road, New Town, in the City of Hobart, held of the Crown under occupation licence, and collected and received an endowment and other moneys;

And whereas all the property of the charity was vested in certain trustees;

And whereas in the year of Our Lord one thousand nine hundred and forty-five the then executive committee of the charity agreed with the then Minister for Health of this State to hand over the said institution to the State on certain terms and conditions; which agreement was approved by the then executive committee of and subscribers to the charity then calling themselves the Tasmanian Sanatorium Association;

And whereas in pursuance of that agreement *Rudolph William Koch*, architect, *Frank Michael Lovett*, accountant, and *John Charles Woolley*, builder and contractor, all of the said City then being the trustees aforesaid agreed with the then Minister for Health that the said Minister would take over the control of the said institution upon the following terms and conditions:—

1. that the said trustees would surrender to the said Minister the occupation licence of the said land together with all buildings erected thereon by the charity and all plant, equipment, and stores then in and upon the said institution:

2. that the said trustees undertook that all trading accounts and other liabilities incurred by the said institution up to and including the thirty-first day of July one thousand nine hundred and forty-five should be discharged by them and that they should be entitled to receive all moneys payable to the said institution up to and including that date:
3. that the said Minister should obtain a release from the State to the said trustees from all responsibility for the repayment by the charity of the sum of two thousand three hundred and twenty pounds at present shown on the books of the charity as due to the State:
4. that all liquid assets including mortgage securities held by the said trustees, War Loan securities, and money at any bank to the credit of the said trustees after payment of the amounts specified in paragraph 2 of this recital should not be paid over to the State or the said Minister but should be held by the said trustees for and on behalf of the charity for such other purposes as the said Association might under its constitution decide to apply its funds, such as after-care treatment, occupational therapy, establishment and management of hostels, and such other avenues as the said Association might in furtherance of the treatment of tuberculosis from time to time decide:
5. that the said Minister would utilise the buildings, plant and equipment, and stores of the charity at Creek-road, New Town, aforesaid for the treatment and use of patients at the said institution or if it were found in the opinion of the Department of Public Health that a more suitable site within the City (by the parties called the Municipality) of Hobart were available the said Minister might transfer the said buildings, plant and equipment, and stores to such site within the said City:

Provided always that if in the opinion of the person by the parties called the Medical Director for Tuberculosis for the time being for the State of Tasmania and the honorary medical advisers of the said institution that a suitable site within the said City could not be obtained for the proper and more effective treatment of patients suffering from tuberculosis then the said Minister on the advice of the said Director and the said honorary medical advisers might remove the said institution from Creek-road aforesaid to an approved site nominated by the said Director and the said honorary medical advisers within a radius of ten miles from the General Post-office at Hobart:

6. that the said trustees would from time to time effect such conveyances, transfers, assurances, assignments, and other documents for more fully effectuating the terms of the agreement between the parties thereto:
7. that this their agreement would come into operation on the first day of August One thousand nine hundred and forty-five insofar as the actual management of the said institution and care of patients was concerned but that the finalization of the terms of this their agreement should not take place until the Auditor-General of the State had issued his certificate as to the correctness of the accounts of the charity for the thirteen months ending the thirty-first day of July One thousand nine hundred and forty-five when a formal handing over of the said institution would take place;

And whereas in pursuance of the lastmentioned agreement possession of the said institution was given to the said Minister on the said first day of August and thereafter the governors of the charity exercised no power over or control of the said institution, which has ever since been carried on as agreed by His Majesty through the Department of Public Health of the State;

And whereas the said Association at a general meeting held on the thirty-first day of August next following decided to change their name to "the Tasmanian Sanatoria After-Care Association", and to alter their objects so as to be the treatment of men, women, and children suffering from pulmonary tuberculosis primarily in its incipient stages and also in a more advanced form, irrespective of creed, to be conducted on Christian but strictly unsectarian principles; the after-care treatment of tubercular patients; occupational therapy; the establishment and management of hostels for the after-care of tubercular patients; and such other avenues as may from time to time be decided upon for the after-care of tubercular patients; and to apply to those objects the property of the charity then remaining under their control;

And whereas the said Association founded and now controls and manages an institution for the after-care of tuberculosis patients called the Tasmanian Sanatoria (After-Care) Institution at "Narryna", Hampden-road, Battery Point, in the City of Hobart;

And whereas the trustees of the charity have continued to hold the funds of the charity in the second mentioned agreement called liquid assets and have applied them and any other funds of the charity in their hands in the establishment and maintenance of the lastmentioned institution and in providing amenities for patients in both the said institutions;

And whereas the name of the firstmentioned institution has been duly altered as from the first day of July one thousand nine hundred and fifty to "Tasmanian Chest Hospital";

And whereas it is expedient to validate the acts of the said trustees and the said Association, to preserve the intended trust of the firstmentioned institution, and to provide for the lawful application of funds subject to any of the aforesaid trusts.

BE it therefore 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:—

Short title.

**1** This Act may be cited as the *Tasmanian Sanatorium Act 1950*.

Validation of alteration of trust, and further alteration.

**2**—(1) The purported alterations of the name and objects of the said Association above recited shall be deemed to have been lawfully made.

(2) The objects of the Association are declared from henceforth to be—

- (a) the treatment of persons suffering from pulmonary tuberculosis, primarily, in its incipient stages, and also in a more advanced form;
- (b) the after-care treatment of persons who have been patients in tuberculosis sanatoria;
- (c) the occupational therapy of such patients and persons who have been such patients;
- (d) the establishment, management, and maintenance of institutions for the after-care of persons who have been such patients;
- (e) the provision of amenities for patients in institutions for persons suffering or recovering from pulmonary tuberculosis;
- (f) the establishment, management, and maintenance of an experimental garden home for persons discharged from tuberculosis sanatoria;
- (g) all such other things, whether similar to the foregoing or not, as will be conducive to the welfare of persons suffering from pulmonary tuberculosis and their recovery; and
- (h) in all its work to act, without respect to creed, upon Christian but strictly non-sectarian principles.

(3) The constitution of the said Association shall be deemed to contain, and at all times to have contained, the following rule:—

“(26)—(1) The Subscribers may at any Annual or Special Meeting—

- (a) change their social name;
- (b) change the name of any institution carried on by them under these Rules;
- (c) add new Rules to these Rules; and
- (d) amend or rescind any of these Rules or any new Rule so added to them.

(2) Notwithstanding anything contained in clause (1) of this Rule the Objects for which the Subscribers are associated shall not be altered so as to affect any trust existing when the alteration is made."

(4) The said Association may amend its constitution retrospectively to bring it into conformity with this Act.

**3**—(1) The governors and trustees of the charity shall be deemed to have had power to dispose of the firstmentioned institution in accordance with the agreement last aforesaid.

Validation  
of disposal  
of Tasmanian  
Sanatorium.

(2) No action, claim, suit, or demand whatsoever shall lie or be allowed in favour of any person whomsoever against the governors, trustees, and subscribers of the charity, or any of them in respect of the making or performance of either of the agreements aforesaid or any transfer or other assurances of any land, furniture, or effects made or affected by the said governors, trustees, or subscribers in pursuance of or for the purpose of the said agreements or for or in respect of any act, matter, or thing done or carried out by the said governors, trustees, or subscribers or any person authorised or directed by them or any of them to do or carry out the same in pursuance of or for the purpose of giving effect to the said agreements.

**4**—(1) The said land in Creek-road, New Town, more particularly described in the first schedule is hereby vested in the Minister administering the *Public Health Act 1935* and his successors upon trust—

Vesting of  
site in  
Minister  
upon trust.

- (a) to permit the same to be used only for the institution called the Tasmanian Chest Hospital for the treatment of men, women, and children suffering from tuberculosis; or
- (b) if in the opinion of the said Minister a more suitable site within the City of Hobart is available for the institution, to sell the said land and use the proceeds of sale for the purchase of the more suitable site and the establishment thereon of the said institution; but
- (c) if in the opinion of the said Minister the said land is unsuitable for the purpose of the trust and in the opinion of the Director of Tuberculosis for the time being and the honorary medical advisers for the time being (if any) of the Tasmanian Chest Hospital no suitable site can be obtained within the City of Hobart on which to re-establish the said institution, to sell the said land and with the proceeds of sale purchase such a site within a radius of ten miles from the General Post Office at Hobart as the said Director and honorary medical advisers recommend and thereon to re-establish the said institution—

all other trusts now affecting the said land being hereby abolished.

(2) The said Minister and his successors may cause or permit any building or structure on the said land to be pulled down or altered and other buildings or structures to be erected thereon.

(3) If the said land is sold as provided in this section or if any chalet mentioned in the second schedule is pulled down the said Minister or his successors shall put up in some convenient position in the said institution a bronze or brass plate commemorating the giving of the chalet.

(4) The Recorder of Titles shall register the said Minister and his successors under the *Real Property Act* 1862 as the proprietor of the said land, and shall issue a certificate of title accordingly.

Vesting of  
personality  
in the Crown.

**5** The plant, equipment, and stores mentioned in paragraph 1 of the sixth recital of this Act shall be deemed from their delivery in accordance with that paragraph to the said Minister to have vested in His Majesty as if acquired for the public service of the State and appropriated to the proper officers of the Department of Public Health freed and discharged from all trusts whatsoever.

Release of  
trustees.

**6** The debt referred to in paragraph 3 of the sixth recital of this Act shall be deemed for all purposes to have been discharged on the thirty-first day of July One thousand nine hundred and forty-five.

Application  
of the funds  
of the Tas-  
manian  
Sanatorium  
Association.

**7—(1)** The securities, funds, and moneys retained by the said trustees in accordance with paragraph 4 of the sixth recital of this Act shall be deemed to have been held by the trustees thereof from time to time upon trust for the objects of the Association as altered and appearing in the eighth recital of this Act, and shall henceforth be held upon trust for the objects of the Association set out in section two or any one or more of the said objects to the exclusion of the others or other of them.

(2) All things done by the said trustees in respect of the funds of the said Association since the thirty-first day of July One thousand nine hundred and forty-five including all payments by them are hereby declared lawful except insofar as they may have been done with intent to defraud:

(3) The said trustees shall be deemed to have power and since the said thirty-first day of July to have had power—

(a) to apply the securities, funds, and moneys so retained and any other funds of the Association to the objects set out in section two or to any one or more of them to the exclusion of the others; and

(b) to establish and maintain the said Tasmanian Sanatoria (After-Care) Institution.

(4) The trustees for the time being of the said Association shall be entitled to receive from the Crown a grant of the said Tasmanian Sanatoria (After-Care) Institution with its curtilage upon trust to hold the same for the purposes of the said Association.

**8**—(1) Where before the first day of August One thousand nine hundred and forty-five any gift at law or in equity by deed, will, or otherwise was made to or for the benefit of the “Tasmanian Sanatorium” or the “Tasmanian Sanatorium for Consumptives” or by any other name to or for the benefit of the firstmentioned institution, including a gift of rents or of income, and had not then come into the possession of the said trustees or their predecessors the gift or so much thereof as had not come into their possession shall—

Gifts to the  
Tasmanian  
Sanatorium.

- (a) in the case where if it had come into their possession before the day last aforesaid it would have been retained by them in accordance with paragraph 4 of the sixth recital of this Act, be construed as subject to the trust set out in subsection (1) of section seven; and
- (b) in the case where if it had come into their possession before the day last aforesaid it would not have been so retained, be construed as a gift to His Majesty for the purposes of the firstmentioned institution, except it be a gift of a corporeal hereditament which shall be construed as subject to the trust set out in subsection (1) of section seven.

(2) Any gift at law or in equity by deed, will, or otherwise made on or after the day last aforesaid to or for the benefit of the “Tasmanian Sanatorium” or the “Tasmanian Sanatorium for Consumptives” or by any other name to or for the benefit of the firstmentioned institution shall be construed as a gift to His Majesty for the benefit of that institution, and every such gift made on or after that day to the Tasmanian Sanatorium Association by that or any other name denoting that Association shall be construed as a gift to the Tasmanian Sanatoria (After-Care) Association.

(3) Notwithstanding anything elsewhere in this section contained, any devise or bequest to or for the benefit of the “Tasmanian Sanatorium” or the “Tasmanian Sanatorium for Consumptives” or by any other name to or for the benefit of the firstmentioned institution or to or for the benefit of the Tasmanian Sanatorium Association by that or any other name denoting that Association made by a will executed before and taking effect on or after the day last aforesaid shall be construed as a devise or bequest to or for the benefit of the Tasmanian Sanatoria (After-Care) Association.

(4) Notwithstanding anything elsewhere in this section contained if any gift to which one of the other subsections of this section would otherwise apply is subject to an express direction or condition that it is to be applied to or for the benefit of persons—

- (a) in the firstmentioned institution, it shall be construed as a gift for that purpose and if no trustee is appointed but is necessary therefor to His Majesty upon trust accordingly:
- (b) in the second mentioned institution it shall be construed as a gift for that purpose and if no trustee is appointed but is necessary therefor to the said trustees and their successors upon trust accordingly.

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### THE FIRST SCHEDULE.

(Section 4 (1).)

All that land in Creek-road in the Town of New Town containing without the reservoir thereon 12a. 0r. 12½p. and bounded by a line commencing at the western angle of 5a. 1r. 0p. surrendered to the Crown and bounded on the south-east by 3 chains 76  $\frac{2}{10}$  links north-easterly along that land on the north-east by 11 chains 27  $\frac{4}{10}$  links north-westerly in two bearings along a reserved road on the north-west by 10 chains 35½ links south-westerly in two bearings along Creek-road on the south-west by 10 chains 98 links south-easterly along portion of St. John's Park again on the south-east by 6 chains 90  $\frac{4}{10}$  links north-easterly again along portion of that Park and thence again on the north-east by 3 chains north-westerly again along 5a. 1r. 0p. aforesaid to the point of commencement except the said reservoir.

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### THE SECOND SCHEDULE.

(Section 4 (3).)

Alan Rogers Chalet.  
 Galbraith Chalet.  
 Gilchrist Watt Chalet.  
 Countess of Meath Chalet.  
 Rechabite Chalet.  
 Beaumaris Chalet.  
 Rex Chalet.  
 Bellette Chalet.  
 Hamilton District Chalet.  
 Denison Chalet.  
 Sunbeam Children's Chalet.  
 Dobson Chalet.  
 Druids' Chalet.