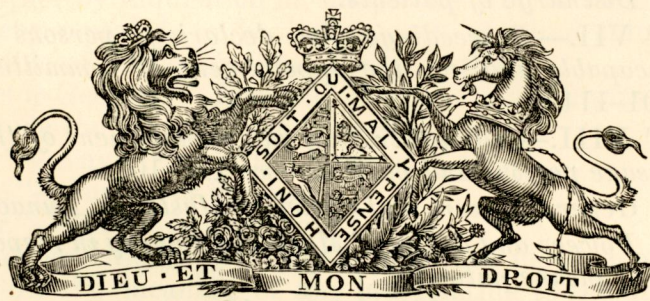


New South Wales.



ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

Act No. 45, 1898.

An Act to consolidate the Law respecting the Insane.
[Assented to, 29th December, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Lunacy Act of 1898," and its sections are divided into Parts as follows:—

Commencement short title, and division.

42 Vic. No. 7, s 1.

PART I.—*Proceedings by which persons of unsound mind may be (1.) placed under restraint; (2.) removed to and from an adjacent colony and be treated therein—ss. 4-24.*

PART II.—*Hospitals for the insane—ss. 25-30.*

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PART III.—*Licensed-houses—ss. 31–51.*

- (1.) *For the reception of the insane.*
- (2.) *For the reception of a single patient.*

PART IV.—*Reception-houses for the temporary treatment of the insane—ss. 52–58.*

PART V.—*Hospitals for the criminal insaness. 59–76.*

PART VI.—*Inspection, transfer, and discharge of patients—ss. 77–100.*

- (1.) *Inspection of patients.*
- (2.) *Transfer of patients.*
- (3.) *Discharge of patients.*

PART VII.—*Proceedings for declaring persons insane or incapable and for the appointment of committees, &c.—ss. 101–114.*

PART VIII.—*Administration and management of the estates of insane persons and patients—ss. 115–167.*

- (1.) *General powers and duties of Master in Lunacy.*
- (2.) *Powers and duties of Master in Lunacy in respect to estates of insane patients.*
- (3.) *Management of the estates of insane persons.*

PART IX.—*Court visitor—s. 168.*

PART X.—*Miscellaneous provisions—ss. 169–180.*

Repeal
First Schedule.
42 Vic. No. 7, s. 2.

2. (1) The several enactments mentioned in Schedule One to this Act to the extent therein expressed are hereby repealed.

(2) All persons appointed by virtue of the provisions of any Act hereby repealed, and holding office at the passing of this Act, shall be deemed to have been appointed hereunder.

(3) All rules of Court and regulations made under the authority of any Act hereby repealed and being in force at the passing of this Act shall be deemed to have been made under the authority of this Act.

Interpretation terms.
Ibid. s. 3.

3. In this Act and in the Schedules thereto, the following terms shall, if not inconsistent with the subject-matter or context, have the respective meanings hereby assigned to them (that is to say)—

“Court”—The Supreme Court, in its Lunacy jurisdiction.

“Incapable person”—Any person who is proved to the satisfaction of the Court, under this Act, to be incapable through mental infirmity, arising from disease or age, of managing his affairs.

“Insane patient” and “patient”—Any person detained at the commencement of this Act in any public or private establishment in New South Wales for the reception of the insane, and

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and any person hereafter received into and detained in any hospital, reception house, licensed house, or other place respectively appointed or licensed under the provisions of this Act for the reception of the insane, and any such person, while absent from an hospital or licensed house in a specified place for the benefit of his health, or upon trial, under the provisions of section ninety, or boarded out under the provisions of section ninety-one, and also any person subject to the provisions of section twenty-one to the extent therein mentioned.

56 Vic. No. 23, s. 2,
58 Vic. No. 5, ss. 1,
2, 3, & 7 (11).

“Insane person”—Any person who has been found or declared, whether by inquisition or under this Act, or under any Act hereby repealed, to be insane or of unsound mind and incapable of managing himself or his affairs.

“Inspector-General”—Inspector-General of the insane, and shall include the Deputy Inspector-General.

“Judge”—Any Judge of the Supreme Court.

“Justice”—Justice of the peace.

“Master”—Master in Lunacy.

“Medical practitioner”—A legally qualified medical practitioner within the meaning of any law relating to the qualification of medical practitioners.

“Public hospital”—Such portion of any hospital or infirmary for the care and treatment of the sick, or of any benevolent asylum, as is set apart and declared to be for the temporary reception of the insane.

“Ship”—Any vessel used in navigation not propelled by oars.

“Stock”—Shall comprehend any share or other interest in any company, society, or association established or to be established, and any fund, annuity, or security transferable in books, kept by any company, society, or association established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any money payable for the discharge or redemption thereof and any share or interest therein respectively.

“Superintendent”—Shall include the deputy superintendent of any hospital for the insane, licensed house, or reception house.

42 Vic. No. 7, s. 3.

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PART I.

(1.) *Proceedings by which persons of unsound mind may be placed under restraint.*

Insane persons in indigent circumstances without sufficient means of support.
42 Vic. No. 7, s. 4.

Insane persons wandering at large, &c.

Persons deemed to be insane not taken care of or cruelly treated.
Ibid. s. 5.

Course to be pursued when the person deemed to be insane without means of support is brought before the Justices.
Ibid. ss. 6, 15.
Second Schedule.

4. Upon information on oath before a Justice that a person deemed to be insane is without sufficient means of support, or is wandering at large, or has been discovered under circumstances that denote a purpose of committing some offence against the law, such Justice may by order under his hand require a constable to apprehend such person and bring him before two Justices; and every constable finding any such person so wandering or under such circumstances as are lastly above mentioned may without any such order apprehend him and take him before two Justices.

5. Any constable who has knowledge that any person deemed to be insane is not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, shall forthwith give information thereof upon oath to a Justice, and such Justice upon such information or upon the information upon oath of any person whomsoever to the like effect shall either himself visit and examine such person and make inquiry into the case, 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 thereon, and if 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 insane and not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, the Justice may by order under his hand require any constable to bring such person before two or more Justices.

6. (1) The Justices before whom any such person as aforesaid is brought shall call to their assistance any two medical practitioners who have previously examined such person apart from each other and separately signed certificates with respect to such person according to the form in Schedule Two of this Act, and if upon examination of such person and such medical practitioners and upon other proof (if any) such Justices be satisfied that such person is insane and

(a) is without sufficient means of support; or

(b) was wandering at large; or

(c) was discovered under circumstances that denote a purpose of committing some offence against the law; or

(d) is not under proper care and control; or

(e) is cruelly treated or neglected by any person having or assuming the charge of him;

and is a proper person to be taken charge of and detained under care and

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and treatment, the said Justices may by an order under their hands according to the form in Schedule Three of this Act, to be accompanied by such statement of particulars as is contained in Schedule Five, direct such person to be removed into some hospital for the insane or licensed house to be named in such order, and such person shall be forthwith conveyed to, and upon production of such order, statement, and medical certificates, shall be received into and detained in such hospital or licensed house accordingly, and such Justices may examine the person deemed to be insane and any witness in the matter at any convenient place, and proceed in all respects as if such person were brought before them at a court of petty sessions.

(2) Where it appears to the Justices that they cannot call to their assistance two medical practitioners without causing delay prejudicial to such person, they may by order under their hands as aforesaid, but upon the certificate and examination of one medical practitioner alone, direct such person to be removed to the hospital for the insane or licensed house mentioned in the order; but in every such case a certificate, in the form of Schedule Seven hereto, shall be made by such Justices, and appended to such order, directing the reception of such person into some reception house, public hospital, or gaol, for immediate treatment, pending his removal to such hospital for the insane or licensed house; and he shall be forthwith conveyed to such reception house, public hospital, or gaol, and treated therein accordingly, and before such person shall be received into such hospital for the insane or licensed house, one other medical certificate shall be lodged with or obtained by the superintendent or officer in charge of such reception house, public hospital, or gaol, and be by him transmitted, together with the order and statement of the Justices and the original medical certificate, to the superintendent or officer in charge of such hospital for the insane or licensed house, with the patient.

(3) The Justices may suspend the execution of any such order for any period not exceeding fourteen days, and in the meantime give such directions or make such arrangements for the proper care and control of such person as they consider necessary.

(4) If the medical practitioners or one of them, 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 certify in writing that such person is fit to be removed.

(5) Any relative or friend may retain or take such person under his own care, if he satisfies the Justices before whom such person is brought that such person will be properly taken care of, anything in this Act to the contrary notwithstanding.

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Report to be made by Justices in certain cases.

(6) Whenever any such examination is had at any other place than a public police office, the Justices shall report to the Colonial Secretary the name, residence, and other particulars pertaining to such person, and if such Justices fail to make such report for the period of ten days they shall be each liable to a penalty not exceeding one hundred pounds.

Option to Justices in respect of remands.
45 Vic. No. 16, s. 1.

7. The Justices before whom any person is brought to be dealt with under the preceding section of this Act may, in lieu of a remand to the places provided by the Imperial Act eleventh and twelfth Victoria, chapter forty-two, as adopted by "the Justices' Act of 1850," or by any Act consolidating or amending the same, but in the same manner as provided thereby, remand such person to any reception house or public hospital, unless it appears that such person has been previously detained in any gaol on conviction for any offence.

Power to justices to order payment of fees to medical practitioners and expenses of conveyance to hospital.
42 Vic. No. 7, s. 7.

8. The Justices causing any person to be examined by any medical practitioners under the provisions hereinbefore contained may grant a certificate for the payment of remuneration to such medical practitioners, and of all other expenses in or about the examination of such person, and the bringing him before Justices and of conveying him to an hospital for the insane, licensed house, reception house, or other place, or for his proper care and control, as in the sixth section mentioned, as to such justices may seem proper, and such expenses, where they cannot be obtained from the estate of the person examined, shall be defrayed out of such fund as has been appropriated by Parliament for such purposes :

Provided always that the remuneration and expenses so awarded or sanctioned shall in every case be subject to the approval of the Colonial Secretary.

Any person to be received into hospital upon a request in writing together with statement and two medical certificates
Ibid. s. 8.
Fourth Schedule.
Fifth Schedule.
Second Schedule.

9. Any person may be received and detained as a patient in an hospital for the insane or a licensed house on the authority of a request under the hand of some person, according to the form in Schedule Four, authenticated by a Justice or minister of religion authorised to celebrate marriage, together with such statement of particulars as is contained in Schedule Five, and two medical certificates, each of which certificates shall be according to the form and contain the particulars required in Schedule Two of this Act, and be signed by a medical practitioner, who has, separately from the medical practitioner who has signed or shall thereafter sign the other of such certificates, personally examined the person to whom such certificate relates not more than ten clear days previously to the reception of such person into such hospital or licensed house, and such request as aforesaid may be signed before or after the date of such medical certificates, or either of them.

Medical certificates to specify facts upon which opinion of insanity has been formed.
Ibid. s. 9.

10. Every medical practitioner who signs 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

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certificate relates is insane, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others, and no person shall be received into any hospital for the insane, licensed house, reception house, public hospital, or gaol, under any certificate which purports to be founded only upon facts communicated by others.

11. A medical practitioner shall not sign a certificate for the reception of a patient into an hospital for the insane, reception house, or licensed house in any of the following circumstances:—

Medical practitioner shall not sign certificates in certain circumstances.
56 Vic. No. 23, s. 7.

- (a) Where he has signed the order or request for the reception of that patient into that hospital, reception house, or licensed house.
- (b) Where his father, brother, son, partner, or assistant has signed the order, request, certificate, or one of the certificates for the reception of that patient into that hospital, reception house, or licensed house.
- (c) Where the said medical practitioner, or his father, brother, son, partner, or assistant is the superintendent or medical officer of that hospital for the insane, reception house, or licensed house, or a regular professional attendant in that licensed house, or wholly or in part the proprietor, mortgagee, or lessee of that licensed house, or receives a percentage on or is otherwise interested in the payments to be made by or on account of any patient received into that hospital, reception house, or licensed house.

12. If a medical practitioner, or his father, brother, son, partner, or assistant has signed one of the certificates for the reception of a person into a licensed house, such medical practitioner shall not:—

Medical practitioner signing certificate shall not board or attend insane patient.

- (a) by himself or by his servants or agents, receive, or board or lodge, or take the charge of that person in the said licensed house;
- (b) be the regular professional attendant on that person while under care or charge under such certificate as aforesaid.

Ibid. s. 8.

13. If any medical practitioner grants any such certificate as aforesaid without having seen and carefully examined the person to whom it relates, at the time and in the manner specified in such certificate, for the purpose of ascertaining the condition of such person to the best of his knowledge and power, he shall for every such offence be liable to a penalty not exceeding fifty pounds; and if any such practitioner wilfully and falsely certifies in writing that any person is insane, knowing him not to be insane, the practitioner so certifying shall be guilty of a misdemeanour.

No certificate to be granted without examination.
42 Vic. No. 7, s. 11.

14. No order for the reception of any patient into an hospital for the insane or licensed house shall remain in force after twenty-eight days from the date of the medical certificates which have been given under the provisions of this Act in respect of such patient or the date of the last of them.

Duration of order for reception into hospital.
45 Vic. No. 16, s. 7.

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Orders and medical certificates may be amended.

56 Vic. No. 23, s. 9.

15. (1) Any order, request, medical certificate, or other document, by virtue of which any person has been received into an hospital for the insane, or licensed house, and which is incorrect or defective in any particular, may, with the approval of the Inspector-General, and within twenty-eight days after the reception of such person, be amended by the person who has signed the same; and the order, request, medical certificate, or other document so amended shall thereupon be deemed to have operated and to operate from its original date.

(2) If the order, request, certificate, or document is not so amended, the Inspector-General may order the discharge of the person so received as aforesaid, and that person thereupon shall be discharged accordingly; or he may direct the superintendent of the said hospital or licensed house to obtain a new order, request, certificate, or document which shall be as effectual for all purposes as if it had been obtained, made, and executed previously to the reception of such person.

Reception of persons found insane by proceedings before the Court.

42 Vic. No. 7, s. 14.

16. Where any person has been found insane by any proceeding in the Court, an order signed by a Judge or by the committee appointed by the Court, and having thereto annexed an office copy of the order appointing such committee, shall be sufficient authority for the reception of such person into any hospital for the insane, or licensed house, without any further order, or any such medical certificate as hereinbefore mentioned.

Penalty for receiving person into hospital, &c., without the requisite documents, &c.

Ibid. s. 15.

Persons received into hospitals, &c., may be retained, and on escape recaptured.

Ibid. s. 16.

17. Every person who receives any person into any hospital for the insane, reception-house, licensed house, or other place appointed under this Act, without such order, statement, and medical certificates, or other proper authority, as in such case is required under the provisions of this Act, shall be guilty of a misdemeanour.

18. Every person lawfully received into any hospital for the insane, reception house, licensed house, or other place appointed under this Act shall be detained therein until he be removed or discharged in the manner authorised by this Act, and in case of escape therefrom may be retaken at any time within twenty-eight days after his escape, by the superintendent of such hospital, reception house, licensed house, or other place, or any other officer, or any servant belonging thereto, or by any constable, or by any other person authorised in that behalf by such superintendent, and may be conveyed to, and received, and detained in such hospital, reception house, licensed house, or other place.

(2.) *Proceedings by which persons of unsound mind may be removed to and from an adjacent colony and be treated therein.*

Conventions with Governments of adjacent colonies.

58 Vic. No. 5, s. 1.

19. The Colonial Secretary may, on behalf of the Government, from time to time, by convention or otherwise, agree with the Government of any adjacent colony for the apprehension, care, treatment, maintenance,

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maintenance, and burial, and for the payment of the expenses under the Lunacy statutes of that adjacent colony of persons set at large in that colony under the provisions of this Act; and for the care, treatment, and maintenance under those statutes of persons admitted from New South Wales, at the request of relations or friends, into lunatic asylums of the adjacent colony.

20. (1) In any matter or proceeding under section six of this Act, the Justices, on proof to their satisfaction of the matters in that section mentioned, and that it is for the benefit of the person found by them to be insane that he should be sent for care, treatment, or maintenance to an adjacent colony, with the Government of which an agreement has been made as aforesaid, either before or after the passing of this Act, may, by order in the form of Schedule Six to this Act, direct some person named in the order to take such person to such place in the adjacent colony as may be agreed upon by the said convention or otherwise, and as may be named in the order, and there to set him at large, and thereupon to identify him to some officer of police of the adjacent colony nominated by the Government thereof and named in the order, so that the officer of police may apprehend such person in due course, under the provisions of the Lunacy statutes of the adjacent colony, to be dealt with thereunder.

Justices may send persons found by them to be insane for treatment in adjacent colony.
58 Vic. No. 5, s. 2.

Sixth Schedule.

The order shall be subject to the provisions of section six of this Act and shall be a sufficient authority to all persons for anything done in pursuance of the same.

(2) The Justices shall forward the order, together with all certificates and evidence upon which the same has been made, to the officer of police named in the order, and shall also forthwith forward to the Inspector-General a true copy of the order and of the certificates and evidence.

21. Any person for whose care, treatment, or maintenance the Government has made provision under any agreement made with the Government of an adjacent colony shall, so long as he remains an inmate of any lunatic asylum in that adjacent colony, and so long as the first-mentioned Government is responsible for the payment of his maintenance therein, be deemed with regard to the management and disposition of his property in New South Wales, and the liability of his relations residing therein to pay for or contribute to his maintenance, clothing, medicine, and care, to be an insane patient within the meaning of this Act.

Those persons to be insane patients for certain purposes.
Ibid. s. 3.

22. Any right of action that may accrue to the Government against relations or friends of any person, for the payment of whose maintenance the Government has become responsible, shall be vested in the Master.

Right of action vested in the Master.
Ibid. s. 4.

23. If at any time it is deemed expedient to remove any person for the payment of whose care, treatment, and maintenance the

Removal of patient to hospital in this colony.

Government *Ibid.* s. 5.

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Government is responsible from any lunatic asylum in an adjacent colony to any hospital for the insane in New South Wales, the Colonial Secretary may order the removal of that person accordingly; and the order of the Colonial Secretary under his hand shall be a sufficient authority to any person named therein to apply to the proper authorities in the adjacent colony for the discharge of the first-mentioned person to his care, and to convey him to any hospital for the insane in New South Wales, and shall be a sufficient authority to the medical superintendent of the hospital for the insane to which that person is sent to receive him.

Person discharged in adjacent colony entitled to expenses of his return.
58 Vic. No. 5, s. 6.

24. Any person taken into an adjacent colony under the authority of this Act, and there discharged from a lunatic asylum in that colony, shall be entitled to be paid out of the consolidated revenue fund the expenses of his return to New South Wales.

PART II.

Hospitals for the insane.

Governor may appoint hospitals for the insane.

12 Vic. No. 7, ss. 17, 43.

25. The Governor may, by notification published in the Gazette, appoint any place to be an hospital for the insane, and in and by such notification may assign a name to such hospital; and any such appointment may be revoked in like manner; and all places appointed or deemed to have been appointed to be lunatic asylums or hospitals for the insane under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed and to be hospitals for the insane under this Act.

Superintendent, deputy superintendent may be appointed for each hospital.

Ibid. s. 19.

A register of patients to be kept.

Ibid. s. 20.

Ninth Schedule.

26. The Governor may appoint for every such hospital a superintendent, who shall be a medical practitioner, and also a deputy superintendent, and such other officers as he may deem necessary.

27. Immediately on the admission of any person as a patient into any such hospital an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars, as the Colonial Secretary may direct (except as to the form of disorder, the entry as to which shall be supplied by the superintendent of the hospital within one month after the admission of the patient, and except as to the discharge, removal, or death of the patient, the entry as to which shall be made when the same happens), and after the second, and before the end of the seventh, clear day from the day of admission of any person as insane into any such hospital, a notice
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of such admission shall be transmitted to the Colonial Secretary in the form of Schedule Ten to this Act, with a copy of the order, statement, and certificates, or other proper authority, on which such insane patient has been received, together with a statement to be made and signed by the superintendent of such hospital not sooner than two clear days after such admission according to the form in the said last-mentioned Schedule. Tenth Schedule.

28. In every such hospital the superintendent shall, once at least in every week, enter, or cause to be entered, in a book to be kept for the purpose to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form and manner as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and, in case of death, an exact account of the autopsy (if any) of such patient. Medical journal. Ibid. s. 21. Eleventh Schedule. Case book.

29. Within forty-eight hours after the discharge, removal, escape, or recapture of any patient, a written notice of such discharge, removal, escape, or recapture, according to the form in Schedule Twelve of this Act, shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose, according to the form and containing the particulars in Schedule Thirteen of this Act. Entries to be made of deaths, discharges, removals, escapes, and recaptures, and notice given to the Colonial Secretary. Ibid. s. 22. Twelfth Schedule.

30. In case of the death of any patient in any such hospital, a notice and statement, according to the form in Schedule Fourteen of this Act, respecting the death and cause of the death of such patient, shall be drawn up and signed by the superintendent of such hospital, and transmitted—in addition to any notice respecting such death required by any law for the time being in force relating to the registration of deaths—within forty-eight hours after such death to the Colonial Secretary, and also to a relation named in the statement subjoined to the order or request for admission of such patient, or to the person who signed such request, or to the committee, if any, who signed an order under section sixteen hereof. Thirteenth Schedule. Notice of death of patient to be transmitted to the Colonial Secretary and to relations of patients. Ibid. s. 23. Fourteenth Schedule.

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PART III.

Licensed houses.(1.) *For the reception of the insane.*

Governor in Council
may grant licences
for houses for the re-
ception of the insane.
42 Vic. No. 7, s. 24.
Fifteenth Schedule.

31. (1) The Governor may, subject to the provisions hereinafter contained, by writing under his hand as nearly as conveniently may be in the form in Schedule Fifteen to this Act, grant to any person or to two or more persons jointly, a licence for any period not exceeding three years, to keep a house for the reception of a certain number of insane patients to be mentioned in such licence, and may renew or revoke such licence.

(2) Any licence granted under any Act hereby repealed and unexpired at the passing of this Act shall be deemed to have been granted under this Act for the unexpired term of such licence.

Notice of intended
application for and
plan of licensed house
to be given to the
Colonial Secretary.
Ibid. s. 25.

32. The person who desires to obtain a licence for a house for the reception of insane patients shall give a notice to the Colonial Secretary, which shall contain the name in full, place of abode, and occupation of such person, and a true and full description of his estate or interest in such house, and such notice when given for any house which has not been previously licensed shall be accompanied by a plan of such house, to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth, and height of, and a reference by a figure or letter to, every room or apartment therein, and a statement of the quantity of land not covered by any building annexed to such house, and to be appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the licence so applied for is for the reception of male or female patients, or both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which one sex may be kept distinct and apart from the other.

What may be inclu-
ded in one licence.
Ibid. s. 26.

33. Any one licence to be granted for the reception of insane patients may include two or more houses belonging to one proprietor or two or more joint proprietors :

Provided that no one of such houses be separated from the other or others of them otherwise than by land in the occupation of such proprietor or proprietors, and by a road, or by either of such modes ; and all houses, buildings, and lands intended to be included in any license shall be specified, delineated, and described in the plan hereinbefore required.

Notice of all addi-
tions and alterations
to be given to the
Colonial Secretary.
Ibid. s. 27.

34. No addition or alteration shall be made to, in, or about any licensed house or the appurtenances thereof, unless previous notice in writing of such proposed addition or alteration, accompanied by a plan
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of such addition or alteration to be drawn upon the scale aforesaid, and to be accompanied by such description as aforesaid, has been given by the licensee to the Colonial Secretary, and the consent in writing of such Colonial Secretary has been previously given.

35. Any person applying for the renewal of a licence shall, with such application, transmit to the Colonial Secretary a statement signed by the person so applying, containing the names and number of the patients of either sex then detained in such house.

Every person applying for the renewal of a licence, to furnish a statement as to the patients then detained.

36. If any licensee under this Act by sickness or for other sufficient reason becomes incapable of keeping the licensed house, or dies before the expiration of the licence, the Colonial Secretary may by writing indorsed on such licence, transfer the said licence with all the privileges and obligations annexed thereto for the term then unexpired to such person as he may approve, and in the meantime such licence shall remain in force and have the same effect as if granted to such person, and in case a licence has been or is granted to two or more persons, and before the expiration thereof any of such persons dies leaving the other or others surviving, such licence shall remain in force and have the same effect as if granted to such survivors or survivor.

42 Vic. No. 7, s. 28.
Provision in case of the incapacity of the person licensed.
Ibid. s. 29.

37. If any licensed house is pulled down or occupied under the provisions of any Act of Parliament, or is rendered by fire, tempest, or other accident, unfit for the accommodation of insane patients, or if the person keeping such house desires to transfer the patients to another house, the Colonial Secretary may grant to the licensee of such house a licence to keep another house for the reception of insane patients, for any time not exceeding the period for which the current licence is then held:

In case of a licensed house being taken for public purposes or accidentally rendered unfit, or of the keeper wishing to transfer his patients to a new house.
Ibid. s. 30.

Provided always that a like notice, accompanied by a like plan, statement, and description, shall be given as to such intended new house as is hereby required when application is first made for a licence for any house, and shall be accompanied by a statement in writing of the cause of such change of house.

38. Before the revocation of any such licence, notice in writing shall seven clear days previously be given to the licensee, or shall be left at the licensed house.

Notice of revocation of licences.
Ibid. s. 31.

39. If after a lapse of two months from the expiration of any licence for the use of any house for the reception of the insane which has not been renewed, or if after the revocation of any such licence there is in any such house any insane patient, every person keeping such house or having the care and charge of such patient shall be guilty of a misdemeanour.

Detention of patients after expiration or revocation of licence a misdemeanour.
Ibid. s. 32.

40. No person (unless he is a person who derives no profit from the charge, or a committee, or person appointed by the Court, or otherwise authorised under this Act) shall receive to board or lodge in any

No unauthorised person to take charge of any patient for profit.
Ibid. s. 33.

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any house, or take the care or charge of, any patient, and any person offending against this provision shall be guilty of a misdemeanour.

Superintendent to
reside.
42 Vic. No. 7, s. 34.

41. (1) Every licensed house containing more than one hundred patients shall have at all times a medical practitioner resident therein, whose name in full shall be given in the notice of application for the licence, and such medical practitioner, whether he is the licensee or proprietor or not, shall be the superintendent thereof.

(2) The licensee of such house may remove such medical practitioner and appoint some other medical practitioner, giving a notice containing the name in full of such medical practitioner to the Colonial Secretary; and every such house containing over fifty patients shall be visited daily by a medical practitioner; and every such house containing fifty or less than fifty patients shall be visited twice a week by a medical practitioner, and in all cases where a medical practitioner is not appointed as superintendent the licensee shall be the superintendent of the house named in the licence.

(3) No licence shall be of any validity unless the superintendent of the house licensed resides therein and the house is visited by a medical practitioner as and at such times as hereinbefore mentioned.

(4) When any house is licensed to contain less than ten patients the Colonial Secretary may permit such house to be visited by a medical practitioner less frequently than twice in every week.

Superintendent re-
ceiving any patient
into a licensed house
to make an entry
thereof in a certain
form.

Ibid. s. 35.

Ninth Schedule.

42. Every superintendent of a licensed house shall within two days after the reception of a patient make an entry with respect to such patient in a book to be kept for that purpose to be called the register of patients, according to the form, and containing the particulars required in Schedule Nine of this Act, or such other form and containing such other particulars as the Colonial Secretary may direct (except as to the form of the mental disorder, and except also as to the discharge, removal, or death of the patient, the entry as to which latter shall be made and signed by such superintendent when the same happens); and every such superintendent who does not make such entries within or at the times aforesaid shall be liable to a penalty not exceeding two pounds.

Penalty.

Form of patient's
disorder to be entered
in the register of the
patients by medical
officer.

Ibid. s. 36.

43. The form of the mental disorder of every patient received into any licensed house shall, within seven days after his reception, be entered in the said register of patients by the medical officer of such house; and every such medical officer who omits to make and sign any such entry within the time aforesaid shall for every such offence be liable to a penalty not exceeding two pounds.

Penalty.

Notice of admission
with statement con-
cerning mental dis-
order to be sent to
the Colonial
Secretary.

Ibid. s. 37.

Tenth Schedule.

44. The superintendent of every licensed house shall within twenty-four hours after the admission of any patient, transmit to the Colonial Secretary a notice of such admission in the form in Schedule Ten of this Act, with a copy of the order, statement, and medical certificates

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certificates or other proper authority, on which such person has been received, and after two clear days and before seven clear days after such admission shall transmit to the Colonial Secretary a statement to be made and signed by the medical officer of such licensed house not sooner than two clear days after such admission according to the form in Schedule Ten of this Act; and every superintendent who neglects to transmit such copy, notice, or statement to the Colonial Secretary shall be guilty of a misdemeanour.

45. Every superintendent of a licensed house shall once in every week enter and sign in a book to be kept at such house for that purpose to be called the medical journal a statement according to the form in Schedule Eleven hereto, and every such superintendent who omits to enter such report as aforesaid shall for every such omission be liable to a penalty not exceeding twenty pounds.

46. There shall be kept in every licensed house a book to be called the medical case book in the form and manner directed by the Colonial Secretary in which the superintendent shall make or cause to be made entries of the mental state and bodily condition of each patient together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder; and the Colonial Secretary may require such superintendent to transmit to him a correct copy of the entries in such medical case book relative to the case of any patient who is or has been confined in any such licensed house; and every such superintendent who neglects to keep the said medical case book or to keep the same according to the form directed as abovementioned, or to transmit a copy of the said entries pursuant to such direction or requisition as aforesaid, shall for every such offence be liable to a penalty not exceeding ten pounds.

47. Whenever any patient escapes from any licensed house the superintendent of such house shall within two clear days next after such escape transmit a written notice thereof to the Colonial Secretary, and such notice shall state the name in full of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape, and if such patient is brought back to such house, such superintendent shall within two clear days next thereafter transmit a written notice thereof to the Colonial Secretary, and such notice shall state when such person was so brought back and the circumstances connected with his bringing back, and whether with or without a fresh order and certificates or certificate; and every superintendent omitting to transmit such notice, whether of escape or return, shall for every such omission be liable to a penalty not exceeding ten pounds.

48. Whenever any patient is removed or discharged from any licensed house, or dies therein, the superintendent of such house shall within two clear days next after such removal, discharge, or death, make

Misdemeanour.

Medical journal.

42 Vic. No. 7, s. 38.

Eleventh Schedule.

Penalty.

A medical case book to be kept.

Ibid. s. 39.

Penalty.

Notices to be given in case of the escape of any patient and of his being brought back.

Ibid. s. 40.

Penalty.

Entry to be made and notice given in case of the death, discharge, or removal of any patient.

Ibid. s. 41.

Lunacy.

Thirteenth Schedule. make and sign an entry thereof in a book to be kept for that purpose, according to the form and stating the particulars in Schedule Thirteen of this Act, and shall also in the case of a death, within two days after such death, transmit to the Colonial Secretary (in addition to any notice respecting such death required by any law now or hereafter to be in force relating to the registration of deaths) a written notice of the death of such patient, and of the cause thereof, according to the form in Schedule Fourteen of this Act, and, in the case of the removal or discharge of such patient, of such removal or discharge, according to the form in Schedule Twelve of this Act, and shall also in the case of such death transmit a copy of such notice to one of the relations named in the statement subjoined to the order or request for admission, or to the person who signed such request, or to the committee, if any, who signed an order for admission under section sixteen hereof; and every superintendent who neglects to make and sign such entry or transmit such notice or notices shall be guilty of a misdemeanour.

Fourteenth Schedule.

Twelfth Schedule.

Misdemeanour.

(2.) *For the reception of a single patient.*

Colonial Secretary may grant licences for houses for the reception of a single insane patient.

Ibid. s. 42.

But no person so licensed to take patients without such order, &c., as are required on reception into an hospital for the insane.

49. (1) The Colonial Secretary may grant to any person or to two or more persons jointly a licence to keep a house for the reception of a single insane patient, and from time to time may renew or revoke such licence.

(2) No person licensed under this section shall receive to board or lodge in any such licensed house for reward, or shall take the care or charge of any patient without the like order, statement, and medical certificates or other proper authority in respect of such patient as is hereinbefore required on the reception of a patient into an hospital for the insane.

(3) Every person licensed under this section shall within twenty-four hours after receiving a patient transmit to the Colonial Secretary a notice of such admission in the form in Schedule Nine of this Act, together with copies of the order, statement, and medical certificates or other proper authority on which such patient has been so received, and shall also after the second and before the end of the seventh clear day from such admission cause each patient to be visited by a medical practitioner, and forthwith transmit to the Colonial Secretary a statement in the form in Schedule Ten of this Act, to be made and signed by such medical practitioner so visiting such patient after such admission.

(4) Any such licence granted under any repealed Act, and still in force at the passing of this Act, shall be deemed to have been granted under this Act for the unexpired term of such licence.

Tenth Schedule.

Patient to be visited by medical practitioner.

Ibid. s. 43.

50. (1) Every such patient shall, after the second, and before the end of the seventh, clear day after his admission, and thereafter at least once in every two weeks, be visited by a medical practitioner not himself

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himself deriving, and not having a partner, father, son, brother, or other relative who derives any profit from the care and charge of such patient, and such medical practitioner shall enter and sign in a book to be kept for that purpose, to be called the medical journal (regulations as to the form of which and the particulars to be entered therein shall be made by the Colonial Secretary) :—

- (a) the date of each of his visits;
- (b) a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which the patient is.

(2) Such book shall be produced to the Inspector-General on every visit and shall be signed by him as having been so produced, and the person by whom the care or charge of such patient has been taken or into whose house he has been received as aforesaid, shall transmit to the like persons the like notices and statements of the death, removal, escape, and recapture of such patient, and within the like periods as are hereinbefore required in the case of the death, removal, escape, or recapture of a patient received into a licensed house; and every person who fails to comply with the regulations made as aforesaid shall be guilty of a misdemeanour.

Misdemeanour.

51. (1) If any occupier or inmate of any private house keeps or detains therein any person who is insane, although he is a relative of such occupier or inmate, beyond the period of a year after the malady has become apparent and confirmed, and where the case has been such as to require during any part of such period coercion or restraint, such occupier or inmate, or the medical practitioner attending such person so detained, shall intimate such detention to the Colonial Secretary and shall transmit to the Colonial Secretary a written certificate signed by a medical practitioner of the condition of the person so detained, and shall state the reasons which rendered it desirable that such person should remain under private care, and the Colonial Secretary may thereupon, or without such intimation, authorise the Inspector-General or a Justice, such Justice to be accompanied by a medical practitioner, to visit and inspect such person and to make such inquiry respecting his treatment as to such Inspector-General or Justice and medical practitioner may seem fit.

Colonial Secretary
may order examina-
tion of patient in
private houses.
42 Vic. No. 7, s. 44.

(2) If upon such inquiry it appears that such person is insane and has been so for a space exceeding a year, and that restraint or coercion of any kind has been resorted to, and that the circumstances are such as to render the removal of such person to an hospital for the insane or licensed house necessary or expedient, the Colonial Secretary may order the removal of such person accordingly, and the order of the Colonial Secretary under his hand shall be sufficient authority to the superintendent of such hospital or licensed house to which such person is sent to receive him accordingly.

Lunacy.

Penalty.

(3) Any person who keeps, harbours, conceals, or aids in keeping, harbouring, or concealing beyond such period as aforesaid, any such person as insane without such intimation thereof to the Colonial Secretary, and any medical practitioner attending on such person kept or detained as insane beyond such period who wilfully neglects to disclose the condition of such person so kept or detained to the Colonial Secretary, shall severally for every such offence be liable to a penalty not exceeding two hundred pounds or to imprisonment for any period not exceeding three months.

PART IV.

Reception-houses, &c., for the temporary treatment of the insane.

Governor may appoint reception houses for the insane.
42 Vic. No. 7, s. 45.

52. The Governor may, by notification in the Gazette, appoint such houses and premises as he may think expedient for the reception and temporary treatment of the insane, and every such house and premises shall be a reception-house for the insane; and any such appointment may be revoked in like manner; and every reception-house appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act.

Governor to appoint superintendent and medical officer.

Ibid. s. 46

Colonial Secretary to make regulations.

Ibid. s. 47.

Wards in public hospitals for temporary reception of insane.

Ibid. s. 48.

53. The Governor may appoint a superintendent and a medical officer for every such reception-house.

54. The Colonial Secretary shall make regulations for the government of reception-houses.

55. The Governor may, by notification in the Gazette, declare wards of any hospital or infirmary for the care and treatment of the sick or of any benevolent asylum, which may be set apart for such purpose by the committee, or the persons in whose hands is vested the management of such hospital, infirmary, or benevolent asylum, to be wards for the temporary reception of the insane, and thereupon the Colonial Secretary shall make regulations for the dietary treatment and inspection of patients in such wards.

Justice may order the detention of an insane person in reception house, &c.

Ibid. s. 49.

Eighth Schedule.

56. Any Justice may, by order under his hand in the form of Schedule Eight hereto, direct the reception and detention of any person (for whose reception into an hospital for the insane or licensed house the necessary order, medical certificates and statement, or other proper authority has been signed and remains in force) in any such reception house, or in any gaol, or in any public hospital for immediate treatment.

Lunacy.

57. No insane patient shall be detained in any reception house, gaol, or public hospital beyond a period of fourteen days unless the medical officer thereof certifies in writing that such person is not in a fit state to be removed therefrom, or would be benefited by remaining therein, and in such case the removal of such patient shall be suspended until the visiting medical officer certifies that such person is fit to be removed.

No person to be detained in any reception house, &c., longer than fourteen days.
42 Vic. No. 7, s. 50.

58. On receipt of a certificate from the medical officer of such reception-house, gaol, or public hospital that any person confined therein as an insane patient is of sound mind, or may with safety be discharged to the care of a relation or friend, any Justice may order the discharge of such person.

Discharge of patients from reception house, gaol, &c.
Ibid. s. 51.

PART V.

Hospitals for the criminal insane.

59. The Governor may by notification published in the Gazette declare that any hospital for the insane, gaol or place, or part of any such hospital, gaol or place provided for or appropriated for that purpose shall be an hospital for the criminal insane, and any such appointment may be revoked in like manner, and any hospital for the criminal insane appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act.

Governor may appoint hospital for the criminal insane.
Ibid. s. 52.

60. The Governor may appoint for every hospital for the criminal insane a superintendent, a medical officer, and such other officers as he may deem necessary.

Governor may appoint superintendent and officers.
Ibid. s. 53.

61. The Colonial Secretary shall make regulations for the government and management of hospitals for the criminal insane.

Colonial Secretary to make regulations.
Ibid. s. 54.

62. Immediately on the admission of any person as a patient into an hospital for the criminal insane, an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars as the Colonial Secretary may direct (except as to the form of disorder, 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 except as to the discharge, removal, or death of the patient, the entry as to which is to be made when the same happens).

Register of patients to be kept.
Ibid. s. 55.

Ninth Schedule.

Lunacy.

Medical journal.
42 Vic. No. 7, s. 56.

Eleventh Schedule.

Case book.

63. In every hospital for the criminal insane the superintendent thereof shall once at least in every week enter, or cause to be entered, in a book to be kept for the purpose, to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and in case of death an exact account of the autopsy (if any) of such patient.

Entries to be made of
deaths, discharges,
removals, escapes, and
recaptures, and notice
given to the Colonial
Secretary.

Ibid. s. 57.

Twelfth Schedule.
Fourteenth Schedule.

Thirteenth Schedule.

Procedure where
persons charged with
offences are found to
be insane by a jury
or acquitted on the
ground of insanity.

45 Vic. No. 16, s. 2.

64. Within forty-eight hours after the death, discharge, removal, escape, or recapture of any patient a written notice of such death, discharge, removal, escape, or recapture according to the form in Schedules Twelve and Fourteen of this Act respectively shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose according to the form and containing the particulars in Schedule Thirteen of this Act.

65. (1) If any person indicted for any offence is insane, and, upon arraignment, is found to be so by a jury lawfully empannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person appears to the jury charged with such indictment to be insane, the Judge before whom any such person is brought to be arraigned or tried as aforesaid may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody in such place and in such manner as to such Judge may seem fit until he be dealt with as provided by the next succeeding section of this Act.

(2) In all cases where it is given in evidence upon the trial of any person charged with any treason felony or misdemeanour 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 insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity.

(3) If they find that such last-mentioned person was insane at the time of committing such offence, the Judge before whom such trial is had shall order such person to be kept in strict custody, in such place and in such manner as to such Judge may seem fit until the Governor's pleasure be known, and thereupon the Governor may give such order for the safe custody of such person during his pleasure in such gaol or other place of confinement and in such manner as to the Governor seems fit.

(4)

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(4) Upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, the Governor, by warrant under his hand, may direct that such last-mentioned person be conveyed to and kept in a hospital for the criminal insane during the Governor's pleasure.

66. (1) When any person committed to take his trial for any offence is certified by two medical practitioners in the form of Schedule Two of this Act to be insane, or is upon arraignment found by verdict to be insane, the Colonial Secretary may direct, by order under his hand in the form of Schedule Seventeen of this Act, that such person be removed to an hospital for the criminal insane, and detained in such hospital until he is certified by the medical officer and the Inspector-General, or by the said medical officer and two official visitors, to be of sound mind, whereupon the Colonial Secretary shall order his removal to the gaol from whence he came in order to be tried for such offence:

(2) Such detention for any period shall not operate as a bar to his subsequent indictment and trial for such offence.

67. If any person while detained in any gaol for debt, or in any gaol, reformatory, or industrial school, or other place of confinement, in consequence of any summary conviction or order by any Justice or in default of bail, appears to be insane, the Colonial Secretary may, upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Five of this Act, direct, by order under his hand, that such person be removed to and kept in such hospital for the insane or for the criminal insane as he may judge proper and appoint, until it is duly certified by the superintendent of such hospital and by the Inspector-General, or by the said superintendent and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol reformatory, industrial school, or other place from whence he has been taken, or to some other gaol or place of confinement, or if the period of detention or custody has expired that he be discharged.

68. If any person while imprisoned in any gaol, prison, or penal establishment, under any sentence of hard labour or imprisonment imposed otherwise than on the conviction or order of Justices appears to be insane, the Comptroller-General of prisons shall direct that such prisoner be placed under observation as in section seventy-six of this Act mentioned, and the Colonial Secretary may upon the receipt of certificates, by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, direct by order under his hand in the form

of

Second Schedule.
Sixteenth Schedule.

Persons found to be insane before trial to be sent to hospital for the criminal insane.

42 Vic. No. 7, s. 59.

Seventeenth Schedule.

Procedure in reference to certain persons under detention appearing insane.

45 Vic. No. 16, s. 3.

Second Schedule.

Fifth Schedule.

Procedure on certain prisoners appearing to be insane.

Ibid. s. 4.

Second Schedule.

Sixteenth Schedule.

Lunacy.

Seventeenth
Schedule.

of Schedule Seventeen of this Act, that such person be removed to and kept in a hospital for the criminal insane until it is duly certified by the medical officer of such hospital, and by the Inspector-General, or by the said medical officer and two official visitors that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol, prison, or penal establishment from whence he has been taken, or to some other gaol, prison, or penal establishment, or if the period of his imprisonment has expired that he be discharged.

Procedure on
prisoner under
sentence of death
appearing insane.
45 Vic. No. 16, s. 5.

69. If it is made to appear to the Colonial Secretary by any means whatsoever that there is good reason to believe that any prisoner in confinement under sentence of death is then insane, the Colonial Secretary may appoint two or more medical practitioners to inquire into the insanity of such prisoner, and if on such inquiry such prisoner is found to be then insane, the fact shall be certified in writing by such practitioners to the Colonial Secretary, and on receipt of such certificate the said Colonial Secretary may, by order under his hand, direct that such prisoner be removed to and kept in an hospital for the criminal insane or other proper place for the reception of for insane prisoners, until it is duly certified by the medical officer of such hospital or place and by the Inspector-General, or by the said medical officer and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall issue his order that such person be removed to any prison or other place of confinement to undergo his sentence of death or to be dealt with according to law, as if no such order for his removal to an hospital for the criminal insane had been issued.

Colonial Secretary to
order removal to
hospital for insane
on expiration of
sentence, insanity
still existing.
42 Vic. No. 7, s. 61.

70. When by reason of the expiration of his term of imprisonment, or otherwise, any person confined in any hospital for the criminal insane would, if duly certified to be of sound mind, be entitled to his discharge, the Colonial Secretary may (upon the certificate of the medical officer of such hospital that the person is still insane), by writing under his hand, order his discharge and removal to some other hospital for the insane, not being an hospital for the criminal insane, or that he be otherwise subjected to the same care and treatment, and be dealt with in all respects as an insane patient, not being a criminal :

Patient when
dangerous may be
detained in hospital
for the criminal
insane.

Provided that when such insane patient is certified by such medical officer to suffer from homicidal propensities, or from insanity of such a kind as renders it advisable that he should be detained in an hospital for the criminal insane, the Colonial Secretary may order such detention after the expiration of his sentence.

Insane patient becoming
demented may be
removed from criminal
to other hospital for the
insane.
Ibid. s. 62.

71. When any person detained in an hospital for the criminal insane whose sentence is unexpired, is certified by the medical officer
and

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and the Inspector-General, or by the said medical officer and two official visitors, to be demented and not dangerous, the Colonial Secretary may direct his removal therefrom to any other hospital for the insane not being a hospital for the criminal insane.

72. When any person is ordered to be kept in custody during the Governor's pleasure, any order made by the Governor in relation to the custody of such person may be renewed and varied from time to time; and the Governor may permit any person confined in any hospital for the criminal insane, not being a person under conviction and sentence, to be liberated from custody or confinement, upon such terms and conditions as he may think fit; and if any of such conditions be broken, such person may be retaken and dealt with as hereinafter enacted in case of an escape.

Governor may liberate on conditions.
42 Vic. No. 7, s. 63.

73. In case of the escape of any person confined in any hospital for the criminal insane, he may be retaken at any time by the superintendent of such hospital, or any officer or servant belonging thereto, or any constable, or any person assisting such superintendent, officer, servant, or constable, or any other person authorised by the Colonial Secretary or such superintendent, and shall be conveyed to and received and detained in such hospital.

Escaped insane patient may be recaptured.
Ibid. s. 64.

74. Any person who rescues any person ordered as aforesaid to be conveyed to any hospital for the criminal insane during his conveyance thereto or his confinement therein, and the superintendent or any officer, servant, or other person employed in any such hospital who, through wilful neglect or connivance, permits any person so confined therein to escape therefrom, or secretes or abets or connives at any such escape, shall be guilty of felony, and be liable to imprisonment with or without hard labour for any term not exceeding three years; and any such superintendent, officer, servant, or other person who carelessly allows any such person to escape shall be guilty of a misdemeanour.

Penalties for aiding or permitting escape.
Ibid. s. 65.

75. Any person committed to take his trial for having attempted to commit suicide who is certified by two medical practitioners in the form of Schedule Two hereto to be insane shall forthwith be sent to an hospital for the insane other than an hospital for the criminal insane, and such person, when certified by the medical officer and Inspector-General, or by the medical officer and an official visitor, to be of sound mind, shall be discharged from such hospital, and shall not be put upon his trial or be liable to any charge or indictment for having attempted such act of suicide.

Persons attempting to commit suicide and found insane not to be subsequently tried for the offence.
Ibid. s. 66.

Second Schedule.

76. The Governor may, by notification published in the Gazette, set apart a ward or cells in any gaol or penal establishment for the detention of any prisoner who may be supposed to be insane or who from mental imbecility may be supposed to be unfit for penal discipline,

Governor to appoint wards or cells for observing supposed insane persons in gaols.
Ibid. s. 67.

Lunacy.

discipline, in order that he may be there placed under observation until it is certified by two medical practitioners, one of whom shall be either the Inspector-General or the superintendent or medical officer of an hospital for the insane, that he is of sound mind or is insane and a fit subject for detention in an hospital for the criminal insane.

PART VI.

Inspection, transfer, and discharge of patients.(1.) *Inspection of patients.*

Power to appoint
Inspector and
Deputy Inspector-
General.

42 Vic. No. 7, s. 68.

58 Vic. No. 5, s. 10.

77. The Governor may appoint an Inspector-General and a Deputy Inspector-General; and during the absence from the colony of the Inspector-General, or his inability to act from illness or other cause, the Deputy shall have all the powers and shall perform all the duties of the Inspector-General; and such Inspector-General and Deputy Inspector-General shall be paid travelling expenses in addition to their salary.

Inspector-General to
visit hospitals,
licensed houses, &c.

Ibid. ss. 69, 70.

56 Vic. No. 23, s. 12.

78. (1) Every hospital, whether for the insane or for the criminal insane, and every licensed house shall at least once in every six months, and every reception house, and public hospital, and any ward or cells set apart in any gaol or penal establishment under section seventy-six of this Act shall, as often as he thinks fit, be visited by the Inspector-General, and with or without any previous notice, and every such visit shall be made at such hour of the day or night, and for such length of time as he thinks fit.

Inspector-General's
book.

(2) The Inspector-General, when visiting such hospital, reception house, ward, cells, or licensed house shall, so far as practicable, inspect every part of the same, and, in the case of an hospital for the insane or criminal insane, or a licensed house, every out-house and building communicating therewith or detached therefrom, and every part of the ground or appurtenances held or occupied therewith, and see every patient then confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book hereinafter mentioned a minute of the then condition of such hospital, reception house, ward, cells, or licensed house, and of the patients therein, and such other remarks as he may deem proper; and also if such visit be the first after the granting or renewal of a license to any licensed house shall examine such license.

(3) The Colonial Secretary may, by order under his hand, direct the Inspector-General or other person at any time to visit any hospital for the insane, or for the criminal insane, reception house,

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house, licensed house, gaol, house, or place wherein any insane patient, or person represented to be insane or to be under restraint as insane, is confined, or alleged to be confined, and to inspect and inquire into the state of that hospital, reception house, licensed house, gaol, house, or place, and report to him the result of that inspection and inquiry.

79. (1) The Inspector-General, on his several visitations to every such hospital, reception house, and licensed house, and to every such ward or cells as aforesaid, shall inquire as to the care, treatment, and mental and bodily health of the patients therein, and the arrangements for their maintenance and comfort:—

- (a) As to whether any patient is under restraint or in seclusion, and why;
- (b) As to whether and at what times and to what number of patients Divine Service is performed;
- (c) As to what occupations or amusements are provided for the patients;
- (d) As to the classification and dietary of the patients and the number of attendants and nurses;
- (e) As to the moneys paid for the maintenance of any insane patient; with all such other inquiries as to such Inspector-General may seem fit.

(2) The Inspector-General shall examine the several books by this Act required to be kept, and sign the said books as having been produced to him, and shall inspect the order and certificates for the reception of every patient who has been received into such hospital, licensed house, reception house, or other place since the last visit of the Inspector-General or official visitor thereto.

80. The Inspector-General shall, once at least in every six months, and may, at all reasonable times, visit every house licensed under this Act for the reception of one insane patient only, and shall inquire as to the treatment and state of health, both mental and bodily, of such patient, and as to the moneys paid to the superintendent or licensee on account of such patient, and report thereon to the Colonial Secretary.

81. The Inspector-General shall, early in every year, make a report in writing to the Colonial Secretary of the state and condition of the several hospitals, licensed houses, reception houses, and other places, visited by him during the preceding year, and of the care of the patients therein, and of such other particulars as he shall think deserving of notice, and a true copy of such report shall forthwith be laid before Parliament if then in session, or if not then in session, within twenty-one days after the commencement of the next session of Parliament.

82. The Inspector-General shall have no interest, directly or indirectly, in any licensed house for the insane, and shall not sign any certificate for the admission of any patient into any hospital or licensed

Inquiries be made by Inspector-General
42 Vic. No. 7, s. 71.

Inspector-General to visit houses licensed for a single patient and to report.
Ibid. s. 72.

Inspector-General to make an annual report to Colonial Secretary.
Ibid. s. 73.

Inspector-General to have no interest in licensed house nor sign certificates except in the case the criminal insane.
Ibid. s. 74.

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licensed house, except for the admission of persons of unsound mind undergoing sentence in some gaol or penal establishment into any hospital for the criminal insane.

Plans, &c., for hospital to be submitted to Inspector-General.
42 Vic, No. 7, s. 75.

83. All plans for building, or enlarging, or improving any hospital for the insane or the criminal insane, reception house, public hospital, or ward, or cells for the insane in any gaol, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no plan shall be carried into effect without such report as aforesaid.

All plans of houses proposed to be licensed and of additions and alterations to those already licensed to be submitted to Inspector-General.
Ibid. s. 76.

84. All plans of houses for which a license for the reception of insane patients is sought to be obtained under this Act, and for additions to or alterations to, in, or about those already licensed, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no license shall be granted for the reception of insane patients, and no addition or alteration to, in, or about such house already licensed shall be undertaken without such report as aforesaid.

Plan of hospital or house and Inspector-General's book to be kept.
Ibid. s. 77.

85. There shall be hung up in some conspicuous part of every hospital, whether for the insane or for the criminal insane, reception house, or licensed house, a copy of the plan of such hospital, reception house, or licensed house, and there shall be kept in every such hospital, reception house, and licensed house a copy of this Act bound up in a book to be called the Inspector-General's book, and the said Inspector-General shall, at the time of his visitations, enter therein the result of his inspection and inquiries hereinbefore directed or authorised to be made by him, with such observations (if any) as he thinks proper.

Governor to appoint official visitors.
Ibid. s. 78.

86. (1) The Governor may appoint for every hospital for the insane or the criminal insane, licensed house, reception-house, or other place where insane patients are detained, two or more official visitors, one of whom shall be a medical practitioner and one a police magistrate or a barrister-at-law, any two or more of whom, one being a medical practitioner, shall visit the place to which they are appointed visitors once at least every month with or without any previous notice, and at such hours of the day or night, and for such length of time as they think fit, and also at such other times as the Colonial Secretary may direct.

(2) Such official visitors, when visiting such hospital, licensed house, reception house or other place shall, so far as practicable, inspect every part of the same, and every out-house and building communicating therewith or detached therefrom, and every part of the grounds or appurtenances held or occupied therewith, and see every patient confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book a minute of the then condition of the said hospital, licensed house, reception house, or other place, and of the

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the patients confined therein, and such other remarks as they may deem proper, and shall, after every visit, transmit to the Colonial Secretary a statement of the number of patients admitted and discharged since the date of the last visitation together with a copy of the entry made by them in the Inspector-General's book, and any other information they may consider necessary.

(3) Any or all of the official visitors may be appointed to two or more hospitals for the insane, or the criminal insane, licensed houses, reception houses, or other places where insane patients are detained.

87. No person shall be or act as an official visitor of any hospital, licensed house, reception house, or other place where insane patients are detained who is directly or indirectly interested therein, and no such visitor shall sign any certificate for the admission of any person into any hospital, reception house, licensed house, or other place for the reception of insane patients, or shall professionally attend on any patient in any licensed house of which he is an official visitor.

Official visitor to have no interest in hospital or licensed house, nor sign certificates for admission, nor attend patients. 42 Vic. No. 7, s. 79.

(2.) Transfer of patients.

88. (1) The Colonial Secretary may direct by an order in writing the removal of any patient from any hospital for the insane or licensed house to any other such hospital or licensed house, and every such order shall be in duplicate, and one copy shall be delivered to the superintendent of the hospital or licensed house from which the patient is ordered to be removed, and the other shall be delivered to the superintendent of the hospital or licensed house into which the patient is ordered to be removed; and such order for removal shall be a sufficient authority for the removal of such patient and also for his reception into the hospital or licensed house into which he is ordered to be removed and for his detention therein or thereby.

Colonial Secretary may order transfer of patients. Ibid. s. 80.

(2) A copy of the order statement or other proper authority with which such patient was received into the hospital or licensed house from which he is removed, together with an abstract of his treatment and progress certified by the superintendent of such hospital or licensed house (or in the case of a house licensed under section forty-nine of this Act of the licensee thereof) shall be delivered with one copy of the said order of removal to the superintendent of the hospital or licensed house to which such patient is removed.

89. (1) If it is made to appear to the Court that any insane person or patient has relations or friends in any place beyond New South Wales who are willing to undertake the care and charge of such insane person or patient, and that it would be for his benefit if he were to be removed to such place, the Court may order such insane person or patient to be removed from New South Wales and make such

Insane persons or patients may be taken out of New South Wales by order of the Court. Ibid. s. 81.

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such further or other order authorising or directing his removal and touching his safe custody and maintenance as to such Court seems fit, and may order that security be given for the safe custody and maintenance of such insane person or patient in any such place beyond New South Wales.

(2) No order shall be made for the removal of any such insane person or patient until after fourteen days' notice of the intention to apply for such an order has been given to the superintendent of the hospital or licensed house in which such insane person or patient is confined, or to the person in whose care or custody such insane person or patient is, unless such superintendent or person is himself the person applying for such an order.

Superintendent with consent of the Inspector-General may send a patient to any place for his health, or permit his absence upon trial.
42 Vic. No. 7, s. 82.

90. (1) The superintendent of any hospital for the insane or licensed house may, with the consent in writing of the Inspector-General, send or take under proper control any patient to any specified place for any definite time for the benefit of his health, and also permit any patient to be absent from any such hospital or licensed house upon trial for such period as may be thought fit:

Provided always that before giving any such consent the Inspector-General may require the approval in writing of the person who signed the request or of the committee who signed the order for the reception of such patient or of the person by whom the last payment on account of such patient has been made.

(2) In case any person so allowed to be absent for the benefit of his health or on trial for any period does not return at the expiration thereof, and a medical certificate as to his state of mind certifying that his detention as an insane patient is no longer necessary is not sent to the superintendent or licensee of such hospital or licensed house, such person may at any time after the expiration of the same period be retaken as in the case of an escape.

Boarding-out of harmless patients.
58 Vic. No. 5, s. 7 (1).

91. Where the superintendent of an hospital for the insane certifies that the patient named in the certificate is harmless and is free from any symptoms which would indicate any tendency of a character dangerous either to the patient himself or to others, the Inspector-General may, by order endorsed by him upon the certificate, commit such patient to the care of a person to be named in the order, to reside and board with him in accordance with and subject to regulations to be made under this Act.

Order for conveyance of patient.
45 Vic. No. 16, s. 6.

92. The person in charge of an insane patient during conveyance to any hospital for the insane, or licensed house, or to a place in an adjacent colony under the provisions of subdivision (2) of part I of this Act, shall have an order in writing by the Justices who have examined the patient, or by the Colonial Secretary, or a request under section nine of this Act duly signed and authenticated by a Justice or minister of religion authorised to celebrate marriage, and shall produce the same when required to do so by any Justice.

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(3.) *Discharge of patients.*

93. When any person who signed the request or the committee who signed the order on which any patient was received into any hospital or licensed house, whether or not such patient has since been removed under any order made under this Act or otherwise to any other hospital or licensed house, directs by writing under his hand that such patient be discharged, such patient shall forthwith be discharged.

Patient to be discharged by direction of person who signed the order or request for his admission.

42 Vic. No. 7, s. 84.

94. If such person or committee as last aforesaid is dead, or is incapable by reason of insanity, absence from New South Wales, or otherwise of giving such direction for the discharge of such patient, then

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

Ibid. s. 85.

(a) the person who made the last payment on behalf of such patient; or

(b) the husband or wife of such patient;

or if there is no husband or wife, or if the husband or wife is incapable as aforesaid,

(c) the father;

or if there is no father, or the father is incapable as aforesaid, then

(d) the mother;

or if there is no mother, or the mother is incapable as aforesaid, then

(e) any one of the nearest of kin for the time being of such patient; may in writing give such direction as aforesaid for the discharge of such patient, and such patient shall be forthwith discharged accordingly.

95. No patient shall be discharged under either of the two last preceding sections if the superintendent of the hospital or the medical officer of the licensed house in which such patient is detained certifies in writing that in the opinion of such superintendent or medical officer such patient is dangerous and unfit to be at large, or unfit from bodily health to be removed, together with the grounds on which such opinion is founded, unless the Inspector-General after such certificate has been produced to him give his consent that such patient shall be discharged.

Patients not to be discharged when certified to be dangerous or unfit from bodily health without Inspector-General's consent.

Ibid. s. 86.

96. The Inspector-General or any official visitor of any hospital for the insane or licensed house may, with the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, order the discharge of any person detained therein or permitted to be absent therefrom under the provisions of section ninety hereof, whether such person is recovered or not.

Inspector-General or official visitor with advice of the superintendent may order discharge.

Ibid. s. 87.

97. Where application is made to the Inspector-General or to any official visitor of any hospital for the insane or licensed house by any relative or friend of an insane patient confined therein, requiring that he may be delivered over to the care and custody of such relative or friend, such Inspector-General or official visitor, with

Insane patients may be discharged on friends or relatives undertaking that they shall be taken care of.

Ibid. s. 88.

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the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, and upon the undertaking in writing of such relative or friend that such insane patient will be properly taken care of, and will be prevented from doing injury to himself or others, may discharge such insane patient.

Allowance to be made to friends for maintenance of patients.
42 Vic. No. 7, s. 89.

98. (1) In cases where the relatives or friends of any insane patient are willing to take care of such patient, but are unable owing to indigent circumstances to maintain him, the Colonial Secretary may, on the recommendation of the Inspector-General, or of any official visitor, grant an allowance for maintenance to such relative or friend on such insane patient being discharged in the manner set forth in the last preceding section; and in all such cases the allowance for maintenance shall be paid once in every three months upon the receipt of a certificate from some medical practitioner in the form of Schedule Eighteen of this Act.

Eighteenth Schedule.

(2) If it appear to such practitioner, as aforesaid, that the insane patient so discharged is not properly cared for by his friends, or that his mental state is such as to render it advisable that he should be no longer entrusted to their care, he shall report the same to the Inspector-General, who may thereupon direct that such insane patient be returned to the hospital from whence he was discharged without any further certificate or statement, and he shall be received therein accordingly.

Judges may order persons confined as insane to be brought before them for examination.
Ibid. s. 90.

99. If a Judge receive information upon oath, or have reason or cause to suspect that any person of sound mind is confined in any hospital for the insane or licensed house, such Judge may order the superintendent of such hospital or licensed house to bring such confined person before him for examination at a time to be specified in such order, and if upon the examination of such confined person, and of such superintendent, and of any medical or other witnesses, it is made to appear to the satisfaction of such Judge that such confined person is of sound mind, such Judge may direct that such confined person be immediately discharged from the custody of the superintendent of such hospital or licensed house, unless he is detained therein for some other cause by due process of law.

And if found to be of sound mind may discharge them from confinement.

Inspector-General or official visitors may recommend the discharge of any patient subject to certain conditions.
Ibid. s. 91.

100. If the Inspector-General, official visitors, or superintendent of any hospital for the insane or licensed house certify to the Colonial Secretary that any patient is detained in such hospital or licensed house without sufficient cause, the Colonial Secretary may order the discharge of such patient:

Provided that if the superintendent does not consent to such discharge, his reasons in writing shall be forwarded to the Colonial Secretary by the Inspector-General or official visitors, together with the certificate as aforesaid.

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PART VII.

Proceedings for declaring persons insane or incapable and for the appointment of committees of their estates, &c.

101. The Court shall, except on appeal as hereinafter provided, be holden by the Chief Judge or Judge in Equity, or by any other Judge sitting for the Chief Judge in Equity during his absence from Sydney or illness or at his request: Constitution of court. 22 Vic. No. 14, s. 6.

Provided that any such Judge may sit in chambers to determine all such matters as in his opinion may advantageously and with propriety be heard in chambers; and such Judge when so sitting shall have the same powers and jurisdiction as in open court.

102. Where it is proved to the satisfaction of the Court that a person is of unsound mind and incapable of managing his affairs, the Court may make a declaration to that effect, and may direct a reference to the Master to make inquiries concerning the property of such person, and may make all proper orders for rendering the property of such person, or the income thereof available for the payment of his debts and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any), and may, if necessary, appoint a committee of his estate, and also when desirable a committee of his person. Application to Supreme Court in lieu of commission de lunatico inquirendo. 42 Vic. No. 7, s. 92.

103. (1) Where it is proved to the satisfaction of the Court that any person is, through mental infirmity, arising from disease or age, incapable of managing his affairs, the Court may make all proper orders for rendering the property and income of the said person available for the payment of his debts and for the maintenance and benefit of himself and his family; and may make orders for the care and management of his property in all respects as if he were an insane person; and may, if necessary, appoint any person, either with or without security, to undertake the care and management of his property under the order and direction of the Court. Persons incapable of managing their affairs. 58 Vic. No. 5, s. 14 (1).

(2) The person so appointed shall, subject to the said orders and directions and to the rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate of an insane person, and the powers and provisions contained in this Act relating to the management and administration of the estates of insane persons shall apply to the estates of incapable persons.

104. Whenever it is proved to the satisfaction of the Court that any insane person has recovered his sanity and is capable of managing his affairs, the Court may make a declaration to that effect, and may make all proper orders to give effect to such declaration, and to release the estate of such person from the control of the Court and to discharge the committee of his estate and person. Superseding orders, &c., when person has recovered. 42 Vic. No. 7, s. 93.

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Mode of application.
42 Vic. No. 7, s. 94.

105. Applications under the last three preceding sections respectively shall be made, and evidence by affidavit given in support thereof in such manner as is prescribed by rules of Court :

Cross-examination on affidavit, &c.
Ibid. s. 96.

Provided that every deponent may be cross-examined upon his affidavit either at the hearing or at such time and place as the Court may direct, and at such hearing the Court may receive or require the oral evidence of witnesses and such other proofs as may be deemed necessary.

Process to be served.
Ibid. s. 94.

106. (1) Notice of any application under sections one hundred and two and one hundred and three, and of the evidence by affidavit to be used in support thereof, shall be given to the alleged insane or incapable person, and of any application under section one hundred and four, and of the evidence by affidavit to be used in support thereof, to the person upon whose application the insane person was found or declared to be insane, or to the committee of such insane person, in such manner and within such time as is prescribed by rules of Court.

Ibid. s. 95.

(2) Where personal service cannot be effected or is inexpedient, then substituted service may be effected in such manner as may be prescribed by rules of Court, or as may be ordered by the Court.

Court may order inquiry before a jury.
Ibid. s. 97.

107. The Court in any case, instead of determining whether or not the person whose sanity is the subject of inquiry is of unsound mind and incapable of managing his affairs, may order that question to be determined by a jury ; and in such order shall direct whether such jury shall be a common or special jury, and thereupon the like proceedings for procuring the return of such jury shall be had and taken as provided by any law for the time being in force for the return of juries in the Supreme Court, and in every inquiry or proceeding before a jury the number of the jury shall be four, unless the Court order a jury of twelve.

Jury to be four unless the Court order twelve.
56 Vic. No. 23, s. 14.
Inquiries before jury.
42 Vic. No. 7, s. 98.

108. When any such inquiry before a jury is ordered, the Court shall direct the question to be tried before a Judge or the Master, or a commissioner specially appointed, who shall while so acting have for the purposes of the inquiry all the powers of the Supreme Court ; and the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with any law for the time being in force relating to the trial of issues out of the Supreme Court.

After verdict, Court may make declaration, &c.
Ibid. s. 99.
Examination of the alleged insane person.
Ibid. s. 100.

109. When the verdict of the jury has been returned, unless a new trial be granted, the Court may make such declaration and orders as hereinbefore are respectively mentioned, as the case may be.

110. On the hearing of any application under section one hundred and two, the person whose sanity is in question shall be examined by the Court ; and on the trial of any such question as abovementioned there shall be a like examination by the jury before they

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they consult as to their verdict, and every such examination shall take place in open court or in private, as may be deemed expedient :

Provided that, if it appears to the Court to be unnecessary or inexpedient that such person should be examined by the Court, or the jury, the Court may, in lieu of the examination aforesaid, direct the Master to personally examine the said person and report on such examination, or may dispense with any examination whatever. 56 Vic. No. 23, s. 17.

111. Where in any Act or rule of Court or instrument, reference is made to a commission of Lunacy, or a writ in the nature of a writ *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the application and declaration thereon in the one hundred and second and one hundred and fourth sections respectively mentioned, as the case may be, shall be taken to be intended by or comprehended in such reference. The word commission shall apply to petition and declaration. 42 Vic. No. 7, s. 101.

112. When the Court is satisfied that any person has been found of unsound mind and incapable of managing himself and his affairs by any commission *de lunatico inquirendo*, or other legal inquiry in the United Kingdom, or in any colony or dependency thereof, the Court may direct a copy of the inquisition or finding on such commission or inquiry, duly certified by the proper officer of the Court into which such inquisition or finding shall have been returned, to be filed of record in the Court; and may thereupon appoint a committee of such person's estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient; and such committee shall have the same duties, powers, and liabilities as if he were the committee of an insane person under this Act. Persons found insane in places beyond the colony. Ibid. s. 102.

113. The Court may make such order as to the costs, charges, and expenses of and incidental to any proceeding authorised by this Act as the Court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the Supreme Court in its equitable jurisdiction. Court may order costs. Ibid. s. 103.

114. There shall be an appeal to the Full Court from every order made under this Act before or by a single Judge in such manner as may be prescribed by rules of Court. Appeal. Ibid. s. 104.

PART VIII.

Management of the estates of insane persons and patients.

(1.) *General powers and duties of Master in Lunacy.*

115. There shall be a Master in Lunacy, and the Master in Equity for the time being shall be also the Master in Lunacy, and the Governor may appoint a Deputy Master; and the Deputy Master may exercise all the powers conferred and shall perform all the duties imposed Master in Lunacy. Ibid. s. 105. 58 Vic. No. 5, s. 9.

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imposed upon the Master by any Act or by any rule or order of the Court; during the illness or absence of the Master, the Court or the Chief Judge or Judge in Equity or the Colonial Secretary may authorise the Chief Clerk in Lunacy to perform the duties of the Master:

Provided that if the Chief Clerk be not already under sufficient security, he shall give such security as the Court or such Judge or the Colonial Secretary in each case may direct.

In administering the estates of certain persons the Master to have jurisdiction of the Court.

42 Vic. No. 7, s. 105.

58 Vic. No. 5, s. 8.

116. Subject to rules of Court, the jurisdiction and powers of the Court in respect of the administration and management of the estates of all insane and incapable persons may be exercised by the Master; and every order made by the Master under the authority hereby conferred on him shall take effect, unless rescinded or varied by the Court; and the Master shall have and execute all the powers and duties hereby or under the authority hereof vested in and imposed upon him; and subject to and in accordance with the regulations of the Governor and the rules of Court and to any special order of the Court, the Master shall undertake the general care, protection, and management, or supervision of the management, of the estates of all insane persons and patients; and he shall supervise and enforce the performance of the obligations and duties of all committees of insane persons, and shall take care of, collect, and administer, under the provisions of this Act, the property and estates of all insane patients.

Expenses incurred to be paid out of estate.

42 Vic. No. 7, s. 108.

117. All expenses incurred by or on behalf of the Government, in the care, protection, and management, or in the supervision of the management, under this Act, of the estate of any insane person or patient, may be charged by the Master against and shall be paid out of and recoverable from such estate.

Expenses and accounts of Master.

Ibid. s. 140.

56 Vic. No. 23, s. 18.

118. (1) The Master shall give such security for the due performance of his duties as the Governor may require.

(2) All expenses incurred with the authority of the Court or of the Colonial Secretary by the Master in carrying this Act into execution, and whether chargeable to the estate of any insane person or patient or not, shall be defrayed and paid out of such public moneys as may be appropriated by Parliament for that purpose.

(3) All expenses so chargeable as aforesaid may be repaid by the Master out of any money of the insane person or patient that comes to his hands, or may be recovered by him on summary application to the Court, whether such patient has been discharged or not, or whether such insane person or patient is dead, or whether a superseding order has been made under this Act or not.

(4) The general accounts of the Master shall be reviewed and audited in the manner provided and by virtue and in exercise of the powers conferred by any law for the time being in force relating to the audit of the public accounts.

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119. There shall be paid to the Master a percentage at a rate not exceeding five pounds per centum per annum on the clear annual income of every insane or incapable person and insane patient; and the said percentage and fees shall be charged upon and payable out of the estates of such insane or incapable persons and patients as aforesaid, although before payment the insane or incapable person dies or a superseding order is made under this Act, or the insane patient dies or is discharged from the hospital or other place in which he is detained.

Percentage and fees.
56 Vic. No. 23, ss.
19, 20 (II).
58 Vic. No. 5, s. 14 (II).

120. The Master may in the execution of his powers, duties, and authorities, and also in the prosecution of all inquiries and matters which may be referred to him under this Act, summon persons before him and administer oaths and take evidence, either orally or by affidavit or partly orally and partly by affidavit, and take recognizances and require the production of books, papers, accounts, and documents; and every person so summoned shall be bound to attend as required by the summons and give evidence before the Master in like manner as persons summoned before him in his equity jurisdiction are bound to attend and to give evidence; and the Court may by any order (general or particular) refer to the Master any inquiries under the provisions of this Act relating to the person and estate of any insane person or patient.

Master to have all
necessary powers
of inquiry, taking
evidence, &c.
42 Vic. No. 7, s. 109.

121. Every person giving evidence by affidavit shall be liable to oral cross-examination by or before the Master upon his affidavit, and after cross-examination may be re-examined orally by or on behalf of the person filing the affidavit; and every person giving evidence by affidavit shall be bound to attend before the Master to be so cross-examined and re-examined upon receiving due and proper notice and payment or tender of his reasonable expenses in like manner as if he had been duly served with a writ of subpœna *ad testificandum* before the Master; and the expenses attending on such cross-examination and re-examination shall be paid in such manner and by such person as the Master directs.

Witnesses may be
cross-examined
orally.
Ibid. s. 110.

122. The Master may cause to be issued such advertisements as may to him seem expedient with reference to the subject matter of a proposed commission or inquiry or with a view to the efficient discharge of his duties as Master under this Act with regard to the estate and property of insane persons or patients.

Master may issue
advertisements.
Ibid. s. 111.

123. The Master shall approve on behalf of Her Majesty of the security to be given by the committee of the estate of any insane person under order of the Court, and it shall be the duty of the Master to see that the conditions of all bonds and recognizances heretofore or hereafter to be given or entered into by the committee of the estate or other persons in the matter of the estate shall be faithfully and regularly observed and performed, and immediately to report to a Judge any

Master to approve
of and to enforce
security to be given
by committee of
estate.
Ibid. s. 112.

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any breach or non-performance of any of such conditions; and thereupon such Judge may cause such bond or recognizance to be forfeited or estreated, and such forfeiture or estreat shall be enforced and effected in the manner provided by any law now or hereafter to be in force relating to the estreat of recognizances entered into to Her Majesty.

(2.) *Powers and duties of Master in respect to estates of insane patients.*

Power of Master in respect of estates of insane patients.
42 Vic. No. 7, s. 141.

124. The Master shall have in respect of the property and estate of any insane patient, in addition to the general powers conferred upon him in subdivision (1) of this part of this Act, all the like powers and authorities, subject to the like limitations, as are hereinafter, in subdivision (3) of this part of this Act, given to the committee of the estate of an insane person, and also the powers hereinafter mentioned.

Power to apply property of persons acquitted on the ground of insanity for their benefit.
Ibid. s. 107.

125. Where any person has on the trial of any information been acquitted on the ground of insanity, or has upon arraignment upon a criminal charge been found to be insane, the Sheriff shall report the fact to the Master, who shall thereupon make inquiry respecting the property of such person, and the Court may, on being satisfied of the continued insanity of such person and of his being still in confinement, make any orders with respect to the property of such person and the application thereof for the payment of his debts or for his maintenance or benefit or that of his family or for carrying on his trade or business.

Master's powers as to property of patients.
56 Vic. No. 23, s. 21.

126. The Master shall have the management and care of the property of every insane patient, and, in addition to other powers and duties necessary and incident to such management and care, may exercise the following powers and perform the following duties with respect to the estate of every insane patient, that is to say, he may:—

- (a) Receive moneys, rents, incomes, and profits of real and personal property, and distrain for rent.
- (b) Demise land for a term not exceeding five years, at such rent and on such conditions as he may think fit.
- (c) Sell, realise, and mortgage real and personal property where the net value of the patient's estate, exclusive of debts and claims allowed by the Master, does not exceed five hundred pounds.
- (d) Settle, adjust, and compromise a demand not exceeding five hundred pounds made by or against the estate.
- (e) Carry on a business which the patient had carried on, so far as may appear desirable for the purpose of more advantageously disposing of or winding-up the business, or preserving the same until the recovery of the patient.

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- (f) Agree to an alteration of the conditions of a partnership into which the patient had entered, for the purpose of more advantageously disposing of his interest therein or terminating his liability.
- (g) Complete a contract for the performance of which the patient was liable, or enter into an agreement terminating that liability.
- (h) Sequester the estate of a patient under the provisions of the bankruptcy laws.
- (i) Bring and defend actions, suits, and other proceedings on behalf of a patient.
- (j) Bring lands under the provisions of the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same :

127. (1) The Master may apply to the Court in such manner as is or may from time to time be prescribed by rules of Court, for directions with respect to the exercise of any of the powers over the estate of an insane patient which the Court may exercise, or order a committee to exercise, over the estate of an insane person under subdivision (3) of this part of this Act.

Master may apply to the Court as to the exercise of certain powers.

56 Vic. No. 23, s. 22.

(2) The Court may, upon such application as aforesaid, or upon the application of the patient or any relative, friend, or creditor of the patient, direct that such inquiries be made and notices given as may be deemed advisable, and may make such order in the premises as may be thought proper.

128. (1) For the purposes of this Act the Master may do such acts and exercise such powers with respect to an estate committed to his management and care as the patient himself could have done if sane, and may, in the name and on behalf of the patient, execute and sign deeds and instruments (including instruments under the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same), transfers of shares, receipts, releases, and other documents, which shall be as effectual as if executed and signed by the patient himself while sane, and shall be acted upon accordingly by the Registrar-General and all other persons without any obligation to inquire whether the person upon whose behalf the Master purports to act be a patient or not.

Master may execute instruments on behalf of patient. Title of purchaser from the Master. *Ibid.* s. 23.

(2) Persons dealing with the Master in respect of any estate over which he has assumed control shall be as fully protected as if the owner of the estate were a patient at the time of the dealing, although he is not, in fact, then a patient; and a purchaser or mortgagee from the Master of any real or personal property of a patient shall not be bound to inquire as to the Master's powers so to deal with that property, or as to the application of the purchase money.

Lunacy.

Summary proceedings for protection of property of insane patients.

42 Vic. No. 7, s. 142.

129. (1) If any real or personal property of an insane patient be wrongfully held, detained, converted, or injured, or if any sum of money be due and owing to such patient by any person, the Master may as such Master claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by summary proceeding on complaint before a Judge who is hereby authorised and required on proof to his satisfaction of the said cause of complaint to make an order requiring the defendant to give up possession of such property, or to pay reasonable damages to be fixed by the said order for the conversion or injury thereof, or to pay the sum so due as aforesaid, and in default of compliance by the defendant with the said order, to order in and by the same or any subsequent order that the defendant be committed to prison for any period not exceeding six months.

(2) Such Judge may in any complaint under this section make such order as to costs as he thinks fit, and every order under this section shall have the same effect, and may be enforced in like manner as any judgment, decree, or order of the Supreme Court in its jurisdiction at law or in equity.

Payments to consolidated revenue.
56 Vic. No. 23, s. 24.

130. (1) The Master shall pay into the consolidated revenue for the use and benefit thereof, and at such times and in such manner as the Governor may from time to time appoint, all money paid to him for the maintenance of any patient, and all percentages and fees.

Payments to credit of trust fund.

(2) The Master shall at such times, and in such manner as aforesaid, pay all other money coming to his hands into the Treasury to the credit of a trust fund, and may withdraw the same or any part thereof and apply it for the purposes in the next section mentioned, or pay it to the consolidated revenue for the purposes of maintenance, clothing, medicine and care in that section mentioned.

(3) No money so deposited shall be withdrawn or paid from the Treasury otherwise than by the authority of the Court or by the Master for the purposes aforesaid.

Separate accounts.

(4) A separate account shall be kept by the Master of payments to the credit of the trust fund, and of payments out in respect of the estate of each patient.

Disposition of money in the hands of the Master.

ibid. s. 25.

131. The Master may apply money coming to his hands in respect of the estate of a patient, and standing to the credit of the trust fund towards all or any of the following purposes:—

- (a) The payment of the debts of the patient, and the repayment of expenses chargeable to his estate;
- (b) His maintenance, clothing, medicine, and care, past and future, and in the event of his death, his funeral expenses;
- (c) The maintenance of his wife or any child, parent, or other person dependent upon the patient, or for whose maintenance the patient provided when sane;

(d)

Lunacy.

- (d) The payment of all proper costs, charges, and expenses incurred in or about the care, protection, recovery, sale, mortgage, leasing, disposal, and management of his estate ;
- (e) The preservation and improvement of the patient's estate ;
- (f) The investment, in manner hereinafter provided, of money not presently required for the above purposes ;
- (g) The payment to a patient or any person under sections one hundred and thirty-four and one hundred and thirty-six of this Act :

Provided that the Master may report to and apply for the advice and directions of the Court upon any of the matters aforesaid ; and the Court may, upon such application as aforesaid, or upon the application of the patient, or any relative, friend, or creditor of the patient, direct such inquiries to be made, and notices given as may be deemed advisable, and may make such orders in the premises as may be thought proper.

132. The Master may invest any money unapplied as aforesaid in Government debentures, by paying the same into the Treasury under such conditions as to interest and otherwise as may be prescribed by rules of Court, or by depositing the same at interest in any incorporated bank carrying on the business of banking in Sydney, which has been approved by the Court.

Powers of Master as to investment.
56 Vic. No. 23, s. 26.

133. The Master may, with the leave of the Court, to be obtained in such manner as is or may from time to time be prescribed by rules of Court, invest any money unapplied as aforesaid upon mortgage of real estate or other security, or in the purchase of land, if such purchase appear to the Court to be desirable for the purpose of protecting the estate of the patient from injury or deterioration in value, or of increasing the value or facilitating the sale of other lands of the estate ; and the Court may, on the hearing of the application, deal with the same *ex parte*, or require notice to be served on any person.

Investment on mortgage.
Ibid. s. 27.

134. (1) If any patient is permitted to be absent from an hospital for the insane or licensed house upon trial or otherwise under the provisions of this Act, the Master may, in his discretion, pay over to the patient, or to any person on his behalf who gives satisfactory security to the Master for the proper management and disposal thereof, the whole or any part of the money standing to the credit of the patient in the trust fund, and may hand over to him, or to the person aforesaid, all or any deposit-receipts, debentures, stock, securities, title deeds, documents, and chattels forming part of his estate.

Payment over of estate before discharge in certain cases.
Ibid. s. 28.

(2) The receipt of the patient or person aforesaid shall be an absolute discharge to the Master, notwithstanding any informality in or about the granting of such permission as aforesaid.

135. Where a patient has, before his discharge, made or executed any transfer, sale, alienation, charge, or lease of any property, real or personal, the Master may, if he thinks fit, set aside the same, or any part thereof, and may direct that the same be sold, &c., by patient before his discharge, and the proceeds thereof may be set aside.

Sale, &c., by patient before his discharge may be set aside.
Ibid. s. 29.

Lunacy.

real or personal, the Court may, on application being made by the Master in such manner as is or may from time to time be prescribed by rules of Court, and on notice being given to such persons as the Court may direct, set aside the said transfer, sale, alienation, charge, or lease, and may make such order in the premises as may be just; and for the purposes of the application the patient shall be prima facie deemed to have been insane at the time when he made or executed the transfer, sale, alienation, charge, or lease.

Payments to discharged patients and to personal representatives of deceased patients.
56 Vic. No. 23, s. 30.

136. (1) After the discharge or death of a patient, the Master may pay over to him in the case of his discharge, or to his legal personal representative in the case of his death, all money standing to the credit of that patient in the trust fund, and may hand over to him or to his legal personal representative (as the case may be) all deposit receipts, debentures, stock, securities, title deeds, and chattels forming part of his estate.

(2) The receipt of the said patient or his legal personal representative shall be an absolute release to the Master, notwithstanding any informality in the discharge of the patient, or in the mode of obtaining the same.

(3) The Master may, in the exercise of his discretion, require a discharged patient, claiming money or property as aforesaid, to obtain the order of the Court.

Payment of sum not exceeding £100 to representatives or legatees.

(4) Where advertisements for creditors to come in and prove their debts have been duly published by the Master in the course of managing the property of a patient, and no debt has been proved within the time fixed for that purpose, or no debt remains unsatisfied, the Master may, in his discretion, after the death of the patient, pay any sum not exceeding one hundred pounds out of money standing to the credit of the patient in the trust fund, or may hand over any deposit-receipts, debentures, stock, securities, title-deeds, and chattels not exceeding that value and forming part of the estate of the patient to any person claiming as entitled in the distribution of his estate, or as a legatee under his will, notwithstanding letters of administration have not been obtained or the will proved, and notwithstanding legal proof is not given of the right or title of the person claiming as aforesaid.

Provisions as to personal effects of patient in hands of Master not claimed for two years, and as to moneys standing to credit of patient for a period of six years after his death.
Ibid. s. 32.

137. (1) All personal effects in the hands of the Master belonging to a patient, and not claimed within two years from the date of the discharge of that patient, may be sold by direction of the Master, and the proceeds of the sale shall be paid by him into the consolidated revenue.

(2) All moneys standing to the credit of a patient in the trust fund at the end of six years from the death of such patient shall be carried to and form part of the consolidated revenue.

(3)

Lunacy.

(3) Nothing herein contained shall affect the right of a person under the disability of infancy, coverture, insanity, or absence beyond the seas to recover the said moneys or the proceeds of the said sale at any time within six years from the removal of that disability.

138. (1) Notwithstanding the discharge or death of a patient, the Master may continue to perform the duties and exercise the powers conferred upon him with respect to the estate of that patient until he receives notice of such discharge or death as aforesaid.

Master may act until he receives notice of death or discharge of patient.

56 Vic. No. 23, s. 33.

(2) On the discharge or death of a patient, he or his legal personal representatives (as the case may be) shall be bound by and may take advantage of an act lawfully done by the Master on behalf of the patient, as if the said act had been done by the patient himself while sane.

139. The Master may agree with any relative, guardian, or friend of any patient detained in any hospital for the insane or licensed house for his maintenance while detained therein, and such relative, guardian, or friend shall be entitled to be reimbursed all necessary sums expended in such maintenance and interest thereon out of any real or personal property of such patient.

Relative, &c., may agree for maintenance of insane patient.

42 Vic. No. 7, s. 145.

140. (1) If the health officer, or the immigration officer, or the Inspector-General of Police, or the Inspector-General certifies to the Master within sixty days after the arrival of any ship at any port in New South Wales that a passenger or seaman arriving by that ship is insane, imbecile, or idiotic, and has become, or is likely to become, a charge upon the public as an inmate of a reception house or hospital for the insane, it shall be lawful for the Master thereupon to require the owner, charterer, agent, or master of that ship to execute, with two sufficient sureties, jointly and severally, a bond to Her Majesty in such sum as the Master may determine, not exceeding five hundred pounds, conditioned to pay to the Master the maintenance of that passenger or seaman in such reception house or hospital at such rate and for such term as may be determined by the Master; or, at the option of the owner, charterer, agent, or master of the ship, subject to the approval of the Master, to return such passenger or seaman to the place whence he was shipped.

Owner, charterer, agent, or master of ship liable for maintenance of any passenger or seaman being insane and a charge upon the public.

56 Vic. No. 23, s. 4.

(2) The sureties shall justify before or to the satisfaction of the Master, and shall, by their oaths or affirmations, satisfy him that they are respectively resident in New South Wales, and worth treble the amount of the penalty of the bond over and above all liabilities.

(3) No bond shall be required when the passenger or seaman is, at the date of the arrival of the ship, domiciled in New South Wales; but the onus of proving such domicile as aforesaid shall be upon the said owner, charterer, agent, or master of the ship.

141.

Lunacy.

Penalty if owner, charterer, agent, or master neglects or refuses to execute bond.
56 Vic. No. 23, s. 5.

141. If the said owner, charterer, agent, or master of the ship neglects or refuses to execute the bond as aforesaid within seven days after being so required, he shall be liable to a penalty not exceeding five hundred pounds, to be recovered summarily before a police or stipendiary magistrate; and the said ship shall not be cleared out until the bond is executed as aforesaid.

Justices may make an order upon relations of patient for his support.
42 Vic. No. 7, s. 147.
58 Vic. No. 5, s. 11.

142. (1) If it appears to two Justices, on application by or on behalf of the Master, that any patient has not an estate or any sufficient estate applicable to the maintenance of such patient, and that any person related to such patient, in the manner next hereinafter specified, is of ability to maintain or contribute to the maintenance of such patient, such Justices may make an application in writing—

- (a) To the father of such patient; or, if the father be dead,
- (b) To the mother of such patient; or
- (c) To the husband or wife of such patient, as the case may be; or
- (d) To one or more of the children of such patient, being of the age of twenty-one years, or upwards;

for the payment to the Master of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices shall direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(2) If the sum referred to in such application is not paid pursuant thereto, the Justices shall, on complaint made by or on behalf of the Master, issue a summons to be served on the person so applied to and failing to pay as aforesaid, to answer such complaint, and upon return of such summons the Justices may, upon being satisfied as to the matters aforesaid, make an order on such person for the payment of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(3) No wife of an insane patient shall be liable under the provisions of this section except in respect of her separate estate.

(4) Payments made pursuant to any such application or order shall be sufficient discharges for such payments.

(5) Orders made under the provisions of this section shall be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under the "Deserted Wives and Children Act of 1840," or any Act passed or to be passed amending or consolidating the same.

Application for maintenance to be supported by affidavit.
58 Vic. No. 5, s. 12.

143. (1) Upon application being made to Justices under the last preceding section of this Act, there shall be lodged with the Justices the affidavit or statutory declaration hereinafter mentioned, together with a true copy of the same.

(2)

Lunacy.

(2) The affidavit or declaration shall be made by the Master or the Chief Clerk in Lunacy, on his behalf, setting forth among other things the following facts to the best of his knowledge, information, and belief:—

- (a) The degree of relationship of the person sought to be charged to the patient;
- (b) That such person is of ability to pay for or towards the maintenance of the patient;
- (c) The particulars of the patient's property (if any) and that the same is not sufficient for his maintenance, clothing, medicine, and care.

144. Upon complaint being made under section one hundred and forty-two of this Act, the copy of the affidavit or declaration lodged with the Justices as abovementioned shall be served with the summons; and the affidavit or declaration, or the copy served as aforesaid shall, at the hearing of the complaint, be evidence of the matters therein stated.

Proceedings on complaint made.
58 Vic. No. 5, s. 13.

145. The Justices may on complaint made by or on behalf of the Master under the provisions of section one hundred and forty-two of this Act order payment of a reasonable sum for or towards the past maintenance of a patient, and for or in respect of money expended on his clothing, medicine, and care; and such order may be made notwithstanding the patient has been discharged or is dead.

Justices may make orders for payment of arrears of maintenance.
56 Vic. No. 23, s. 35.

146. If the amount mentioned in an order made by Justices under the provisions of section one hundred and forty-two, or of the last preceding section of this Act, remains unpaid for six months from the date thereof, the Master may apply, on notice to the person named in such order as aforesaid, to the Court for an order directing payment of the amount due; and upon the hearing of that application the Court may make such order in the premises as may seem just for payment of the amount found to be due as aforesaid, together with the costs of the application:

Procedure if amount mentioned in order remains unpaid for six months.
Ibid. s. 36.

Provided that nothing herein contained shall affect any other remedies which the Master may have for enforcing the order of the Justices.

147. Where it appears to the Master that payments agreed to be made under this Act for the maintenance of or otherwise on behalf of an insane person or patient have fallen into arrears through circumstances beyond the control of the person agreeing as aforesaid, the master may in his discretion:—

Maintenance.
Discretion of Master to forego arrears or to accept a smaller sum in satisfaction.
Ibid. s. 34.

- (a) forego altogether the payment of such arrears; or
- (b) accept a smaller sum in satisfaction thereof; or
- (c) make such other agreement as he may think just and reasonable.

Lunacy.

The Court may direct the Master to report as to the insanity of any patient, &c.
42 Vic. No. 7, s. 146.

148. The Court may direct the Master to personally examine any insane patient, and take evidence and call for information as to the insanity of such patient, and report thereon to the Court, and the Court may make orders for—

- (a) the appointment of a guardian or otherwise for the protection, care, and management of the person or of the estate, or of the person and estate, of any patient who by any such report is found to be insane; such guardian, according to the nature of his appointment, to have the same powers and authorities, and be subject to the same control and liabilities, as a committee of the person and estate of an insane person appointed under this Act; and also
- (b) the appointment of a receiver or otherwise for the protection, care, and management of the estate of such insane patient; such receiver to have the same powers and authorities and be subject to the same control and liabilities as a receiver of the estate of an insane person appointed under this Act; and also
- (c) the application of the income of such insane patient or a sufficient part thereof for his maintenance and support, and in payment of the costs, charges, and expenses attending the protection, care, and management of the person and estate of such insane patient, and of or in connection with the said examination by the Master and the obtaining of such orders by the Court; and as to
- (d) the investment or other application for the purpose of accumulation or otherwise of the surplus (if any) of such income as last mentioned for the use of such patient, his wife, or children as to the Court may seem fit.

(3.) *Management of the estates of insane persons.*

Power to raise money for certain purposes.
53 and 54 Vic., c. 5, s. 117.
42 Vic. No. 7, ss. 106, 151.

149. (1) The Court may order that any property of an insane person, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the Court thinks most expedient for the purpose of raising or securing or repaying with or without interest money which is to be or which has been applied to all or any of the purposes following:—

- (a) Payment of the insane person's debts or engagements;
- (b) Discharge of any incumbrance on his property;
- (c) Payment of any debt or expenditure incurred for the insane person's maintenance or otherwise for his benefit;
- (d) Payment of or provision for the expenses of his future maintenance.
- (e) Payment of the costs of any proceeding under this Act, or of any sale or other disposition made under this Act.

(2)

Lunacy.

(2) In case of a charge or mortgage being made under this Act for the expenses of future maintenance the Court may direct the same to be payable, either contingently, if the interest charged is a contingent or future one, or upon the happening of the event if the interest is depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as the Court thinks expedient.

150. The Court may by order authorise and direct the committee of the estate of an insane person to do all or any of the following things:—

- Powers exercisable by committee under order of Court.
- (a) Sell any property belonging to the insane person ; 53 and 54 Vic., c. 5, s. 120.
- (b) Make exchange or partition of any property belonging to the insane person, or in which he is interested, and give or receive any money for equality of exchange or partition ; 42 Vic. No. 7, ss. 10C, 151, 160. *Ibid.* s. 160, 161.
- (c) Carry on any trade or business of the insane person ; *Ibid.* s. 106.
- (d) Grant leases of any property of the insane person for building, agricultural, or other purposes ; *Ibid.* s. 164.
- (e) Surrender any lease and accept a new lease ; *Ibid.* s. 148.
- (f) Accept a surrender of any lease and grant a new lease ; *Ibid.* s. 166.
- (g) Execute any power of leasing vested in an insane person having a limited estate only in the property over which the power extends ; *Ibid.* s. 165.
- (h) Perform any contract relating to the property of the insane person entered into by the insane person before he became an insane person ; *Ibid.* s. 158.
- (i) Surrender, assign, or otherwise dispose of, with or without consideration, any onerous property belonging to the insane person ; *Ibid.* s. 163.
- (j) Exercise any power or give any consent required for the exercise of any power where the power is vested in the insane person for his own benefit, or the power of consent is in the nature of a beneficial interest in the insane person ; *Ibid.* s. 168.
- (k) Sequester the estate of the insane person under the provisions of the bankruptcy laws ;
- (l) Bring lands under the provisions of the "Real Property Act" or any Act passed or to be passed amending or consolidating the same ;
- (m) Bring and defend actions, suits, and other proceedings on behalf of the insane person.

151. Any property taken in exchange and any renewed lease accepted on behalf of an insane person under the powers of this Act, shall be to the same uses and be subject to the same trusts, charges, incumbrances, dispositions, devises, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to.

Property exchanged and renewed lease to be to same uses as before.
53 and 54 Vic., c. 5, s. 121.
42 Vic., No. 7, ss. 150, 160.

Lunacy.

Extent of leasing power.

53 and 54 Vic., c. 5, s. 122.

42 Vic. No. 7, s. 164.

152. (1) The power to authorise leases of an insane person's property under this Act shall extend to property of which the insane person is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the insane person, and all persons entitled in remainder and reversion expectant upon the estate tail of the insane person including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the insane person shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the insane person or his committee would have had.

42 Vic. No. 7, ss. 148, 164, 166.

(2) Leases authorised to be granted and accepted by or on behalf of an insane person under this Act may be for such number of lives or such term of years at such rent and subject to such reservations, covenants, and conditions as the Court may order.

Ibid. s. 149.

(3) Fines or other payments on the renewal of leases may be paid out of the estate of the insane person, or charged with interest on the leasehold property, as the Court may order.

Insane person's interest in property not to be altered.

53 and 54 Vic., c. 5, s. 123.

42 Vic. No. 7, s. 155.

153. (1) The insane or incapable person, his heirs, next of kin, devisees, legatees, executors, administrators, and assigns shall have the same interest in any moneys arising from any sale, mortgage, charge, or other disposition of land under the powers of this Act, which may not have been applied under such powers as he or they would have had in the property the subject of the sale, mortgage, charge, or disposition, if no sale, mortgage, charge, or disposition had been made, and the surplus moneys shall be of the same nature as the property sold, mortgaged, charged, or disposed of.

42 Vic. No. 7, ss. 160, 167.

(2) Moneys received for equality of partition and exchange, and all fines, premiums, and sums of money received upon the grant or renewal of a lease where the property, the subject of the partition, exchange, or lease was real estate of the insane or incapable person shall, subject to the application thereof for any purposes authorised by this Act, be considered as real estate, except in the case of fines, premiums and sums of money received upon the grant or renewal of leases of which the insane person was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the insane person.

Ibid. ss. 106, 155, 160.

(3) In order to give effect to the foregoing provisions of this Act the Court may make such orders and direct such conveyances, deeds, and things to be executed and done as it thinks fit.

Expenses of improvements may be charged on estate.

53 and 54 Vic., c. 5, s. 118.

42 Vic. No. 7, s. 154.

154. (1) The Court may order that the whole or any part of any moneys expended or to be expended under its order for the permanent improvement, security, or advantage of the property of the insane person, or of any part thereof, shall with interest be a charge upon the improved property or any other property of the insane person, but so that no right of sale or foreclosure during the lifetime of the insane person

Lunacy.

person be conferred by the charge, and the interest shall be kept down during his lifetime out of the income of his general estate as far as the same is sufficient to bear it.

(2) The charge may be made either to some person advancing the money, or, if the money is paid out of the insane person's general estate, to some person as a trustee for him as part of his personal estate.

155. Where the net amount or net estimated value of the property of any insane person does not exceed the sum of five hundred pounds, the Court may order the amount of the property or the produce thereof when realized to be paid or transferred to some fit person, to be applied in or towards the maintenance of the insane person, either at his discretion, or in such manner, and subject to such control as the Court may direct, and for the purpose of giving effect to any such order the Court may order any real estate or other property whatsoever of the insane person to be sold, and a valid conveyance or transfer thereof to be executed or made by such person as it shall direct.

Where property very small the Court may apply same directly for insane person's maintenance.

42 Vic. No. 7, s. 156.

156. (1) Where it appears to the Court that there is reason to believe that the unsoundness of mind of any insane person is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of such insane person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income, or of ready money belonging to the insane person, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the Court may allow thereout such amount as it may think proper for the temporary maintenance of the insane person and the members of his immediate family who are dependent upon him for maintenance, and may order the payment of any such sum of money as aforesaid, or any part thereof, to some fit person, and may direct the same to be paid to such person accordingly, and when received to be applied, and the same shall accordingly be applied in or towards such temporary maintenance as aforesaid.

Where insanity temporary the Court may apply cash arising from income for temporary maintenance.

53 and 54 Vic., c. 5, s. 127.

42 Vic. No. 7, s. 157.

(2) The receipt in writing of the person named in the order to whom payment is to be made for any moneys payable to him by virtue thereof shall effectually discharge the banker, agent, or other person paying the same from the moneys therein respectively expressed to be received.

(3) The person so receiving any moneys by virtue of this present provision shall pass an account thereof before the Master when required.

157. Where a person, being a member of a copartnership firm, becomes insane, the Court may, by order, dissolve the partnership.

The Court may dissolve partnership.

Ibid. s. 119.

158. Ibid. s. 159.

Lunacy.

Power to carry orders into effect.
53 and 54 Vic., c. 5, s. 124.
42 Vic. No. 7, ss. 152, 154, 159.

158. (1) The committee of the estate, or such person as the Court approves, shall, in the name and on behalf of the insane person, execute, make, and do all such conveyances, deeds, transfers, and things for giving effect to any order under this Act as the Court directs; and every such conveyance, deed, transfer, and thing shall be valid and effectual, and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject.

Conveyance of interest of married woman.
56 Vic. No. 23, s. 16.

(2) Where by the order of the Court any real estate is ordered to be sold, mortgaged, or charged, an effectual conveyance, mortgage, or charge may be made of any interest of a married woman in such estate, being an insane person, without any acknowledgment by her.

Committee may exercise power vested in insane person in character of guardian, &c.
53 and 54 Vic., c. 5, s. 128.
42 Vic. No. 7, s. 168.

159. Where a power is vested in an insane person in the character of a trustee or guardian, or the consent of an insane person to the exercise of a power is necessary in the like character or as a check upon the undue exercise of the power—and it appears to the Court to be expedient that the power should be exercised or the consent given (as the case may be), the committee of the estate, in the name and on behalf of the insane person, under an order of the Court made upon the application of any person interested in the exercise of the power, may exercise the power or give the consent (as the case may be) in such manner as the order may direct.

Appointment of new trustees under power to have effect of appointments by Court and like orders may be made as under any law relating to trusts.
Ibid. s. 129.
Ibid. s. 169.

160. Where under this Act the committee of the estate, under order of the Court, exercises in the name and on behalf of the insane person a power of appointing new trustees vested in him, the persons who shall after and in consequence of the exercise of the power be the trustees shall have all the same rights and powers as they would have had if the order had also been made by the Supreme Court under any law for the time being in force relating to trusts; and the Court may in such case where it seems to be expedient make any such order respecting the property subject to the trust as might have been made in the same case under the provisions of any such law as aforesaid on the appointment thereunder of new trustees.

Temporary provision for maintenance of insane person.
53 and 54 Vic., c. 5, s. 130.

161. In any case where, pending the appointment of committees, it appears to the Master desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the insane person, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers, or of any other person, the Master may, by certificate, authorise such banker or other person to pay to the person to be named in such certificate such sum as he certifies to be proper; and may, by such certificate, give any directions as to the proper application thereof for the insane person's benefit by that person, who shall be accountable for the same, as the Master directs.

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162. Where any stock is standing in the name of or is vested in an insane person beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of an insane person in trust for the insane person or as part of his property, and the committee dies intestate or himself becomes insane or is out of the jurisdiction, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock and to receive and pay over the dividends thereof to a new committee or as he directs for the space of fourteen days after a request in writing for that purpose made by a new committee, then the Court may order some fit person to transfer the stock to or into the name of a new committee or otherwise, and also to receive and pay over the dividends thereof, or such sums of money, and in such manner as the Court directs.

Stock belonging to insane person may be ordered to be transferred.

53 and 54 Vic., c. 5, s. 133.

42 Vic. No. 7, s. 170.

163. Where any stock is standing in the name of, or vested in, a person residing out of New South Wales, the Court, upon proof to its satisfaction that such person has been declared idiot, lunatic, or of unsound mind, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where he is residing, may order some fit person to make such transfer of the stock to or into the name of the curator or other person appointed as aforesaid or otherwise, and also to receive and pay over the dividends thereof as the Court thinks fit.

Stock in name of insane person residing out of New South Wales may be ordered to be transferred.

Ibid. s. 134.

Ibid. s. 171.

164. Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made.

Who shall be appointed to make transfer.

42 Vic. No. 7, s. 172.

165. The Court may order the costs and expenses of and relating to the petitions, applications, orders, directions, conveyances, and transfers to be presented or made in pursuance of this part of this Act to be paid and raised out of or from the property, or the rents, income, or profits in respect of which the same respectively shall be presented or made in such manner as it may think proper; and the Court may order such sum by way of remuneration to be paid out of the estate to the committee of any insane person as the Court may think fit.

Costs and remuneration may be paid out of estate.

Ibid. s. 173.

166. Every conveyance, lease, surrender, transfer, charge, or other disposition made or accepted or executed and every payment made under this Act shall be valid to all intents and binding upon all persons whomsoever; and this Act shall be a full indemnity and discharge to all persons for all acts and things done or permitted to be done in pursuance thereof, or of any order of the Court made or purporting to be made under this Act.

All deeds, transfers, payments, &c., made in pursuance of this Act, to be valid and binding.

Ibid. s. 174.

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Act not to subject
insane person's
property to debts.
53 and 54 Vic., c. 5,
s. 116 (5).
42 Vic. No. 7, s. 175.

167. Nothing in this Act contained shall subject any part of the property of an insane person to the debts or demands of his creditors, further or otherwise than as the same is now subject thereto by due course of law.

PART IX.
Court visitor.

Court may order
insane person to be
visited.
56 Vic. No. 23, s. 13.

- 168.** The Court may by general rule or special order :—
- (a) direct the Inspector-General or other fit person to visit any insane person and to make a report in writing to the Court or a Judge of the state of mind and bodily health and general condition, and also of the care and treatment of the person visited ;
 - (b) direct that such information as may be deemed necessary be given to the person making the visit as to the nature and extent of the fortune of the person visited, and as to the orders of the Court made in respect thereof ;
 - (c) order that any fees and expenses connected with the visit be paid out of the estate of the person visited.

PART X.
Miscellaneous provisions.

Power to judges of
Supreme Court to
make general orders.
42 Vic. No. 7, s. 176.
56 Vic. No. 23, s. 20
(i).
58 Vic. No. 5, s. 14
(ii).

169. (1) The Judges, or any three of them, may make general orders and rules for regulating, in all cases, the form and mode of proceeding before the Court, and before and by the Master, for carrying into effect the several objects of Parts VII and VIII of this Act, so far as the same relate to the powers or duties of the Court or of the Master, and for regulating the practice and forms in all matters of Lunacy, and the amount of percentage, and of the fees payable in proceedings relating to insane persons and patients and their estates, and the mode in which the same shall be ascertained and paid :

(2) A copy of every such rule shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

Governor may make
regulations.
Ibid. s. 177.
58 Vic. No. 5, s. 15.

170. The Governor may make regulations for carrying into effect the purposes and provisions of this Act in all respects other than as hereinbefore provided for, and in particular for the care and maintenance

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maintenance of patients while boarded-out and the inspection of those patients and of the houses and premises where they may reside, and may impose any penalty not exceeding twenty pounds for any breach of those regulations; and all regulations when made and published in the Gazette shall have the force of law, and shall be laid before both Houses of Parliament without delay.

171. In any proceeding taken against a superintendent of an hospital for the insane or for the criminal insane, licensed house, or reception house, or other person authorised by this Act to take charge of any person as insane, or against any assistant or servant of any such superintendent or person authorised as aforesaid for taking, confining, detaining, or retaking any person as an insane person or patient, the party complained of may plead the general issue, and may under that plea give in evidence the order, request, and certificates or certificate mentioned in parts I to VI (inclusive) of this Act in his defence; and the certificate or certificates and the request, or the certificate or certificates and the order (as the case may be) shall be a justification for taking, confining, detaining, or retaking that insane person or patient.

Superintendents, &c., may plead the general issue. Certificates, &c., a bar to proceedings. 56 Vic. No. 23, s. 10.

172. (1) No suit or action shall lie against any person for or on account of any act, matter, or thing done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if that person has acted in good faith and with reasonable care.

No action to lie against person who has acted in good faith, &c. *Ibid.* s. 11.

(2) No such suit or action as aforesaid shall be commenced but within three months after the alleged cause of action, or, in the case of a suit or action by a person who has been an insane person or patient, but within three months next after the making of a superseding order, or next after the discharge of the patient.

Or where action not commenced within three months.

(3) Proceedings in such suit or action as aforesaid may, on summary application to the Court, be stayed upon such terms as to costs or otherwise as the Court may think fit, if the Court is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care, or that the said proceedings have been commenced after the expiration of the three months aforesaid.

Stay of proceedings.

173. Any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, hospital for criminal insane, public hospital, or gaol, who strikes, wounds, illtreats, or wilfully neglects any insane patient confined or detained therein shall for every such offence, be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding six months:

Penalties on officers or servants illtreats the insane, 42 Vic. No. 7, s. 179.

Provided that nothing in this clause contained shall prejudice or affect the civil or criminal responsibility (if any) of the offender at common law or under any Statute.

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Penalty on officers,
&c., allowing patients
to escape or be at
large without
permission.
42 Vic. No. 7, s. 180.

174. If any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, public hospital, or gaol, through wilful neglect or connivance, permits any insane patient to escape from any such hospital, licensed house, reception house, or gaol, or to be at large without such order as in this Act mentioned (save in the case of temporary absence authorised under the provisions aforesaid), or secretes, or abets, or connives at the escape of any such person, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Reports to be made
to the Master and in
certain cases to the
Colonial Secretary.
Ibid. s. 181.
56 Vic. No. 23, s. 31.

175. Every superintendent of an hospital for the insane shall forward to the Master, within fourteen days from the reception of any patient into any such hospital, the name of such patient, together with a true and particular account, so far as the same is known or can be ascertained, of his property, and of the names and residences of his relatives known, or supposed, to be able to maintain or contribute to the maintenance of such patient; and shall from time to time, without any unnecessary delay, forward to the Master a report in writing of the death, discharge, removal, absence on trial or for the benefit of his health, return, escape, and recapture of every patient in the said hospital; and every such superintendent and the Inspector-General, and every official visitor, shall communicate to the Master all particulars that may come to his knowledge respecting the property of any patient in any hospital for the insane, reception house, or public hospital, and if any such superintendent, Inspector-General, or official visitor has reason to believe that the property of any such patient is not duly protected, or that the income thereof is not duly applied for his maintenance, such superintendent, Inspector-General, or official visitor shall report thereon to the Colonial Secretary as well as to the Master.

Superintendents of
hospitals and licensed
houses to show
official visitors and
Inspector-General
the whole of house
and answer inquiries.
Ibid. s. 82.

176. (1) The superintendent of every such hospital, reception house, licensed house, or other place officially visited under this Act, shall show to the Inspector-General or official visitors visiting the same, every part thereof respectively, and every person detained therein, and shall give full and true answers to the best of his knowledge to all questions which the Inspector-General or official visitors shall ask in reference to the said hospital, reception house, licensed house, or other place, and the patients confined therein, and shall produce to the Inspector-General and official visitors respectively the several books by this Act required to be kept, and shall furnish all such returns as may be required by the Inspector-General or official visitors.

(2) Every such superintendent or other officer and every servant of any such superintendent or other officer who:—

- (a) conceals or attempts to conceal, or refuses or wilfully neglects to show any part of such hospital or house or other place, or any building or appurtenances belonging thereto, or any person detained or being therein from or to any such official visitors or Inspector-General as aforesaid; or (b)

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- (b) does not give true and full answers to the best of his knowledge to all questions which the official visitors or Inspector-General ask in reference to the matters aforesaid; or
- (c) neglects or refuses to furnish such returns as aforesaid, or to produce to the Inspector-General or official visitors—
- (i) the several books by this Act required to be kept; and also
 - (ii) all orders and certificates relating to patients admitted since the last visitation of the Inspector-General or official visitors; and
 - (iii) in the case of a licensed house, the license then in force for such house; and
 - (iv) such other documents and papers relating to any of the patients at any time received into such hospital, licensed house, reception house, or other place as the Inspector-General or official visitors shall require to be produced to him or them;

shall be guilty of a misdemeanour.

177. (1) Every letter written by a patient in any such hospital, licensed house, reception house, or other place officially visited under this Act and addressed to the Inspector-General or official visitors shall be forthwith forwarded unopened.

Letters of patients to be forwarded, or if not, to be laid before Inspector-General, &c.

42 Vic. No. 7, s. 183.

(2) Every letter written by any such patient and addressed to any person other than those abovementioned shall be forwarded to the person to whom it is addressed, unless the superintendent of such hospital, licensed house, or reception house, or in the case of a single patient the person having charge of him shall upon reading the same prohibit the forwarding of such letter by endorsement to that effect under his hand on the letter, and in such case he shall lay the letter so endorsed before the Inspector-General or official visitors, whichever shall next thereafter visit such hospital, reception house, licensed house, or such other house as aforesaid on his or their next visit, and no such letter if unsent shall be destroyed until it has been submitted to the Inspector-General.

(3) Any such superintendent or any such person in charge as aforesaid who fails to comply with any of the requirements of this section shall be liable to a penalty not exceeding ten pounds in respect of every such offence.

Misdemeanours.
Medical practitioner
—untrue entry—
untrue statement.

Ibid. s. 184.

178. Every person who for the purposes of this Act—

- (a) signs or describes himself in any statement or certificate as a medical practitioner, not being such within the meaning of this Act; or
- (b) wilfully makes or is privy to the making of an untrue entry in any of the books required by this Act to be kept; or
- (c) wilfully makes an untrue statement in any report, or with reference to anything by this Act required to be made or done;

shall be guilty of a misdemeanour.

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Power to Inspector-General and official visitors to summon witnesses.
42 Vic. No. 7, s. 185.
Nineteenth Schedule.

179. (1) The Inspector-General or official visitors visiting any hospital, licensed house, reception house, or other place officially visited under this Act may require by summons according to the form in Schedule Nineteen to this Act any person to appear before him or them to testify on oath the truth touching any of the matters respecting which the Inspector-General or official visitors is or are by this Act authorised to inquire.

Penalty.

(2) Every person who does not appear pursuant to such summons (having had his reasonable expenses paid or tendered to him at the time of service of such summons), or does not assign some reasonable excuse for not so appearing, or appears and refuses to be sworn or examined shall, for every such neglect or refusal, be liable to a penalty not exceeding ten pounds.

Also to examine persons not summoned.

(3) The Inspector-General or official visitors may also examine on oath any person appearing as a witness or present at the time of any such inquiry touching any of the matters aforesaid although no such summons as aforesaid may have been served upon him.

Penalties.

42 Vic. No. 7, s. 186.
58 Vic. No. 5, s. 16.

180. Penalties may, except where otherwise provided under this Act, be recovered before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

SCHEDULES.

SCHEDULE ONE.

Date of Act.	Title of Act.	Extent of Repeal.
22 Vic. No. 14 ...	An Act to expedite suits, &c. ...	Section 6 so far as it deals with jurisdiction in lunacy.
42 Vic. No. 7 ...	Lunacy Act of 1878 ...	The whole.
45 Vic. No. 16 ...	Lunacy Act Amendment Act of 1881 ...	The whole.
56 Vic. No. 23 ...	Lunacy Act Further Amendment Act of 1893.	The whole.
58 Vic. No 5 ...	Lunacy Convention Act of 1894...	The whole.

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SCHEDULE TWO.

Form of medical certificates to accompany order or request for reception into an hospital or licensed house.

I, THE undersigned, being a medical practitioner, hereby certify that I, on the day of _____, one thousand eight hundred and _____, at [here insert the particulars of the place of examination, as the street, number of the house, or other particulars] separately from any other medical practitioner, personally examined _____, of [insert residence, and profession or occupation, if any] and that the said is [insane or an idiot] 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:—

42 Vic. No. 7.
Schedule Two.

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 _____ one thousand eight hundred and _____

(Signed)

Place of abode.

SCHEDULE THREE.

Order for conveyance to an hospital or licensed house.

WE, the undersigned Justices, having called to our assistance _____ and _____, medical practitioners, and having examined _____, of [insert residence and occupation, if any] who has been brought before us as being deemed to be insane, as also the said medical practitioners, and having made such inquiry relative to the said _____ as we have deemed necessary, and being, upon such examination [if other evidence of the insanity add "with other proof"] satisfied that the said _____ is insane and in indigent circumstances [or is insane and was wandering at large] [or is insane and was discovered under circumstances that denoted a purpose of committing some offence against the law] [or is insane, and is not under proper care and control] [or is insane and is cruelly treated or neglected by _____, a relative or a 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, do hereby direct you _____ [the superintendent of the hospital or licensed house] at _____ to receive into the said hospital [or licensed house] the said _____

Given under our hands and seals this _____ day of _____ one thousand eight hundred and ninety _____

(Signed)

J.P.
J.P.

To _____ superintendent of the hospital (or licensed house) at _____

Subjoined is a statement respecting the said _____

NOTE.—When the case is one of emergency and a certificate is signed in the form of Schedule Seven, this form must be altered so as to refer to one medical practitioner.

SCHEDULE

Lunacy.

SCHEDULE SIX.

58 Vic. No. 5.
Schedule.*Order to convey an insane patient to adjacent colony.*

WE, the undersigned Justices, having called to our assistance _____ and _____, medical practitioners, and having examined _____ of [*insert residence and occupation, if any*], who has been brought before us as being deemed to be insane, as also the said medical practitioners; and having made such inquiry relative to the said _____ as we have deemed necessary, and being upon such examination [*if other evidence of the insanity, add "with other proof"*] satisfied that the said _____ is insane and in indigent circumstances, *or is insane and was wandering at large, or is insane and was discovered under circumstances that denoted a purpose of committing some offence against the law, or is insane and is not under proper care and control, or is insane and is cruelly treated or neglected by _____, a relative or a 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 that it is for his benefit that he should be sent for care, treatment, and maintenance to the colony of [*here insert name of colony*]*, do hereby direct you [*person to convey insane patient to adjacent colony*] to convey him to [*place in adjacent colony agreed upon*] and there to set him at large, and thereupon to identify him to [*name of a police officer of the adjacent colony*] so that the said _____ may apprehend him in due course pursuant to the lunacy statutes of the said colony to be dealt with thereunder.

Given under our hands and seals this _____ day of _____ one thousand eight hundred and ninety _____

(Signed)

J.P.
J.P.

SCHEDULE SEVEN.

42 Vic. No. 7.
Schedule Six.*Certificate of emergency.*

WE, the undersigned Justices, certify that we cannot call to our assistance two medical practitioners without causing delay prejudicial to _____, a person certified by one medical practitioner to be insane, and do direct his reception into a reception house, gaol, or public hospital for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this _____ day of _____ one thousand eight hundred and ninety _____

(Signed)

J.P.

SCHEDULE EIGHT.

I, THE undersigned Justice, do direct that _____, a person for whose reception into an hospital for the insane or licensed house the proper authority has been signed and remains in force, be received into a reception house, public hospital, or gaol, for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this _____ day of _____ one thousand eight hundred _____

(Signed)

J.P.

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Ibid. Schedule
Thirteen.

SCHEDULE FIFTEEN.

Form of license to keep a licensed house.

I do hereby, in pursuance of the Lunacy Act 1898, grant to
of _____ a license to be in force for three years from the date hereof
to keep for the reception of _____ insane persons of the male (*or* female)
sex (*or* of both sexes) the house, the particulars of which appear in the notice given
on the _____ day of _____ to the Colonial Secretary.

Witness my hand this _____ day of _____ one thousand eight hundred and _____

Governor.

Ibid. Schedule
Fourteen.

SCHEDULE SIXTEEN.

Statement respecting the criminal insane.

(If any particulars in this statement be not known the fact is to be so stated.)

Name in full?
Age?
Married, single, or widowed?
Number of children?
Age of youngest child?
Previous occupation?
Native place?
From whence brought?
Religious persuasion?
Supposed cause of insanity?
How long has the attack lasted?
Has _____ been insane before?
State number of attacks?
Age if known at first attack?
Has _____ any insane relations?
Has _____ ever been an inmate of any institution for the insane?
Is _____ subject to fits?
Is _____ dangerous to others?
Crime or offence?
Verdict of jury?
Sentence?
Name and address of nearest relations and friends?

Ibid. Schedule
Fifteen.

SCHEDULE SEVENTEEN.

WHEREAS it has been duly certified under section sixty-six of the Lunacy Act, 1898, that
[A.B.], a prisoner in _____ gaol, is insane, I hereby order the said [A.B.] to be
removed to the hospital for the criminal insane at _____, there to remain until he has
become of sound mind or until he be otherwise discharged by due course of law.

Dated this _____

Colonial Secretary.

SCHEDULE

Lunacy.

SCHEDULE EIGHTEEN.

I [A.B.], a medical practitioner, have this day examined [C.D.], residing at _____ and hereby certify that he is still insane, and that he appears to be kindly treated by the persons under whose care he is living.

Ibid. Schedule Sixteen.

(Signed)
(Address)

Dated this _____ day of _____ one thousand eight hundred and _____

SCHEDULE NINETEEN.

I [A.B.], the Inspector-General (*or* we official visitors of the hospital or licensed house situate at _____), appointed under and by virtue of the Lunacy Act of 1898, hereby summon and require you personally to appear before me [*or* us] at _____, on next, the _____ day of _____, at the hour of _____, in the _____ noon of the same day, and then and there to be examined and to testify the truth concerning certain matters relating to the execution of the said statute.

Ibid. Schedule Seventeen.

Dated this _____ day of _____, one thousand eight hundred and _____

(Signature)

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SCHEDULE EIGHTH

1898 Schedule
Sixteen

I [A.B.], a medical practitioner, have this day examined [C.D.] residing at [address] and certify that he is still insane, and that he appears to be kindly treated by the persons under whose care he is being.

Dated this [day] day of [month] one thousand eight hundred and [year].
(Signature)
[Address]

SCHEDULE NINTH

1898 Schedule
Seventeen

I [A.B.], the Inspector-General (or an official visitor of the hospital or licensed house situate at [address]), appointed under and by virtue of the Lunacy Act of 1898, hereby summon and require you personally to appear before me [or us] at [address] on [day] at the hour of [time] in the forenoon of the same day, and then and there to be examined and to testify the truth concerning certain matters relating to the execution of the said statute.

Dated this [day] day of [month] one thousand eight hundred and [year].
(Signature)

[Faint, illegible text, likely a list of names or addresses]

By Authority: WILLIAM AUSTIN CLARK, Government Printer, Sydney, 1898.

[2a]

Memo. and Certificate to accompany the Lunacy Bill.

THIS Bill consolidates the whole or portions of the following Acts :—

22 Vic. No. 14 ;
42 Vic. No. 7 ;
45 Vic. No. 16 ;
56 Vic. No. 23 ;
58 Vic. No. 5.

Clause 3.—The expressions “insane person” and “insane patient” are loosely used through the Act 42 Vic. No. 7. They are now defined and carefully used throughout the Bill to agree with the defined meanings. The limitation of the definition of “insane person” to persons so found under part VII of 42 Vic. No. 7 has been removed in consequence of decisions of Mr. Justice Owen under sec. 146 of the same Act. “Incapable person” is also defined for the whole Act, but the expression is only used where it formerly appeared, *i.e.*, in the clauses taken from the Lunacy Convention Act, 58 Vic. No. 5.

Clause 6 (2).—There has been a great difficulty under the old Acts, which will be appreciated if the proviso to sec. 15, sec. 49, and Schedule 6, of the 42 Vic. No. 7 are referred to. A power was given to *receive* an insane patient into a reception-house, public hospital, or gaol (which would be all places of mere temporary detention) upon the certificate of one medical man alone, and there was apparently an intention to confer a similar power on Justices to *direct* such a reception upon one such certificate, but the latter intention has been frustrated by some words in sec. 49, perhaps added in Committee of one of the Houses without their precise effect being perceived. The result has been, it appears, very unfortunate. In many country districts, where only one medical man can be easily obtained, great delay, to the prejudice of the unfortunate patient, has been caused by the necessity of waiting till a second medical man could be brought from a distance to sign the certificate. After much consideration, and consultations between the Master-in-Lunacy and the Inspector General of the Insane, the present clause has been drafted, removing the difficulty which formerly existed. As the matter now stands, if the Justices are satisfied that the delay necessary to procure a second medical certificate will be injurious to the patient, and sign a certificate to that effect, they may send the patient to a reception-house, public hospital, or gaol, upon the certificate of one medical man. These are places in which the patient can only be detained for a very short time, and before he can be forwarded to any hospital for the insane a second medical examination must be made and a second medical certificate given. The point is one of extreme importance, as involving the liberty of the subject, but as it seems clear that it was only by an inadvertence in drafting that the power intended to be given by the Legislature was rendered inoperative, and as any detention upon a single medical certificate can only be for a few days, the step has been ventured upon of removing the existing doubt and making the matter clear.

Clauses 30 and 48.—There has been added to the persons to whom notice of the death of a patient must be sent, the committee, where such committee has signed the order for the reception of the patient into the hospital.

Clause 96.—The words “or permitted to be absent therefrom” are new, to meet an apparently omitted case.

Clause 101.—This is new, and embodies the practice that has always been followed. There is some little doubt under the existing Acts what the precise position of the lunacy jurisdiction is. Section 6 of 22 Vic. No. 14 has always been relied upon as giving jurisdiction to the Primary Judge in Equity. The intention of the Legislature seems pretty clear, and as the practice has always followed that, it is now made plain in this clause.

Clause 105.—The procedure is here left to be fixed by rules of Court. This will do away with the unnecessary expense of making applications under sections 92 and 93 of the original Act by *petition*, and will enable the judge to permit of simpler and cheaper modes of application in the appropriate cases.

Clause 106 (2).—Here too an extended power is given in order to save expense. Sometimes the superintendent of a hospital for the insane refuses to allow personal service of some legal notice on a patient, on the ground that it would excite him injuriously. In such cases a special application has to be made to the Court to dispense with personal service. To save this expense power is now inserted to make general rules of Court applicable to such cases.

Clause 132.—The words “carrying on the business of banking in Sydney, which has been approved by the Court” are a change from the former words, and follow an identically similar change made in the Equity rules. The words give wider powers of investment, and additional protection to the capital invested by requiring the approval of the Court.

Clause 142.—This has been re-drafted to conform to the decision in *ex p. Clarke*, 17 N.S.W. R., p. 249.

Clauses 116 and 169 (1).—Sections 113 to 139 inclusive, and sec. 162 of 42 Vic. No. 7, have been omitted from this Bill as referring to matters which are more properly subjects for rules of Court than for enactments, and which sec. 8 of 58 Vic. No. 5 appears to show should be left to the Master-in-Lunacy subject to rules of Court and the supervision of the Court. A similar course was followed in England by the Consolidation Commissioners there.

Clauses 149 and 150.—These follow the wording of the sections of the English Statutes mentioned in the margin, and are simply consolidation, except as to 150 (*k*), (*l*), and (*m*), which supply an omission by giving the Court the same powers, where there is a committee, as to the estates of insane *persons*, as the Master, under clause 126 has in regard to the estates of insane *patients*. See also clause 127.

Clause 161.—This also provides for the omitted case of the maintenance of an insane person and his family pending the appointment of a committee. It is taken from sec. 130 of the English Act 53 and 54 Vic., c. 5.

I must express my great obligations in this consolidation to Mr. H. F. Barton, the Master-in-Lunacy. He has placed at my disposal his very complete knowledge of the Lunacy Acts which he has so large a share in administering, and has been kind enough to go over the present Bill many times with great care. He has reported to me fully upon most of the points which have arisen, and has consulted with Mr. Justice Owen and with Dr. Manning, the late, and Dr. Sinclair, the present, Inspector General of the Insane.

I now certify that, except as hereinbefore mentioned, this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the Acts therein consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Lunacy Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
22 VICTORIA No. 14.		
6	101	
42 VICTORIA No. 7.		
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9	10	
10	Repealed by 56 Vic. No. 23, section 3.
11	13	
12	Repealed by 45 Vic. No. 16, section 8.
13	Repealed by 56 Vic. No. 23, section 3.
14	16	
15	6 (2), 17	
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Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
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56	63	
57	64	
58	Repealed by 45 Vic. No. 16, section 8.
59	66	
60	Repealed by 45 Vic. No. 16, section 8.
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83	Repealed by 45 Vic. No. 16, Section 8.
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94	105, 106 (1)	
95	106 (2)	
96	105	
97	107	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA No. 7—continued.		
98	108	
99	109	
100	110	
101	111	
102	112	
103	113	
104	114	
105	115, 116	
106	149 (1), 150 (a) (c) 153 (3)	
107	125	
108	117	
109	120	
110	121	
111	122	
112	123	
113	.....	To be dealt with by rule.
114	.....	” ”
115	.....	” ”
116	.....	” ”
117	.....	” ”
118	.....	” ”
119	.....	” ”
120	.....	” ”
121	.....	” ”
122	.....	” ”
123	.....	” ”
124	.....	” ”
125	.....	” ”
126	.....	” ”
127	.....	” ”
128	.....	” ”
129	.....	” ”
130	.....	” ”
131	.....	” ”
132	.....	” ”
133	.....	” ”
134	.....	” ”
135	.....	” ”
136	.....	” ”
137	.....	” ”
138	.....	” ”
139	.....	” ”
140	118	
141	124	
142	129	
143	Repealed by 56 Vic. No. 23, section 3.
144	” ”
145	139	
146	148	
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148	150 (c), 152 (2)	
149	152 (3)	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA No. 7— <i>continued.</i>		
150	151	
151	149 (1), 150 (a)	
152	158 (1)	
153	149 (2)	
154	154, 158 (1)	
155	153 (1), (3)	
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158	150 (h)	
159	157, 158 (1)	
160	150 (a), (b); 151, 153 (2), (3)	
161	150 (b)	
162	To be dealt with by rule.
163	150 (i)	
164	150 (d), 152 (1), (2)	
165	150 (g)	
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168	150 (j), 159	
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177	170	
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183	177	
184	178	
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186	180	
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Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA No. 7— <i>continued.</i>		
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45 VICTORIA No. 16.		
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3	67	
4	68	
5	69	
6	92	
7	14	
8	Omitted.
9	”
56 VICTORIA No. 23.		
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4	140	
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6	Validating.
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10	171	
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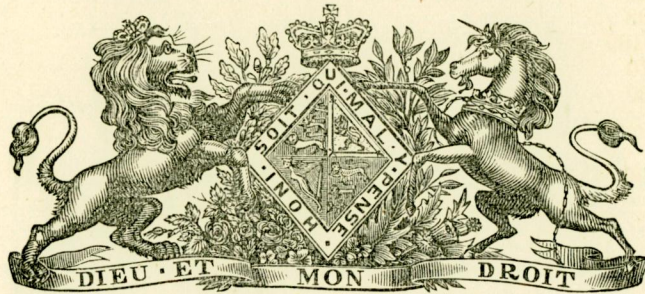
Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
58 VICTORIA No. 5.		
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2	3, 20	
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Schedule.	Schedule G.	

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and, having this day passed, is now ready for presentation to the LEGISLATIVE ASSEMBLY for its concurrence.

*Legislative Council Chamber,
Sydney, 13th October, 1898.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO SECUNDO

VICTORIÆ REGINÆ.

Act No. , 1898.

An Act to consolidate the Law respecting the Insane.

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Lunacy Act of 1898," and its sections are divided into Parts as follows:—

PART I.—*Proceedings by which persons of unsound mind may be (1.) placed under restraint; (2.) removed to and from an adjacent colony and be treated therein—ss. 4–24.*

PART II.—*Hospitals for the insane—ss. 25–30.*

c 25—A

PART

Commencement
short title, and
division.

42 Vic. No. 7, s 1.

*Lunacy.*PART III.—*Licensed-houses—ss. 31-51.*

- (1.) *For the reception of the insane.*
- (2.) *For the reception of a single patient.*

PART IV.—*Reception-houses for the temporary treatment of the insane—ss. 52-58.*PART V.—*Hospitals for the criminal insanity. 59-76.*PART VI.—*Inspection, transfer, and discharge of patients—ss. 77-100.*

- (1.) *Inspection of patients.*
- (2.) *Transfer of patients.*
- (3.) *Discharge of patients.*

PART VII.—*Proceedings for declaring persons insane or incapable and for the appointment of committees, &c.—ss. 101-114.*PART VIII.—*Administration and management of the estates of insane persons and patients—ss. 115-167.*

- (1.) *General powers and duties of Master in Lunacy.*
- (2.) *Powers and duties of Master in Lunacy in respect to estates of insane patients.*
- (3.) *Management of the estates of insane persons.*

PART IX.—*Court visitor—s. 168.*PART X.—*Miscellaneous provisions—ss. 169-180.*

2. (1) The several enactments mentioned in Schedule One to this Act to the extent therein expressed are hereby repealed.

Repeal

First Schedule.

42 Vic. No. 7, s. 2.

(2) All persons appointed by virtue of the provisions of any Act hereby repealed, and holding office at the passing of this Act, shall be deemed to have been appointed hereunder.

(3) All rules of Court and regulations made under the authority of any Act hereby repealed and being in force at the passing of this Act shall be deemed to have been made under the authority of this Act.

3. In this Act and in the Schedules thereto, the following terms shall, if not inconsistent with the subject-matter or context, have the respective meanings hereby assigned to them (that is to say)—

Interpretation terms.

Ibid. s. 3.

“Court”—The Supreme Court, in its Lunacy jurisdiction.

“Incapable person”—Any person who is proved to the satisfaction of the Court, under this Act, to be incapable through mental infirmity, arising from disease or age, of managing his affairs.

“Insane patient” and “patient”—Any person detained at the commencement of this Act in any public or private establishment in New South Wales for the reception of the insane, and

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and any person hereafter received into and detained in any hospital, reception house, licensed house, or other place respectively appointed or licensed under the provisions of this Act for the reception of the insane, and any such person, while absent from an hospital or licensed house in a specified place for the benefit of his health, or upon trial, under the provisions of section ninety, or boarded out under the provisions of section ninety-one, and also any person subject to the provisions of section twenty-one to the extent therein mentioned.

56 Vic. No. 23, s. 2,
58 Vic. No. 5, ss. 1,
2, 3, & 7 (ii).

- “Insane person”—Any person who has been found or declared, whether by inquisition or under this Act, or under any Act hereby repealed, to be insane or of unsound mind and incapable of managing himself or his affairs.
- “Inspector-General”—Inspector-General of the insane, and shall include the Deputy Inspector-General.
- “Judge”—Any Judge of the Supreme Court.
- “Justice”—Justice of the peace.
- “Master”—Master in Lunacy.
- “Medical practitioner”—A legally qualified medical practitioner within the meaning of any law relating to the qualification of medical practitioners.
- “Public hospital”—Such portion of any hospital or infirmary for the care and treatment of the sick, or of any benevolent asylum, as is set apart and declared to be for the temporary reception of the insane.
- “Ship”—Any vessel used in navigation not propelled by oars.
- “Stock”—Shall comprehend any share or other interest in any company, society, or association established or to be established, and any fund, annuity, or security transferable in books, kept by any company, society, or association established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any money payable for the discharge or redemption thereof and any share or interest therein respectively.
- “Superintendent”—Shall include the deputy superintendent of any hospital for the insane, licensed house, or reception house.

42 Vic. No. 7, s. 3.

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PART I.

(1.) *Proceedings by which persons of unsound mind may be placed under restraint.*

4. Upon information on oath before a Justice that a person deemed to be insane is without sufficient means of support, or is wandering at large, or has been discovered under circumstances that denote a purpose of committing some offence against the law, such Justice may by order under his hand require a constable to apprehend such person and bring him before two Justices; and every constable finding any such person so wandering or under such circumstances as are lastly above mentioned may without any such order apprehend him and take him before two Justices.

Insane persons in indigent circumstances without sufficient means of support.

42 Vic. No. 7, s. 4.

Insane persons wandering at large, &c.

5. Any constable who has knowledge that any person deemed to be insane is not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, shall forthwith give information thereof upon oath to a Justice, and such Justice upon such information or upon the information upon oath of any person whomsoever to the like effect shall either himself visit and examine such person and make inquiry into the case, 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 thereon, and if 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 insane and not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, the Justice may by order under his hand require any constable to bring such person before two or more Justices.

Persons deemed to be insane not taken care of or cruelly treated.

Ibid. s. 5.

6. (1) The Justices before whom any such person as aforesaid is brought shall call to their assistance any two medical practitioners who have previously examined such person apart from each other and separately signed certificates with respect to such person according to the form in Schedule Two of this Act, and if upon examination of such person and such medical practitioners and upon other proof (if any) such Justices be satisfied that such person is insane and

Course to be pursued when the person deemed to be insane without means of support is brought before the Justices.

Ibid. ss. 6, 15.

Second Schedule.

- (a) is without sufficient means of support; or
- (b) was wandering at large; or
- (c) was discovered under circumstances that denote a purpose of committing some offence against the law; or
- (d) is not under proper care and control; or
- (e) is cruelly treated or neglected by any person having or assuming the charge of him;

and is a proper person to be taken charge of and detained under care and

and

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and treatment, the said Justices may by an order under their hands according to the form in Schedule Three of this Act, to be accompanied by such statement of particulars as is contained in Schedule Five, direct such person to be removed into some hospital for the insane or licensed house to be named in such order, and such person shall be forthwith conveyed to, and upon production of such order, statement, and medical certificates, shall be received into and detained in such hospital or licensed house accordingly, and such Justices may examine the person deemed to be insane and any witness in the matter at any convenient place, and proceed in all respects as if such person were brought before them at a court of petty sessions.

(2) Where it appears to the Justices that they cannot call to their assistance two medical practitioners without causing delay prejudicial to such person, they may by order under their hands as aforesaid, but upon the certificate and examination of one medical practitioner alone, direct such person to be removed to the hospital for the insane or licensed house mentioned in the order; but in every such case a certificate, in the form of Schedule Seven hereto, shall be made by such Justices, and appended to such order, directing the reception of such person into some reception house, public hospital, or gaol, for immediate treatment, pending his removal to such hospital for the insane or licensed house; and he shall be forthwith conveyed to such reception house, public hospital, or gaol, and treated therein accordingly, and before such person shall be received into such hospital for the insane or licensed house, one other medical certificate shall be lodged with or obtained by the superintendent or officer in charge of such reception house, public hospital, or gaol, and be by him transmitted, together with the order and statement of the Justices and the original medical certificate, to the superintendent or officer in charge of such hospital for the insane or licensed house, with the patient.

(3) The Justices may suspend the execution of any such order for any period not exceeding fourteen days, and in the meantime give such directions or make such arrangements for the proper care and control of such person as they consider necessary.

(4) If the medical practitioners or one of them, 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 certify in writing that such person is fit to be removed.

(5) Any relative or friend may retain or take such person under his own care, if he satisfies the Justices before whom such person is brought that such person will be properly taken care of, anything in this Act to the contrary notwithstanding.

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(6) Whenever any such examination is had at any other place than a public police office, the Justices shall report to the Colonial Secretary the name, residence, and other particulars pertaining to such person, and if such Justices fail to make such report for the period of ten days they shall be each liable to a penalty not exceeding one hundred pounds.

Report to be made by Justices in certain cases.

7. The Justices before whom any person is brought to be dealt with under the preceding section of this Act may, in lieu of a remand to the places provided by the Imperial Act eleventh and twelfth Victoria, chapter forty-two, as adopted by "the Justices' Act of 1850," or by any Act consolidating or amending the same, but in the same manner as provided thereby, remand such person to any reception house or public hospital, unless it appears that such person has been previously detained in any gaol on conviction for any offence.

Option to Justices in respect of remands. 45 Vic. No. 16, s. 1.

8. The Justices causing any person to be examined by any medical practitioners under the provisions hereinbefore contained may grant a certificate for the payment of remuneration to such medical practitioners, and of all other expenses in or about the examination of such person, and the bringing him before Justices and of conveying him to an hospital for the insane, licensed house, reception house, or other place, or for his proper care and control, as in the sixth section mentioned, as to such justices may seem proper, and such expenses, where they cannot be obtained from the estate of the person examined, shall be defrayed out of such fund as has been appropriated by Parliament for such purposes :

Power to justices to order payment of fees to medical practitioners and expenses of conveyance to hospital. 42 Vic. No. 7, s. 7.

Provided always that the remuneration and expenses so awarded or sanctioned shall in every case be subject to the approval of the Colonial Secretary.

9. Any person may be received and detained as a patient in an hospital for the insane or a licensed house on the authority of a request under the hand of some person, according to the form in Schedule Four, authenticated by a Justice or minister of religion authorised to celebrate marriage, together with such statement of particulars as is contained in Schedule Five, and two medical certificates, each of which certificates shall be according to the form and contain the particulars required in Schedule Two of this Act, and be signed by a medical practitioner, who has, separately from the medical practitioner who has signed or shall thereafter sign the other of such certificates, personally examined the person to whom such certificate relates not more than ten clear days previously to the reception of such person into such hospital or licensed house, and such request as aforesaid may be signed before or after the date of such medical certificates, or either of them.

Any person to be received into hospital upon a request in writing together with statement and two medical certificates *Ibid.* s. 8. Fourth Schedule. Fifth Schedule. Second Schedule.

10. Every medical practitioner who signs 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

Medical certificates to specify facts upon which opinion of insanity has been formed. *Ibid.* s. 9.

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certificate relates is insane, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others, and no person shall be received into any hospital for the insane, licensed house, reception house, public hospital, or gaol, under any certificate which purports to be founded only upon facts communicated by others.

11. A medical practitioner shall not sign a certificate for the reception of a patient into an hospital for the insane, reception house, or licensed house in any of the following circumstances:—

Medical practitioner shall not sign certificates in certain circumstances.
56 Vic. No. 23, s. 7.

- (a) Where he has signed the order or request for the reception of that patient into that hospital, reception house, or licensed house.
- (b) Where his father, brother, son, partner, or assistant has signed the order, request, certificate, or one of the certificates for the reception of that patient into that hospital, reception house, or licensed house.
- (c) Where the said medical practitioner, or his father, brother, son, partner, or assistant is the superintendent or medical officer of that hospital for the insane, reception house, or licensed house, or a regular professional attendant in that licensed house, or wholly or in part the proprietor, mortgagee, or lessee of that licensed house, or receives a percentage on or is otherwise interested in the payments to be made by or on account of any patient received into that hospital, reception house, or licensed house.

12. If a medical practitioner, or his father, brother, son, partner, or assistant has signed one of the certificates for the reception of a person into a licensed house, such medical practitioner shall not:—

Medical practitioner signing certificate shall not board or attend insane patient.
Ibid. s. 8.

- (a) by himself or by his servants or agents, receive, or board or lodge, or take the charge of that person in the said licensed house;
- (b) be the regular professional attendant on that person while under care or charge under such certificate as aforesaid.

13. If any medical practitioner grants any such certificate as aforesaid without having seen and carefully examined the person to whom it relates, at the time and in the manner specified in such certificate, for the purpose of ascertaining the condition of such person to the best of his knowledge and power, he shall for every such offence be liable to a penalty not exceeding fifty pounds; and if any such practitioner wilfully and falsely certifies in writing that any person is insane, knowing him not to be insane, the practitioner so certifying shall be guilty of a misdemeanour.

No certificate to be granted without examination.
42 Vic. No. 7, s. 11.

14. No order for the reception of any patient into an hospital for the insane or licensed house shall remain in force after twenty-eight days from the date of the medical certificates which have been given under the provisions of this Act in respect of such patient or the date of the last of them.

Duration of order for reception into hospital.
45 Vic. No. 16, s. 7.

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15. (1) Any order, request, medical certificate, or other document, by virtue of which any person has been received into an hospital for the insane, or licensed house, and which is incorrect or defective in any particular, may, with the approval of the Inspector-General, and within twenty-eight days after the reception of such person, be amended by the person who has signed the same; and the order, request, medical certificate, or other document so amended shall thereupon be deemed to have operated and to operate from its original date.

Orders and medical certificates may be amended.

56 Vic. No. 23, s. 9.

(2) If the order, request, certificate, or document is not so amended, the Inspector-General may order the discharge of the person so received as aforesaid, and that person thereupon shall be discharged accordingly; or he may direct the superintendent of the said hospital or licensed house to obtain a new order, request, certificate, or document which shall be as effectual for all purposes as if it had been obtained, made, and executed previously to the reception of such person.

16. Where any person has been found insane by any proceeding in the Court, an order signed by a Judge or by the committee appointed by the Court, and having thereto annexed an office copy of the order appointing such committee, shall be sufficient authority for the reception of such person into any hospital for the insane, or licensed house, without any further order, or any such medical certificate as hereinbefore mentioned.

Reception of persons found insane by proceedings before the Court.

42 Vic. No. 7, s. 14.

17. Every person who receives any person into any hospital for the insane, reception-house, licensed house, or other place appointed under this Act, without such order, statement, and medical certificates, or other proper authority, as in such case is required under the provisions of this Act, shall be guilty of a misdemeanour.

Penalty for receiving person into hospital, &c., without the requisite documents, &c.

Ibid. s. 15.

18. Every person lawfully received into any hospital for the insane, reception house, licensed house, or other place appointed under this Act shall be detained therein until he be removed or discharged in the manner authorised by this Act, and in case of escape therefrom may be retaken at any time within twenty-eight days after his escape, by the superintendent of such hospital, reception house, licensed house, or other place, or any other officer, or any servant belonging thereto, or by any constable, or by any other person authorised in that behalf by such superintendent, and may be conveyed to, and received, and detained in such hospital, reception house, licensed house, or other place.

Persons received into hospitals, &c., may be retained, and on escape recaptured.

Ibid. s. 16.

(2.) *Proceedings by which persons of unsound mind may be removed to and from an adjacent colony and be treated therein.*

19. The Colonial Secretary may, on behalf of the Government, from time to time, by convention or otherwise, agree with the Government of any adjacent colony for the apprehension, care, treatment, maintenance,

Conventions with Governments of adjacent colonies.

58 Vic. No. 5, s. 1.

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maintenance, and burial, and for the payment of the expenses under the Lunacy statutes of that adjacent colony of persons set at large in that colony under the provisions of this Act; and for the care, treatment, and maintenance under those statutes of persons admitted from New South Wales, at the request of relations or friends, into lunatic asylums of the adjacent colony.

20. (1) In any matter or proceeding under section six of this Act, the Justices, on proof to their satisfaction of the matters in that section mentioned, and that it is for the benefit of the person found by them to be insane that he should be sent for care, treatment, or maintenance to an adjacent colony, with the Government of which an agreement has been made as aforesaid, either before or after the passing of this Act, may, by order in the form of Schedule Six to this Act, direct some person named in the order to take such person to such place in the adjacent colony as may be agreed upon by the said convention or otherwise, and as may be named in the order, and there to set him at large, and thereupon to identify him to some officer of police of the adjacent colony nominated by the Government thereof and named in the order, so that the officer of police may apprehend such person in due course, under the provisions of the Lunacy statutes of the adjacent colony, to be dealt with thereunder.

Justices may send persons found by them to be insane for treatment in adjacent colony.
58 Vic. No. 5, s. 2.

Sixth Schedule.

The order shall be subject to the provisions of section six of this Act and shall be a sufficient authority to all persons for anything done in pursuance of the same.

(2) The Justices shall forward the order, together with all certificates and evidence upon which the same has been made, to the officer of police named in the order, and shall also forthwith forward to the Inspector-General a true copy of the order and of the certificates and evidence.

21. Any person for whose care, treatment, or maintenance the Government has made provision under any agreement made with the Government of an adjacent colony shall, so long as he remains an inmate of any lunatic asylum in that adjacent colony, and so long as the first-mentioned Government is responsible for the payment of his maintenance therein, be deemed with regard to the management and disposition of his property in New South Wales, and the liability of his relations residing therein to pay for or contribute to his maintenance, clothing, medicine, and care, to be an insane patient within the meaning of this Act.

Those persons to be insane patients for certain purposes.
Ibid. s. 3.

22. Any right of action that may accrue to the Government against relations or friends of any person, for the payment of whose maintenance the Government has become responsible, shall be vested in the Master.

Right of action vested in the Master.
Ibid. s. 4.

23. If at any time it is deemed expedient to remove any person for the payment of whose care, treatment, and maintenance the Government

Removal of patient to hospital in this colony.
Ibid. s. 5.

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Government is responsible from any lunatic asylum in an adjacent colony to any hospital for the insane in New South Wales, the Colonial Secretary may order the removal of that person accordingly; and the order of the Colonial Secretary under his hand shall be a sufficient authority to any person named therein to apply to the proper authorities in the adjacent colony for the discharge of the first-mentioned person to his care, and to convey him to any hospital for the insane in New South Wales, and shall be a sufficient authority to the medical superintendent of the hospital for the insane to which that person is sent to receive him.

24. Any person taken into an adjacent colony under the authority of this Act, and there discharged from a lunatic asylum in that colony, shall be entitled to be paid out of the consolidated revenue fund the expenses of his return to New South Wales.

Person discharged in adjacent colony entitled to expenses of his return.

58 Vic. No. 5, s. 6.

PART II.

Hospitals for the insane.

25. The Governor may, by notification published in the Gazette, appoint any place to be an hospital for the insane, and in and by such notification may assign a name to such hospital; and any such appointment may be revoked in like manner; and all places appointed or deemed to have been appointed to be lunatic asylums or hospitals for the insane under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed and to be hospitals for the insane under this Act.

Governor may appoint hospitals for the insane.

12 Vic. No. 7, ss. 17, 48.

26. The Governor may appoint for every such hospital a superintendent, who shall be a medical practitioner, and also a deputy superintendent, and such other officers as he may deem necessary.

Superintendent, deputy superintendent may be appointed for each hospital.

27. Immediately on the admission of any person as a patient into any such hospital an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars, as the Colonial Secretary may direct (except as to the form of disorder, the entry as to which shall be supplied by the superintendent of the hospital within one month after the admission of the patient, and except as to the discharge, removal, or death of the patient, the entry as to which shall be made when the same happens), and after the second, and before the end of the seventh, clear day from the day of admission of any person as insane into any such hospital, a notice of

Ibid. s. 19.

A register of patients to be kept.

Ibid. s. 20.

Ninth Schedule.

Lunacy.

of such admission shall be transmitted to the Colonial Secretary in the form of Schedule Ten to this Act, with a copy of the order, statement, and certificates, or other proper authority, on which such insane patient has been received, together with a statement to be made and signed by the superintendent of such hospital not sooner than two clear days after such admission according to the form in the said last-mentioned Schedule.

28. In every such hospital the superintendent shall, once at least in every week, enter, or cause to be entered, in a book to be kept for the purpose to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form and manner as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and, in case of death, an exact account of the autopsy (if any) of such patient.

29. Within forty-eight hours after the discharge, removal, escape, or recapture of any patient, a written notice of such discharge, removal, escape, or recapture, according to the form in Schedule Twelve of this Act, shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose, according to the form and containing the particulars in Schedule Thirteen of this Act.

30. In case of the death of any patient in any such hospital, a notice and statement, according to the form in Schedule Fourteen of this Act, respecting the death and cause of the death of such patient, shall be drawn up and signed by the superintendent of such hospital, and transmitted—in addition to any notice respecting such death required by any law for the time being in force relating to the registration of deaths—within forty-eight hours after such death to the Colonial Secretary, and also to a relation named in the statement subjoined to the order or request for admission of such patient, or to the person who signed such request, or to the committee, if any, who signed an order under section sixteen hereof.

Lunacy.

PART III.

Licensed houses.(1.) *For the reception of the insane.*

31. (1) The Governor may, subject to the provisions hereinafter contained, by writing under his hand as nearly as conveniently may be in the form in Schedule Fifteen to this Act, grant to any person or to two or more persons jointly, a licence for any period not exceeding three years, to keep a house for the reception of a certain number of insane patients to be mentioned in such licence, and may renew or revoke such licence.

Governor in Council may grant licences for houses for the reception of the insane. 42 Vic. No. 7, s. 24. Fifteenth Schedule.

(2) Any licence granted under any Act hereby repealed and unexpired at the passing of this Act shall be deemed to have been granted under this Act for the unexpired term of such licence.

32. The person who desires to obtain a licence for a house for the reception of insane patients shall give a notice to the Colonial Secretary, which shall contain the name in full, place of abode, and occupation of such person, and a true and full description of his estate or interest in such house, and such notice when given for any house which has not been previously licensed shall be accompanied by a plan of such house, to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth, and height of, and a reference by a figure or letter to, every room or apartment therein, and a statement of the quantity of land not covered by any building annexed to such house, and to be appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the licence so applied for is for the reception of male or female patients, or both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which one sex may be kept distinct and apart from the other.

Notice of intended application for and plan of licensed house to be given to the Colonial Secretary.

Ibid. s. 25.

33. Any one licence to be granted for the reception of insane patients may include two or more houses belonging to one proprietor or two or more joint proprietors:

What may be included in one licence.

Ibid. s. 26.

Provided that no one of such houses be separated from the other or others of them otherwise than by land in the occupation of such proprietor or proprietors, and by a road, or by either of such modes; and all houses, buildings, and lands intended to be included in any licence shall be specified, delineated, and described in the plan hereinbefore required.

34. No addition or alteration shall be made to, in, or about any licensed house or the appurtenances thereof, unless previous notice in writing of such proposed addition or alteration, accompanied by a plan of

Notice of all additions and alterations to be given to the Colonial Secretary.

of *Ibid.* s. 27.

Lunacy.

of such addition or alteration to be drawn upon the scale aforesaid, and to be accompanied by such description as aforesaid, has been given by the licensee to the Colonial Secretary, and the consent in writing of such Colonial Secretary has been previously given.

35. Any person applying for the renewal of a licence shall, with such application, transmit to the Colonial Secretary a statement signed by the person so applying, containing the names and number of the patients of either sex then detained in such house.

Every person applying for the renewal of a licence, to furnish a statement as to the patients then detained.

36. If any licensee under this Act by sickness or for other sufficient reason becomes incapable of keeping the licensed house, or dies before the expiration of the licence, the Colonial Secretary may by writing indorsed on such licence, transfer the said licence with all the privileges and obligations annexed thereto for the term then unexpired to such person as he may approve, and in the meantime such licence shall remain in force and have the same effect as if granted to such person, and in case a licence has been or is granted to two or more persons, and before the expiration thereof any of such persons dies leaving the other or others surviving, such licence shall remain in force and have the same effect as if granted to such survivors or survivor.

42 Vic. No. 7, s. 28.
Provision in case of the incapacity of the person licensed.
Ibid. s. 29.

37. If any licensed house is pulled down or occupied under the provisions of any Act of Parliament, or is rendered by fire, tempest, or other accident, unfit for the accommodation of insane patients, or if the person keeping such house desires to transfer the patients to another house, the Colonial Secretary may grant to the licensee of such house a licence to keep another house for the reception of insane patients, for any time not exceeding the period for which the current licence is then held:

In case of a licensed house being taken for public purposes or accidentally rendered unfit, or of the keeper wishing to transfer his patients to a new house.

Ibid. s. 30.

Provided always that a like notice, accompanied by a like plan, statement, and description, shall be given as to such intended new house as is hereby required when application is first made for a licence for any house, and shall be accompanied by a statement in writing of the cause of such change of house.

38. Before the revocation of any such licence, notice in writing shall seven clear days previously be given to the licensee, or shall be left at the licensed house.

Notice of revocation of licences.
Ibid. s. 31.

39. If after a lapse of two months from the expiration of any licence for the use of any house for the reception of the insane which has not been renewed, or if after the revocation of any such licence there is in any such house any insane patient, every person keeping such house or having the care and charge of such patient shall be guilty of a misdemeanour.

Detention of patients after expiration or revocation of licence a misdemeanour.
Ibid. s. 32.

40. No person (unless he is a person who derives no profit from the charge, or a committee, or person appointed by the Court, or otherwise authorised under this Act) shall receive to board or lodge in

No unauthorised person to take charge of any patient for profit.

Ibid. s. 33.

Lunacy.

any house, or take the care or charge of, any patient, and any person offending against this provision shall be guilty of a misdemeanour.

41. (1) Every licensed house containing more than one hundred patients shall have at all times a medical practitioner resident therein, whose name in full shall be given in the notice of application for the licence, and such medical practitioner, whether he is the licensee or proprietor or not, shall be the superintendent thereof.

Superintendent to reside.
42 Vic. No. 7, s. 34.

(2) The licensee of such house may remove such medical practitioner and appoint some other medical practitioner, giving a notice containing the name in full of such medical practitioner to the Colonial Secretary ; and every such house containing over fifty patients shall be visited daily by a medical practitioner; and every such house containing fifty or less than fifty patients shall be visited twice a week by a medical practitioner, and in all cases where a medical practitioner is not appointed as superintendent the licensee shall be the superintendent of the house named in the licence.

(3) No licence shall be of any validity unless the superintendent of the house licensed resides therein and the house is visited by a medical practitioner as and at such times as hereinbefore mentioned.

(4) When any house is licensed to contain less than ten patients the Colonial Secretary may permit such house to be visited by a medical practitioner less frequently than twice in every week.

42. Every superintendent of a licensed house shall within two days after the reception of a patient make an entry with respect to such patient in a book to be kept for that purpose to be called the register of patients, according to the form, and containing the particulars required in Schedule Nine of this Act, or such other form and containing such other particulars as the Colonial Secretary may direct (except as to the form of the mental disorder, and except also as to the discharge, removal, or death of the patient, the entry as to which latter shall be made and signed by such superintendent when the same happens); and every such superintendent who does not make such entries within or at the times aforesaid shall be liable to a penalty not exceeding two pounds.

Superintendent receiving any patient into a licensed house to make an entry thereof in a certain form.
Ibid. s. 35.
Ninth Schedule.

43. The form of the mental disorder of every patient received into any licensed house shall, within seven days after his reception, be entered in the said register of patients by the medical officer of such house; and every such medical officer who omits to make and sign any such entry within the time aforesaid shall for every such offence be liable to a penalty not exceeding two pounds.

Penalty.
Form of patient's disorder to be entered in the register of the patients by medical officer.
Ibid. s. 36.

44. The superintendent of every licensed house shall within twenty-four hours after the admission of any patient, transmit to the Colonial Secretary a notice of such admission in the form in Schedule Ten of this Act, with a copy of the order, statement, and medical certificates

Penalty.
Notice of admission with statement concerning mental disorder to be sent to the Colonial Secretary.
Ibid. s. 37.
Tenth Schedule.

Lunacy.

certificates or other proper authority, on which such person has been received, and after two clear days and before seven clear days after such admission shall transmit to the Colonial Secretary a statement to be made and signed by the medical officer of such licensed house not sooner than two clear days after such admission according to the form in Schedule Ten of this Act; and every superintendent who neglects to transmit such copy, notice, or statement to the Colonial Secretary shall be guilty of a misdemeanour.

Misdemeanour.

45. Every superintendent of a licensed house shall once in every week enter and sign in a book to be kept at such house for that purpose to be called the medical journal a statement according to the form in Schedule Eleven hereto, and every such superintendent who omits to enter such report as aforesaid shall for every such omission be liable to a penalty not exceeding twenty pounds.

Medical journal.

42 Vic. No. 7, s. 38.

Eleventh Schedule.

Penalty.

46. There shall be kept in every licensed house a book to be called the medical case book in the form and manner directed by the Colonial Secretary in which the superintendent shall make or cause to be made entries of the mental state and bodily condition of each patient together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder; and the Colonial Secretary may require such superintendent to transmit to him a correct copy of the entries in such medical case book relative to the case of any patient who is or has been confined in any such licensed house; and every such superintendent who neglects to keep the said medical case book or to keep the same according to the form directed as abovementioned, or to transmit a copy of the said entries pursuant to such direction or requisition as aforesaid, shall for every such offence be liable to a penalty not exceeding ten pounds.

A medical case book to be kept.

Ibid. s. 39.

Penalty.

47. Whenever any patient escapes from any licensed house the superintendent of such house shall within two clear days next after such escape transmit a written notice thereof to the Colonial Secretary, and such notice shall state the name in full of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape, and if such patient is brought back to such house, such superintendent shall within two clear days next thereafter transmit a written notice thereof to the Colonial Secretary, and such notice shall state when such person was so brought back and the circumstances connected with his bringing back, and whether with or without a fresh order and certificates or certificate; and every superintendent omitting to transmit such notice, whether of escape or return, shall for every such omission be liable to a penalty not exceeding ten pounds.

Notices to be given in case of the escape of any patient and of his being brought back.

Ibid. s. 40.

Penalty.

48. Whenever any patient is removed or discharged from any licensed house, or dies therein, the superintendent of such house shall within two clear days next after such removal, discharge, or death, make

Entry to be made and notice given in case of the death, discharge, or removal of any patient.

Ibid. s. 41.

Lunacy.

make and sign an entry thereof in a book to be kept for that purpose, according to the form and stating the particulars in Schedule Thirteen of this Act, and shall also in the case of a death, within two days after such death, transmit to the Colonial Secretary (in addition to any notice respecting such death required by any law now or hereafter to be in force relating to the registration of deaths) a written notice of the death of such patient, and of the cause thereof, according to the form in Schedule Fourteen of this Act, and, in the case of the removal or discharge of such patient, of such removal or discharge, according to the form in Schedule Twelve of this Act, and shall also in the case of such death transmit a copy of such notice to one of the relations named in the statement subjoined to the order or request for admission, or to the person who signed such request, or to the committee, if any, who signed an order for admission under section sixteen hereof; and every superintendent who neglects to make and sign such entry or transmit such notice or notices shall be guilty of a misdemeanour.

Thirteenth Schedule.

Fourteenth Schedule.

Twelfth Schedule.

Misdemeanour.

(2.) *For the reception of a single patient.*

49. (1) The Colonial Secretary may grant to any person or to two or more persons jointly a licence to keep a house for the reception of a single insane patient, and from time to time may renew or revoke such licence.

Colonial Secretary may grant licences for houses for the reception of a single insane patient.

Ibid. s. 42.

(2) No person licensed under this section shall receive to board or lodge in any such licensed house for reward, or shall take the care or charge of any patient without the like order, statement, and medical certificates or other proper authority in respect of such patient as is hereinbefore required on the reception of a patient into an hospital for the insane.

But no person so licensed to take patients without such order, &c., as are required on reception into an hospital for the insane.

(3) Every person licensed under this section shall within twenty-four hours after receiving a patient transmit to the Colonial Secretary a notice of such admission in the form in Schedule Nine of this Act, together with copies of the order, statement, and medical certificates or other proper authority on which such patient has been so received, and shall also after the second and before the end of the seventh clear day from such admission cause each patient to be visited by a medical practitioner, and forthwith transmit to the Colonial Secretary a statement in the form in Schedule Ten of this Act, to be made and signed by such medical practitioner so visiting such patient after such admission.

Tenth Schedule.

(4) Any such licence granted under any repealed Act, and still in force at the passing of this Act, shall be deemed to have been granted under this Act for the unexpired term of such licence.

50. (1) Every such patient shall, after the second, and before the end of the seventh, clear day after his admission, and thereafter at least once in every two weeks, be visited by a medical practitioner not himself

Patient to be visited by medical practitioner.

Ibid. s. 43.

Lunacy.

himself deriving, and not having a partner, father, son, brother, or other relative who derives any profit from the care and charge of such patient, and such medical practitioner shall enter and sign in a book to be kept for that purpose, to be called the medical journal (regulations as to the form of which and the particulars to be entered therein shall be made by the Colonial Secretary) :—

- (a) the date of each of his visits ;
- (b) a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which the patient is.

(2) Such book shall be produced to the Inspector-General on every visit and shall be signed by him as having been so produced, and the person by whom the care or charge of such patient has been taken or into whose house he has been received as aforesaid, shall transmit to the like persons the like notices and statements of the death, removal, escape, and recapture of such patient, and within the like periods as are hereinbefore required in the case of the death, removal, escape, or recapture of a patient received into a licensed house; and every person who fails to comply with the regulations made as aforesaid shall be guilty of a misdemeanour.

Misdemeanour.

51. (1) If any occupier or inmate of any private house keeps or detains therein any person who is insane, although he is a relative of such occupier or inmate, beyond the period of a year after the malady has become apparent and confirmed, and where the case has been such as to require during any part of such period coercion or restraint, such occupier or inmate, or the medical practitioner attending such person so detained, shall intimate such detention to the Colonial Secretary and shall transmit to the Colonial Secretary a written certificate signed by a medical practitioner of the condition of the person so detained, and shall state the reasons which rendered it desirable that such person should remain under private care, and the Colonial Secretary may thereupon, or without such intimation, authorise the Inspector-General or a Justice, such Justice to be accompanied by a medical practitioner, to visit and inspect such person and to make such inquiry respecting his treatment as to such Inspector-General or Justice and medical practitioner may seem fit.

Colonial Secretary
may order examina-
tion of patient in
private houses.
42 Vic. No. 7, s. 44.

(2) If upon such inquiry it appears that such person is insane and has been so for a space exceeding a year, and that restraint or coercion of any kind has been resorted to, and that the circumstances are such as to render the removal of such person to an hospital for the insane or licensed house necessary or expedient, the Colonial Secretary may order the removal of such person accordingly, and the order of the Colonial Secretary under his hand shall be sufficient authority to the superintendent of such hospital or licensed house to which such person is sent to receive him accordingly.

Lunacy.

(3) Any person who keeps, harbours, conceals, or aids in keeping, harbouring, or concealing beyond such period as aforesaid, any such person as insane without such intimation thereof to the Colonial Secretary, and any medical practitioner attending on such person kept or detained as insane beyond such period who wilfully neglects to disclose the condition of such person so kept or detained to the Colonial Secretary, shall severally for every such offence be liable to a penalty not exceeding two hundred pounds or to imprisonment for any period not exceeding three months. Penalty.

PART IV.

Reception-houses, &c., for the temporary treatment of the insane.

52. The Governor may, by notification in the Gazette, appoint such houses and premises as he may think expedient for the reception and temporary treatment of the insane, and every such house and premises shall be a reception-house for the insane; and any such appointment may be revoked in like manner; and every reception-house appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act. Governor may appoint reception houses for the insane. 42 Vic. No. 7, s. 45.

53. The Governor may appoint a superintendent and a medical officer for every such reception-house. Governor to appoint superintendent and medical officer.

54. The Colonial Secretary shall make regulations for the government of reception-houses. Ibid. s. 46. Colonial Secretary to make regulations.

55. The Governor may, by notification in the Gazette, declare wards of any hospital or infirmary for the care and treatment of the sick or of any benevolent asylum, which may be set apart for such purpose by the committee, or the persons in whose hands is vested the management of such hospital, infirmary, or benevolent asylum, to be wards for the temporary reception of the insane, and thereupon the Colonial Secretary shall make regulations for the dietary treatment and inspection of patients in such wards. Ibid. s. 47. Wards in public hospitals for temporary reception of insane. Ibid. s. 48.

56. Any Justice may, by order under his hand in the form of Schedule Eight hereto, direct the reception and detention of any person (for whose reception into an hospital for the insane or licensed house the necessary order, medical certificates and statement, or other proper authority has been signed and remains in force) in any such reception house, or in any gaol, or in any public hospital for immediate treatment. Justice may order the detention of an insane person in reception house, &c. Ibid. s. 49. Eighth Schedule.

Lunacy.

57. No insane patient shall be detained in any reception house, gaol, or public hospital beyond a period of fourteen days unless the medical officer thereof certifies in writing that such person is not in a fit state to be removed therefrom, or would be benefited by remaining therein, and in such case the removal of such patient shall be suspended until the visiting medical officer certifies that such person is fit to be removed.

No person to be detained in any reception house, &c., longer than fourteen days.
42 Vic. No. 7, s. 50.

58. On receipt of a certificate from the medical officer of such reception-house, gaol, or public hospital that any person confined therein as an insane patient is of sound mind, or may with safety be discharged to the care of a relation or friend, any Justice may order the discharge of such person.

Discharge of patients from reception house, gaol, &c.
Ibid. s. 51.

PART V.

Hospitals for the criminal insane.

59. The Governor may by notification published in the Gazette declare that any hospital for the insane, gaol or place, or part of any such hospital, gaol or place provided for or appropriated for that purpose shall be an hospital for the criminal insane, and any such appointment may be revoked in like manner, and any hospital for the criminal insane appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act.

Governor may appoint hospital for the criminal insane.
Ibid. s. 52.

60. The Governor may appoint for every hospital for the criminal insane a superintendent, a medical officer, and such other officers as he may deem necessary.

Governor may appoint superintendent and officers.
Ibid. s. 53.

61. The Colonial Secretary shall make regulations for the government and management of hospitals for the criminal insane.

Colonial Secretary to make regulations.
Ibid. s. 54.

62. Immediately on the admission of any person as a patient into an hospital for the criminal insane, an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars as the Colonial Secretary may direct (except as to the form of disorder, 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 except as to the discharge, removal, or death of the patient, the entry as to which is to be made when the same happens).

Register of patients to be kept.
Ibid. s. 55.

Ninth Schedule.

Lunacy.

63. In every hospital for the criminal insane the superintendent thereof shall once at least in every week enter, or cause to be entered, in a book to be kept for the purpose, to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and in case of death an exact account of the autopsy (if any) of such patient.

Medical journal.
42 Vic. No. 7, s. 56.
Eleventh Schedule.
Case book.

64. Within forty-eight hours after the death, discharge, removal, escape, or recapture of any patient a written notice of such death, discharge, removal, escape, or recapture according to the form in Schedules Twelve and Fourteen of this Act respectively shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose according to the form and containing the particulars in Schedule Thirteen of this Act.

Entries to be made of deaths, discharges, removals, escapes, and recaptures, and notice given to the Colonial Secretary.
Ibid. s. 57.
Twelfth Schedule.
Fourteenth Schedule.
Thirteenth Schedule.

65. (1) If any person indicted for any offence is insane, and, upon arraignment, is found to be so by a jury lawfully empannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person appears to the jury charged with such indictment to be insane, the Judge before whom any such person is brought to be arraigned or tried as aforesaid may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody in such place and in such manner as to such Judge may seem fit until he be dealt with as provided by the next succeeding section of this Act.

Procedure where persons charged with offences are found to be insane by a jury or acquitted on the ground of insanity.
45 Vic. No. 16, s. 2.

(2) In all cases where it is given in evidence upon the trial of any person charged with any treason felony or misdemeanour 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 insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity.

(3) If they find that such last-mentioned person was insane at the time of committing such offence, the Judge before whom such trial is had shall order such person to be kept in strict custody, in such place and in such manner as to such Judge may seem fit until the Governor's pleasure be known, and thereupon the Governor may give such order for the safe custody of such person during his pleasure in such gaol or other place of confinement and in such manner as to the Governor seems fit.

(4)

Lunacy.

(4) Upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, the Governor, by warrant under his hand, may direct that such last-mentioned person be conveyed to and kept in a hospital for the criminal insane during the Governor's pleasure.

Second Schedule.
Sixteenth Schedule.

66. (1) When any person committed to take his trial for any offence is certified by two medical practitioners in the form of Schedule Two of this Act to be insane, or is upon arraignment found by verdict to be insane, the Colonial Secretary may direct, by order under his hand in the form of Schedule Seventeen of this Act, that such person be removed to an hospital for the criminal insane, and detained in such hospital until he is certified by the medical officer and the Inspector-General, or by the said medical officer and two official visitors, to be of sound mind, whereupon the Colonial Secretary shall order his removal to the gaol from whence he came in order to be tried for such offence :

Persons found to be insane before trial to be sent to hospital for the criminal insane.
42 Vic. No. 7, s. 59.
Seventeenth Schedule.

(2) Such detention for any period shall not operate as a bar to his subsequent indictment and trial for such offence.

67. If any person while detained in any gaol for debt, or in any gaol, reformatory, or industrial school, or other place of confinement, in consequence of any summary conviction or order by any Justice or in default of bail, appears to be insane, the Colonial Secretary may, upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Five of this Act, direct, by order under his hand, that such person be removed to and kept in such hospital for the insane or for the criminal insane as he may judge proper and appoint, until it is duly certified by the superintendent of such hospital and by the Inspector-General, or by the said superintendent and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol reformatory, industrial school, or other place from whence he has been taken, or to some other gaol or place of confinement, or if the period of detention or custody has expired that he be discharged.

Procedure in reference to certain persons under detention appearing insane.
45 Vic. No. 16, s. 3.
Second Schedule.
Fifth Schedule.

68. If any person while imprisoned in any gaol, prison, or penal establishment, under any sentence of hard labour or imprisonment imposed otherwise than on the conviction or order of Justices appears to be insane, the Comptroller-General of prisons shall direct that such prisoner be placed under observation as in section seventy-six of this Act mentioned, and the Colonial Secretary may upon the receipt of certificates, by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, direct by order under his hand in the form of

Procedure on certain prisoners appearing to be insane.
Ibid. s. 4.
Second Schedule.
Sixteenth Schedule.

of

Lunacy.

of Schedule Seventeen of this Act, that such person be removed to and kept in a hospital for the criminal insane until it is duly certified by the medical officer of such hospital, and by the Inspector-General, or by the said medical officer and two official visitors that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol, prison, or penal establishment from whence he has been taken, or to some other gaol, prison, or penal establishment, or if the period of his imprisonment has expired that he be discharged.

Seventeenth
Schedule.

69. If it is made to appear to the Colonial Secretary by any means whatsoever that there is good reason to believe that any prisoner in confinement under sentence of death is then insane, the Colonial Secretary may appoint two or more medical practitioners to inquire into the insanity of such prisoner, and if on such inquiry such prisoner is found to be then insane, the fact shall be certified in writing by such practitioners to the Colonial Secretary, and on receipt of such certificate the said Colonial Secretary may, by order under his hand, direct that such prisoner be removed to and kept in an hospital for the criminal insane or other proper place for the reception of for insane prisoners, until it is duly certified by the medical officer of such hospital or place and by the Inspector-General, or by the said medical officer and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall issue his order that such person be removed to any prison or other place of confinement to undergo his sentence of death or to be dealt with according to law, as if no such order for his removal to an hospital for the criminal insane had been issued.

Procedure on
prisoner under
sentence of death
appearing insane.
45 Vic. No. 16, s. 5.

70. When by reason of the expiration of his term of imprisonment, or otherwise, any person confined in any hospital for the criminal insane would, if duly certified to be of sound mind, be entitled to his discharge, the Colonial Secretary may (upon the certificate of the medical officer of such hospital that the person is still insane), by writing under his hand, order his discharge and removal to some other hospital for the insane, not being an hospital for the criminal insane, or that he be otherwise subjected to the same care and treatment, and be dealt with in all respects as an insane patient, not being a criminal :

Colonial Secretary to
order removal to
hospital for insane
on expiration of
sentence, insanity
still existing.
42 Vic. No. 7, s. 61.

Provided that when such insane patient is certified by such medical officer to suffer from homicidal propensities, or from insanity of such a kind as renders it advisable that he should be detained in an hospital for the criminal insane, the Colonial Secretary may order such detention after the expiration of his sentence.

Patient when
dangerous may be
detained in hospital
for the criminal
insane.

71. When any person detained in an hospital for the criminal insane whose sentence is unexpired, is certified by the medical officer

Insane patient becoming
demented may be
removed from criminal
to other hospital for the
insane.
Ibid. s. 62.

and

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and the Inspector-General, or by the said medical officer and two official visitors, to be demented and not dangerous, the Colonial Secretary may direct his removal therefrom to any other hospital for the insane not being a hospital for the criminal insane.

72. When any person is ordered to be kept in custody during the Governor's pleasure, any order made by the Governor in relation to the custody of such person may be renewed and varied from time to time; and the Governor may permit any person confined in any hospital for the criminal insane, not being a person under conviction and sentence, to be liberated from custody or confinement, upon such terms and conditions as he may think fit; and if any of such conditions be broken, such person may be retaken and dealt with as hereinafter enacted in case of an escape.

Governor may liberate on conditions.
42 Vic. No. 7, s. 63.

73. In case of the escape of any person confined in any hospital for the criminal insane, he may be retaken at any time by the superintendent of such hospital, or any officer or servant belonging thereto, or any constable, or any person assisting such superintendent, officer, servant, or constable, or any other person authorised by the Colonial Secretary or such superintendent, and shall be conveyed to and received and detained in such hospital.

Escaped insane patient may be recaptured.
Ibid. s. 64.

74. Any person who rescues any person ordered as aforesaid to be conveyed to any hospital for the criminal insane during his conveyance thereto or his confinement therein, and the superintendent or any officer, servant, or other person employed in any such hospital who, through wilful neglect or connivance, permits any person so confined therein to escape therefrom, or secretes or abets or connives at any such escape, shall be guilty of felony, and be liable to imprisonment with or without hard labour for any term not exceeding three years; and any such superintendent, officer, servant, or other person who carelessly allows any such person to escape shall be guilty of a misdemeanour.

Penalties for aiding or permitting escape.
Ibid. s. 65.

75. Any person committed to take his trial for having attempted to commit suicide who is certified by two medical practitioners in the form of Schedule Two hereto to be insane shall forthwith be sent to an hospital for the insane other than an hospital for the criminal insane, and such person, when certified by the medical officer and Inspector-General, or by the medical officer and an official visitor, to be of sound mind, shall be discharged from such hospital, and shall not be put upon his trial or be liable to any charge or indictment for having attempted such act of suicide.

Persons attempting to commit suicide and found insane not to be subsequently tried for the offence.
Ibid. s. 66.
Second Schedule.

76. The Governor may, by notification published in the Gazette, set apart a ward or cells in any gaol or penal establishment for the detention of any prisoner who may be supposed to be insane or who from mental imbecility may be supposed to be unfit for penal discipline,

Governor to appoint wards or cells for observing supposed insane persons in gaols.
Ibid. s. 67.

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discipline, in order that he may be there placed under observation until it is certified by two medical practitioners, one of whom shall be either the Inspector-General or the superintendent or medical officer of an hospital for the insane, that he is of sound mind or is insane and a fit subject for detention in an hospital for the criminal insane.

PART VI.

Inspection, transfer, and discharge of patients.(1.) *Inspection of patients.*

77. The Governor may appoint an Inspector-General and a Deputy Inspector-General; and during the absence from the colony of the Inspector-General, or his inability to act from illness or other cause, the Deputy shall have all the powers and shall perform all the duties of the Inspector-General; and such Inspector-General and Deputy Inspector-General shall be paid travelling expenses in addition to their salary.

Power to appoint Inspector and Deputy Inspector-General.
42 Vic. No. 7, s. 68.
58 Vic. No. 5, s. 10.

78. (1) Every hospital, whether for the insane or for the criminal insane, and every licensed house shall at least once in every six months, and every reception house, and public hospital, and any ward or cells set apart in any gaol or penal establishment under section seventy-six of this Act shall, as often as he thinks fit, be visited by the Inspector-General, and with or without any previous notice, and every such visit shall be made at such hour of the day or night, and for such length of time as he thinks fit.

Inspector-General to visit hospitals, licensed houses, &c.
Ibid. ss. 69, 70.
56 Vic. No. 23, s. 12.

(2) The Inspector-General, when visiting such hospital, reception house, ward, cells, or licensed house shall, so far as practicable, inspect every part of the same, and, in the case of an hospital for the insane or criminal insane, or a licensed house, every out-house and building communicating therewith or detached therefrom, and every part of the ground or appurtenances held or occupied therewith, and see every patient then confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book hereinafter mentioned a minute of the then condition of such hospital, reception house, ward, cells, or licensed house, and of the patients therein, and such other remarks as he may deem proper; and also if such visit be the first after the granting or renewal of a license to any licensed house shall examine such license.

Inspector-General's book.

(3) The Colonial Secretary may, by order under his hand, direct the Inspector-General or other person at any time to visit any hospital for the insane, or for the criminal insane, reception house,

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house, licensed house, gaol, house, or place wherein any insane patient, or person represented to be insane or to be under restraint as insane, is confined, or alleged to be confined, and to inspect and inquire into the state of that hospital, reception house, licensed house, gaol, house, or place, and report to him the result of that inspection and inquiry.

79. (1) The Inspector-General, on his several visitations to every such hospital, reception house, and licensed house, and to every such ward or cells as aforesaid, shall inquire as to the care, treatment, and mental and bodily health of the patients therein, and the arrangements for their maintenance and comfort:—

Inquiries be made
by Inspector-General
42 Vic. No. 7, s. 71.

- (a) As to whether any patient is under restraint or in seclusion, and why ;
- (b) As to whether and at what times and to what number of patients Divine Service is performed ;
- (c) As to what occupations or amusements are provided for the patients ;
- (d) As to the classification and dietary of the patients and the number of attendants and nurses ;
- (e) As to the moneys paid for the maintenance of any insane patient ;

with all such other inquiries as to such Inspector-General may seem fit.

(2) The Inspector-General shall examine the several books by this Act required to be kept, and sign the said books as having been produced to him, and shall inspect the order and certificates for the reception of every patient who has been received into such hospital, licensed house, reception house, or other place since the last visit of the Inspector-General or official visitor thereto.

80. The Inspector-General shall, once at least in every six months, and may, at all reasonable times, visit every house licensed under this Act for the reception of one insane patient only, and shall inquire as to the treatment and state of health, both mental and bodily, of such patient, and as to the moneys paid to the superintendent or licensee on account of such patient, and report thereon to the Colonial Secretary.

Inspector-General to
visit houses licensed
for a single patient
and to report.

Ibid. s. 72.

81. The Inspector-General shall, early in every year, make a report in writing to the Colonial Secretary of the state and condition of the several hospitals, licensed houses, reception houses, and other places, visited by him during the preceding year, and of the care of the patients therein, and of such other particulars as he shall think deserving of notice, and a true copy of such report shall forthwith be laid before Parliament if then in session, or if not then in session, within twenty-one days after the commencement of the next session of Parliament.

Inspector-General to
make an annual
report to Colonial
Secretary.

Ibid. s. 73.

82. The Inspector-General shall have no interest, directly or indirectly, in any licensed house for the insane, and shall not sign any certificate for the admission of any patient into any hospital or

Inspector-General to
have no interest in
licensed house nor
sign certificates
except in the case
the criminal insane.

Ibid. s. 74.

licensed

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licensed house, except for the admission of persons of unsound mind undergoing sentence in some gaol or penal establishment into any hospital for the criminal insane.

83. All plans for building, or enlarging, or improving any hospital for the insane or the criminal insane, reception house, public hospital, or ward, or cells for the insane in any gaol, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no plan shall be carried into effect without such report as aforesaid.

Plans, &c., for hospital to be submitted to Inspector-General. 42 Vic, No. 7, s. 75.

84. All plans of houses for which a license for the reception of insane patients is sought to be obtained under this Act, and for additions to or alterations to, in, or about those already licensed, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no license shall be granted for the reception of insane patients, and no addition or alteration to, in, or about such house already licensed shall be undertaken without such report as aforesaid.

All plans of houses proposed to be licensed and of additions and alterations to those already licensed to be submitted to Inspector-General. *Ibid.* s. 76.

85. There shall be hung up in some conspicuous part of every hospital, whether for the insane or for the criminal insane, reception house, or licensed house, a copy of the plan of such hospital, reception house, or licensed house, and there shall be kept in every such hospital, reception house, and licensed house a copy of this Act bound up in a book to be called the Inspector-General's book, and the said Inspector-General shall, at the time of his visitations, enter therein the result of his inspection and inquiries hereinbefore directed or authorised to be made by him, with such observations (if any) as he thinks proper.

Plan of hospital or house and Inspector-General's book to be kept. *Ibid.* s. 77.

86. (1) The Governor may appoint for every hospital for the insane or the criminal insane, licensed house, reception-house, or other place where insane patients are detained, two or more official visitors, one of whom shall be a medical practitioner and one a police magistrate or a barrister-at-law, any two or more of whom, one being a medical practitioner, shall visit the place to which they are appointed visitors once at least every month with or without any previous notice, and at such hours of the day or night, and for such length of time as they think fit, and also at such other times as the Colonial Secretary may direct.

Governor to appoint official visitors. *Ibid.* s. 78.

(2) Such official visitors, when visiting such hospital, licensed house, reception house or other place shall, so far as practicable, inspect every part of the same, and every out-house and building communicating therewith or detached therefrom, and every part of the grounds or appurtenances held or occupied therewith, and see every patient confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book a minute of the then condition of the said hospital, licensed house, reception house, or other place, and of the

the

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the patients confined therein, and such other remarks as they may deem proper, and shall, after every visit, transmit to the Colonial Secretary a statement of the number of patients admitted and discharged since the date of the last visitation together with a copy of the entry made by them in the Inspector-General's book, and any other information they may consider necessary.

(3) Any or all of the official visitors may be appointed to two or more hospitals for the insane, or the criminal insane, licensed houses, reception houses, or other places where insane patients are detained.

87. No person shall be or act as an official visitor of any hospital, licensed house, reception house, or other place where insane patients are detained who is directly or indirectly interested therein, and no such visitor shall sign any certificate for the admission of any person into any hospital, reception house, licensed house, or other place for the reception of insane patients, or shall professionally attend on any patient in any licensed house of which he is an official visitor.

Official visitor to have no interest in hospital or licensed house, nor sign certificates for admission, nor attend patients.
42 Vic. No. 7, s. 79.

(2.) Transfer of patients.

88. (1) The Colonial Secretary may direct by an order in writing the removal of any patient from any hospital for the insane or licensed house to any other such hospital or licensed house, and every such order shall be in duplicate, and one copy shall be delivered to the superintendent of the hospital or licensed house from which the patient is ordered to be removed, and the other shall be delivered to the superintendent of the hospital or licensed house into which the patient is ordered to be removed; and such order for removal shall be a sufficient authority for the removal of such patient and also for his reception into the hospital or licensed house into which he is ordered to be removed and for his detention therein or thereby.

Colonial Secretary may order transfer of patients.
Ibid. s. 80.

(2) A copy of the order statement or other proper authority with which such patient was received into the hospital or licensed house from which he is removed, together with an abstract of his treatment and progress certified by the superintendent of such hospital or licensed house (or in the case of a house licensed under section forty-nine of this Act of the licensee thereof) shall be delivered with one copy of the said order of removal to the superintendent of the hospital or licensed house to which such patient is removed.

89. (1) If it is made to appear to the Court that any insane person or patient has relations or friends in any place beyond New South Wales who are willing to undertake the care and charge of such insane person or patient, and that it would be for his benefit if he were to be removed to such place, the Court may order such insane person or patient to be removed from New South Wales and make such

Insane persons or patients may be taken out of New South Wales by order of the Court.
Ibid. s. 81.

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such further or other order authorising or directing his removal and touching his safe custody and maintenance as to such Court seems fit, and may order that security be given for the safe custody and maintenance of such insane person or patient in any such place beyond New South Wales.

(2) No order shall be made for the removal of any such insane person or patient until after fourteen days' notice of the intention to apply for such an order has been given to the superintendent of the hospital or licensed house in which such insane person or patient is confined, or to the person in whose care or custody such insane person or patient is, unless such superintendent or person is himself the person applying for such an order.

90. (1) The superintendent of any hospital for the insane or licensed house may, with the consent in writing of the Inspector-General, send or take under proper control any patient to any specified place for any definite time for the benefit of his health, and also permit any patient to be absent from any such hospital or licensed house upon trial for such period as may be thought fit:

Superintendent with consent of the Inspector-General may send a patient to any place for his health, or permit his absence upon trial.
42 Vic. No. 7, s. 82.

Provided always that before giving any such consent the Inspector-General may require the approval in writing of the person who signed the request or of the committee who signed the order for the reception of such patient or of the person by whom the last payment on account of such patient has been made.

(2) In case any person so allowed to be absent for the benefit of his health or on trial for any period does not return at the expiration thereof, and a medical certificate as to his state of mind certifying that his detention as an insane patient is no longer necessary is not sent to the superintendent or licensee of such hospital or licensed house, such person may at any time after the expiration of the same period be retaken as in the case of an escape.

91. Where the superintendent of an hospital for the insane certifies that the patient named in the certificate is harmless and is free from any symptoms which would indicate any tendency of a character dangerous either to the patient himself or to others, the Inspector-General may, by order endorsed by him upon the certificate, commit such patient to the care of a person to be named in the order, to reside and board with him in accordance with and subject to regulations to be made under this Act.

Boarding-out of harmless patients.
58 Vic. No. 5, s. 7 (1).

92. The person in charge of an insane patient during conveyance to any hospital for the insane, or licensed house, or to a place in an adjacent colony under the provisions of subdivision (2) of part I of this Act, shall have an order in writing by the Justices who have examined the patient, or by the Colonial Secretary, or a request under section nine of this Act duly signed and authenticated by a Justice or minister of religion authorised to celebrate marriage, and shall produce the same when required to do so by any Justice.

Order for conveyance of patient.
45 Vic. No. 16, s. 6.

(3)

Lunacy.(3.) *Discharge of patients.*

93. When any person who signed the request or the committee who signed the order on which any patient was received into any hospital or licensed house, whether or not such patient has since been removed under any order made under this Act or otherwise to any other hospital or licensed house, directs by writing under his hand that such patient be discharged, such patient shall forthwith be discharged.

Patient to be discharged by direction of person who signed the order or request for his admission.
42 Vic. No. 7, s. 84.

94. If such person or committee as last aforesaid is dead, or is incapable by reason of insanity, absence from New South Wales, or otherwise of giving such direction for the discharge of such patient, then

Provision where person who signed the order or request for reception is dead or incapable of acting.
Ibid. s. 85.

(a) the person who made the last payment on behalf of such patient; or

(b) the husband or wife of such patient;

or if there is no husband or wife, or if the husband or wife is incapable as aforesaid,

(c) the father;

or if there is no father, or the father is incapable as aforesaid, then

(d) the mother;

or if there is no mother, or the mother is incapable as aforesaid, then

(e) any one of the nearest of kin for the time being of such patient; may in writing give such direction as aforesaid for the discharge of such patient, and such patient shall be forthwith discharged accordingly.

95. No patient shall be discharged under either of the two last preceding sections if the superintendent of the hospital or the medical officer of the licensed house in which such patient is detained certifies in writing that in the opinion of such superintendent or medical officer such patient is dangerous and unfit to be at large, or unfit from bodily health to be removed, together with the grounds on which such opinion is founded, unless the Inspector-General after such certificate has been produced to him give his consent that such patient shall be discharged.

Patients not to be discharged when certified to be dangerous or unfit from bodily health without Inspector-General's consent.
Ibid. s. 86.

96. The Inspector-General or any official visitor of any hospital for the insane or licensed house may, with the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, order the discharge of any person detained therein or permitted to be absent therefrom under the provisions of section ninety hereof, whether such person is recovered or not.

Inspector-General or official visitor with advice of the superintendent may order discharge.
Ibid. s. 87.

97. Where application is made to the Inspector-General or to any official visitor of any hospital for the insane or licensed house by any relative or friend of an insane patient confined therein, requiring that he may be delivered over to the care and custody of such relative or friend, such Inspector-General or official visitor, with

Insane patients may be discharged on friends or relatives undertaking that they shall be taken care of.
Ibid. s. 88.

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the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, and upon the undertaking in writing of such relative or friend that such insane patient will be properly taken care of, and will be prevented from doing injury to himself or others, may discharge such insane patient.

98. (1) In cases where the relatives or friends of any insane patient are willing to take care of such patient, but are unable owing to indigent circumstances to maintain him, the Colonial Secretary may, on the recommendation of the Inspector-General, or of any official visitor, grant an allowance for maintenance to such relative or friend on such insane patient being discharged in the manner set forth in the last preceding section; and in all such cases the allowance for maintenance shall be paid once in every three months upon the receipt of a certificate from some medical practitioner in the form of Schedule Eighteen of this Act.

Allowance to be made to friends for maintenance of patients.
42 Vic. No. 7, s. 89.

(2) If it appear to such practitioner, as aforesaid, that the insane patient so discharged is not properly cared for by his friends, or that his mental state is such as to render it advisable that he should be no longer entrusted to their care, he shall report the same to the Inspector-General, who may thereupon direct that such insane patient be returned to the hospital from whence he was discharged without any further certificate or statement, and he shall be received therein accordingly.

Eighteenth Schedule.

99. If a Judge receive information upon oath, or have reason or cause to suspect that any person of sound mind is confined in any hospital for the insane or licensed house, such Judge may order the superintendent of such hospital or licensed house to bring such confined person before him for examination at a time to be specified in such order, and if upon the examination of such confined person, and of such superintendent, and of any medical or other witnesses, it is made to appear to the satisfaction of such Judge that such confined person is of sound mind, such Judge may direct that such confined person be immediately discharged from the custody of the superintendent of such hospital or licensed house, unless he is detained therein for some other cause by due process of law.

Judges may order persons confined as insane to be brought before them for examination.

Ibid. s. 90.

And if found to be of sound mind may discharge them from confinement.

100. If the Inspector-General, official visitors, or superintendent of any hospital for the insane or licensed house certify to the Colonial Secretary that any patient is detained in such hospital or licensed house without sufficient cause, the Colonial Secretary may order the discharge of such patient:

Inspector-General or official visitors may recommend the discharge of any patient subject to certain conditions.

Ibid. s. 91.

Provided that if the superintendent does not consent to such discharge, his reasons in writing shall be forwarded to the Colonial Secretary by the Inspector-General or official visitors, together with the certificate as aforesaid.

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PART VII.

Proceedings for declaring persons insane or incapable and for the appointment of committees of their estates, &c.

101. The Court shall, except on appeal as hereinafter provided, be holden by the Chief Judge or Judge in Equity, or by any other Judge sitting for the Chief Judge in Equity during his absence from Sydney or illness or at his request :

Constitution of court.
22 Vic. No. 14, s. 6.

Provided that any such Judge may sit in chambers to determine all such matters as in his opinion may advantageously and with propriety be heard in chambers ; and such Judge when so sitting shall have the same powers and jurisdiction as in open court.

102. Where it is proved to the satisfaction of the Court that a person is of unsound mind and incapable of managing his affairs, the Court may make a declaration to that effect, and may direct a reference to the Master to make inquiries concerning the property of such person, and may make all proper orders for rendering the property of such person, or the income thereof available for the payment of his debts and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any), and may, if necessary, appoint a committee of his estate, and also when desirable a committee of his person.

Application to
Supreme Court in
lieu of commission
de lunatico
inquirendo.
42 Vic. No. 7, s. 92.

103. (1) Where it is proved to the satisfaction of the Court that any person is, through mental infirmity, arising from disease or age, incapable of managing his affairs, the Court may make all proper orders for rendering the property and income of the said person available for the payment of his debts and for the maintenance and benefit of himself and his family ; and may make orders for the care and management of his property in all respects as if he were an insane person ; and may, if necessary, appoint any person, either with or without security, to undertake the care and management of his property under the order and direction of the Court.

Persons incapable of
managing their
affairs.
58 Vic. No. 5, s. 14
(1).

(2) The person so appointed shall, subject to the said orders and directions and to the rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate of an insane person, and the powers and provisions contained in this Act relating to the management and administration of the estates of insane persons shall apply to the estates of incapable persons.

104. Whenever it is proved to the satisfaction of the Court that any insane person has recovered his sanity and is capable of managing his affairs, the Court may make a declaration to that effect, and may make all proper orders to give effect to such declaration, and to release the estate of such person from the control of the Court and to discharge the committee of his estate and person.

Superseding orders,
&c., when person has
recovered.
42 Vic. No. 7, s. 93.

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105. Applications under the last three preceding sections respectively shall be made, and evidence by affidavit given in support thereof in such manner as is prescribed by rules of Court :

Provided that every deponent may be cross-examined upon his affidavit either at the hearing or at such time and place as the Court may direct, and at such hearing the Court may receive or require the oral evidence of witnesses and such other proofs as may be deemed necessary.

106. (1) Notice of any application under sections one hundred and two and one hundred and three, and of the evidence by affidavit to be used in support thereof, shall be given to the alleged insane or incapable person, and of any application under section one hundred and four, and of the evidence by affidavit to be used in support thereof, to the person upon whose application the insane person was found or declared to be insane, or to the committee of such insane person, in such manner and within such time as is prescribed by rules of Court.

(2) Where personal service cannot be effected or is inexpedient, then substituted service may be effected in such manner as may be prescribed by rules of Court, or as may be ordered by the Court.

107. The Court in any case, instead of determining whether or not the person whose sanity is the subject of inquiry is of unsound mind and incapable of managing his affairs, may order that question to be determined by a jury; and in such order shall direct whether such jury shall be a common or special jury, and thereupon the like proceedings for procuring the return of such jury shall be had and taken as provided by any law for the time being in force for the return of juries in the Supreme Court, and in every inquiry or proceeding before a jury the number of the jury shall be four, unless the Court order a jury of twelve.

108. When any such inquiry before a jury is ordered, the Court shall direct the question to be tried before a Judge or the Master, or a commissioner specially appointed, who shall while so acting have for the purposes of the inquiry all the powers of the Supreme Court; and the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with any law for the time being in force relating to the trial of issues out of the Supreme Court.

109. When the verdict of the jury has been returned, unless a new trial be granted, the Court may make such declaration and orders as hereinbefore are respectively mentioned, as the case may be.

110. On the hearing of any application under section one hundred and two, the person whose sanity is in question shall be examined by the Court; and on the trial of any such question as abovementioned there shall be a like examination by the jury before they

Mode of applicatio
42 Vic. No. 7, s. 94.

Cross-examination on
affidavit, &c.
Ibid. s. 96.

Process to be served.
Ibid. s. 94.

Ibid. s. 95.

Court may order
inquiry before a jury.
Ibid. s. 97.

Jury to be four unless
the Court order
twelve.

56 Vic. No. 23, s. 14.
Inquiries before
jury.
42 Vic. No. 7, s. 98.

After verdict, Court
may make declara-
tion, &c.
Ibid. s. 99.

Examination of the
alleged insane
person.
Ibid. s. 100.

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they consult as to their verdict, and every such examination shall take place in open court or in private, as may be deemed expedient :

Provided that, if it appears to the Court to be unnecessary or 56 Vic. No. 23, s. 17. inexpedient that such person should be examined by the Court, or the jury, the Court may, in lieu of the examination aforesaid, direct the Master to personally examine the said person and report on such examination, or may dispense with any examination whatever.

111. Where in any Act or rule of Court or instrument, reference The word commission shall apply to petition and declaration. is made to a commission of Lunacy, or a writ in the nature of a writ 42 Vic. No. 7, s. 101. *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the application and declaration thereon in the one hundred and second and one hundred and fourth sections respectively mentioned, as the case may be, shall be taken to be intended by or comprehended in such reference.

112. When the Court is satisfied that any person has been found Persons found insane in places beyond the colony. of unsound mind and incapable of managing himself and his affairs by Ibid. s. 102. any commission *de lunatico inquirendo*, or other legal inquiry in the United Kingdom, or in any colony or dependency thereof, the Court may direct a copy of the inquisition or finding on such commission or inquiry, duly certified by the proper officer of the Court into which such inquisition or finding shall have been returned, to be filed of record in the Court; and may thereupon appoint a committee of such person's estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient; and such committee shall have the same duties, powers, and liabilities as if he were the committee of an insane person under this Act.

113. The Court may make such order as to the costs, charges, Court may order costs. and expenses of and incidental to any proceeding authorised by this Ibid. s. 103. Act as the Court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the Supreme Court in its equitable jurisdiction.

114. There shall be an appeal to the Full Court from every Appeal. order made under this Act before or by a single Judge in such manner Ibid. s. 104. as may be prescribed by rules of Court.

PART VIII.

Management of the estates of insane persons and patients.(1.) *General powers and duties of Master in Lunacy.*

115. There shall be a Master in Lunacy, and the Master in Master in Lunacy. Equity for the time being shall be also the Master in Lunacy, and the Ibid. s. 105. Governor may appoint a Deputy Master; and the Deputy Master may 58 Vic. No. 5, s. 9. exercise all the powers conferred and shall perform all the duties

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imposed upon the Master by any Act or by any rule or order of the Court; during the illness or absence of the Master, the Court or the Chief Judge or Judge in Equity or the Colonial Secretary may authorise the Chief Clerk in Lunacy to perform the duties of the Master:

Provided that if the Chief Clerk be not already under sufficient security, he shall give such security as the Court or such Judge or the Colonial Secretary in each case may direct.

116. Subject to rules of Court, the jurisdiction and powers of the Court in respect of the administration and management of the estates of all insane and incapable persons may be exercised by the Master; and every order made by the Master under the authority hereby conferred on him shall take effect, unless rescinded or varied by the Court; and the Master shall have and execute all the powers and duties hereby or under the authority hereof vested in and imposed upon him; and subject to and in accordance with the regulations of the Governor and the rules of Court and to any special order of the Court, the Master shall undertake the general care, protection, and management, or supervision of the management, of the estates of all insane persons and patients; and he shall supervise and enforce the performance of the obligations and duties of all committees of insane persons, and shall take care of, collect, and administer, under the provisions of this Act, the property and estates of all insane patients.

In administering the estates of certain persons the Master to have jurisdiction of the Court.

42 Vic. No. 7, s. 105.
58 Vic. No. 5, s. 8.

117. All expenses incurred by or on behalf of the Government, in the care, protection, and management, or in the supervision of the management, under this Act, of the estate of any insane person or patient, may be charged by the Master against and shall be paid out of and recoverable from such estate.

Expenses incurred to be paid out of estate.
42 Vic. No. 7, s. 108.

118. (1) The Master shall give such security for the due performance of his duties as the Governor may require.

Expenses and accounts of Master.

(2) All expenses incurred with the authority of the Court or of the Colonial Secretary by the Master in carrying this Act into execution, and whether chargeable to the estate of any insane person or patient or not, shall be defrayed and paid out of such public moneys as may be appropriated by Parliament for that purpose.

Ibid. s. 140.
56 Vic. No. 23, s. 18.

(3) All expenses so chargeable as aforesaid may be repaid by the Master out of any money of the insane person or patient that comes to his hands, or may be recovered by him on summary application to the Court, whether such patient has been discharged or not, or whether such insane person or patient is dead, or whether a superseding order has been made under this Act or not.

(4) The general accounts of the Master shall be reviewed and audited in the manner provided and by virtue and in exercise of the powers conferred by any law for the time being in force relating to the audit of the public accounts.

Lunacy.

119. There shall be paid to the Master a percentage at a rate not exceeding five pounds per centum per annum on the clear annual income of every insane or incapable person and insane patient; and the said percentage and fees shall be charged upon and payable out of the estates of such insane or incapable persons and patients as aforesaid, although before payment the insane or incapable person dies or a superseding order is made under this Act, or the insane patient dies or is discharged from the hospital or other place in which he is detained.

Percentage and fees.
56 Vic. No. 23, ss.
19, 20 (11).
58 Vic. No. 5, s. 14 (11).

120. The Master may in the execution of his powers, duties, and authorities, and also in the prosecution of all inquiries and matters which may be referred to him under this Act, summon persons before him and administer oaths and take evidence, either orally or by affidavit or partly orally and partly by affidavit, and take recognizances and require the production of books, papers, accounts, and documents; and every person so summoned shall be bound to attend as required by the summons and give evidence before the Master in like manner as persons summoned before him in his equity jurisdiction are bound to attend and to give evidence; and the Court may by any order (general or particular) refer to the Master any inquiries under the provisions of this Act relating to the person and estate of any insane person or patient.

Master to have all
necessary powers
of inquiry, taking
evidence, &c.
42 Vic. No. 7, s. 109.

121. Every person giving evidence by affidavit shall be liable to oral cross-examination by or before the Master upon his affidavit, and after cross-examination may be re-examined orally by or on behalf of the person filing the affidavit; and every person giving evidence by affidavit shall be bound to attend before the Master to be so cross-examined and re-examined upon receiving due and proper notice and payment or tender of his reasonable expenses in like manner as if he had been duly served with a writ of subpoena *ad testificandum* before the Master; and the expenses attending on such cross-examination and re-examination shall be paid in such manner and by such person as the Master directs.

Witnesses may be
cross-examined
orally.
Ibid. s. 110.

122. The Master may cause to be issued such advertisements as may to him seem expedient with reference to the subject matter of a proposed commission or inquiry or with a view to the efficient discharge of his duties as Master under this Act with regard to the estate and property of insane persons or patients.

How expenses to
be paid.

Master may issue
advertisements.
Ibid. s. 111.

123. The Master shall approve on behalf of Her Majesty of the security to be given by the committee of the estate of any insane person under order of the Court, and it shall be the duty of the Master to see that the conditions of all bonds and recognizances heretofore or hereafter to be given or entered into by the committee of the estate or other persons in the matter of the estate shall be faithfully and regularly observed and performed, and immediately to report to a Judge any

Master to approve
of and to enforce
security to be given
by committee of
estate.
Ibid. s. 112.

Lunacy.

any breach or non-performance of any of such conditions; and thereupon such Judge may cause such bond or recognizance to be forfeited or estreated, and such forfeiture or estreat shall be enforced and effected in the manner provided by any law now or hereafter to be in force relating to the estreat of recognizances entered into to Her Majesty.

(2.) *Powers and duties of Master in respect to estates of insane patients.*

124. The Master shall have in respect of the property and estate of any insane patient, in addition to the general powers conferred upon him in subdivision (1) of this part of this Act, all the like powers and authorities, subject to the like limitations, as are hereinafter, in subdivision (3) of this part of this Act, given to the committee of the estate of an insane person, and also the powers hereinafter mentioned.

Power of Master in respect of estates of insane patients. 42 Vic. No. 7, s. 141.

125. Where any person has on the trial of any information been acquitted on the ground of insanity, or has upon arraignment upon a criminal charge been found to be insane, the Sheriff shall report the fact to the Master, who shall thereupon make inquiry respecting the property of such person, and the Court may, on being satisfied of the continued insanity of such person and of his being still in confinement, make any orders with respect to the property of such person and the application thereof for the payment of his debts or for his maintenance or benefit or that of his family or for carrying on his trade or business.

Power to apply property of persons acquitted on the ground of insanity for their benefit. *Ibid.* s. 107.

126. The Master shall have the management and care of the property of every insane patient, and, in addition to other powers and duties necessary and incident to such management and care, may exercise the following powers and perform the following duties with respect to the estate of every insane patient, that is to say, he may:—

Master's powers as to property of patients. 56 Vic. No. 23, s. 21.

- (a) Receive moneys, rents, incomes, and profits of real and personal property, and distrain for rent.
- (b) Demise land for a term not exceeding five years, at such rent and on such conditions as he may think fit.
- (c) Sell, realise, and mortgage real and personal property where the net value of the patient's estate, exclusive of debts and claims allowed by the Master, does not exceed five hundred pounds.
- (d) Settle, adjust, and compromise a demand not exceeding five hundred pounds made by or against the estate.
- (e) Carry on a business which the patient had carried on, so far as may appear desirable for the purpose of more advantageously disposing of or winding-up the business, or preserving the same until the recovery of the patient.

(f)

Lunacy.

- (f) Agree to an alteration of the conditions of a partnership into which the patient had entered, for the purpose of more advantageously disposing of his interest therein or terminating his liability.
- (g) Complete a contract for the performance of which the patient was liable, or enter into an agreement terminating that liability.
- (h) Sequester the estate of a patient under the provisions of the bankruptcy laws.
- (i) Bring and defend actions, suits, and other proceedings on behalf of a patient.
- (j) Bring lands under the provisions of the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same :

127. (1) The Master may apply to the Court in such manner as is or may from time to time be prescribed by rules of Court, for directions with respect to the exercise of any of the powers over the estate of an insane patient which the Court may exercise, or order a committee to exercise, over the estate of an insane person under subdivision (3) of this part of this Act.

Master may apply to the Court as to the exercise of certain powers.

56 Vic. No. 23, s. 22.

(2) The Court may, upon such application as aforesaid, or upon the application of the patient or any relative, friend, or creditor of the patient, direct that such inquiries be made and notices given as may be deemed advisable, and may make such order in the premises as may be thought proper.

128. (1) For the purposes of this Act the Master may do such acts and exercise such powers with respect to an estate committed to his management and care as the patient himself could have done if sane, and may, in the name and on behalf of the patient, execute and sign deeds and instruments (including instruments under the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same), transfers of shares, receipts, releases, and other documents, which shall be as effectual as if executed and signed by the patient himself while sane, and shall be acted upon accordingly by the Registrar-General and all other persons without any obligation to inquire whether the person upon whose behalf the Master purports to act be a patient or not.

Master may execute instruments on behalf of patient. Title of purchaser from the Master.

Ibid. s. 23.

(2) Persons dealing with the Master in respect of any estate over which he has assumed control shall be as fully protected as if the owner of the estate were a patient at the time of the dealing, although he is not, in fact, then a patient; and a purchaser or mortgagee from the Master of any real or personal property of a patient shall not be bound to inquire as to the Master's powers so to deal with that property, or as to the application of the purchase money.

Lunacy.

129. (1) If any real or personal property of an insane patient be wrongfully held, detained, converted, or injured, or if any sum of money be due and owing to such patient by any person, the Master may as such Master claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by summary proceeding on complaint before a Judge who is hereby authorised and required on proof to his satisfaction of the said cause of complaint to make an order requiring the defendant to give up possession of such property, or to pay reasonable damages to be fixed by the said order for the conversion or injury thereof, or to pay the sum so due as aforesaid, and in default of compliance by the defendant with the said order, to order in and by the same or any subsequent order that the defendant be committed to prison for any period not exceeding six months.

Summary proceedings for protection of property of insane patients.

42 Vic. No. 7, s. 142.

(2) Such Judge may in any complaint under this section make such order as to costs as he thinks fit, and every order under this section shall have the same effect, and may be enforced in like manner as any judgment, decree, or order of the Supreme Court in its jurisdiction at law or in equity.

130. (1) The Master shall pay into the consolidated revenue for the use and benefit thereof, and at such times and in such manner as the Governor may from time to time appoint, all money paid to him for the maintenance of any patient, and all percentages and fees.

Payments to consolidated revenue.

56 Vic. No. 23, s. 24.

(2) The Master shall at such times, and in such manner as aforesaid, pay all other money coming to his hands into the Treasury to the credit of a trust fund, and may withdraw the same or any part thereof and apply it for the purposes in the next section mentioned, or pay it to the consolidated revenue for the purposes of maintenance, clothing, medicine and care in that section mentioned.

Payments to credit of trust fund.

(3) No money so deposited shall be withdrawn or paid from the Treasury otherwise than by the authority of the Court or by the Master for the purposes aforesaid.

(4) A separate account shall be kept by the Master of payments to the credit of the trust fund, and of payments out in respect of the estate of each patient.

Separate accounts.

131. The Master may apply money coming to his hands in respect of the estate of a patient, and standing to the credit of the trust fund towards all or any of the following purposes:—

Disposition of money in the hands of the Master.

Ibid. s. 25.

- (a) The payment of the debts of the patient, and the repayment of expenses chargeable to his estate ;
- (b) His maintenance, clothing, medicine, and care, past and future, and in the event of his death, his funeral expenses ;
- (c) The maintenance of his wife or any child, parent, or other person dependent upon the patient, or for whose maintenance the patient provided when sane ;

(d)

Lunacy.

- (d) The payment of all proper costs, charges, and expenses incurred in or about the care, protection, recovery, sale, mortgage, leasing, disposal, and management of his estate ;
- (e) The preservation and improvement of the patient's estate ;
- (f) The investment, in manner hereinafter provided, of money not presently required for the above purposes ;
- (g) The payment to a patient or any person under sections one hundred and thirty-four and one hundred and thirty-six of this Act :

Provided that the Master may report to and apply for the advice and directions of the Court upon any of the matters aforesaid ; and the Court may, upon such application as aforesaid, or upon the application of the patient, or any relative, friend, or creditor of the patient, direct such inquiries to be made, and notices given as may be deemed advisable, and may make such orders in the premises as may be thought proper.

132. The Master may invest any money unapplied as aforesaid in Government debentures, by paying the same into the Treasury under such conditions as to interest and otherwise as may be prescribed by rules of Court, or by depositing the same at interest in any incorporated bank carrying on the business of banking in Sydney, which has been approved by the Court.

Powers of Master as to investment.
56 Vic. No. 23, s. 26.

133. The Master may, with the leave of the Court, to be obtained in such manner as is or may from time to time be prescribed by rules of Court, invest any money unapplied as aforesaid upon mortgage of real estate or other security, or in the purchase of land, if such purchase appear to the Court to be desirable for the purpose of protecting the estate of the patient from injury or deterioration in value, or of increasing the value or facilitating the sale of other lands of the estate ; and the Court may, on the hearing of the application, deal with the same *ex parte*, or require notice to be served on any person.

Investment on mortgage.
Ibid. s. 27.

134. (1) If any patient is permitted to be absent from an hospital for the insane or licensed house upon trial or otherwise under the provisions of this Act, the Master may, in his discretion, pay over to the patient, or to any person on his behalf who gives satisfactory security to the Master for the proper management and disposal thereof, the whole or any part of the money standing to the credit of the patient in the trust fund, and may hand over to him, or to the person aforesaid, all or any deposit-receipts, debentures, stock, securities, title deeds, documents, and chattels forming part of his estate.

Payment over of estate before discharge in certain cases.
Ibid. s. 28.

(2) The receipt of the patient or person aforesaid shall be an absolute discharge to the Master, notwithstanding any informality in or about the granting of such permission as aforesaid.

135. Where a patient has, before his discharge, made or executed any transfer, sale, alienation, charge, or lease of any property,

Sale, &c., by patient before his discharge may be set aside.

real *Ibid.* s. 29.

Lunacy.

real or personal, the Court may, on application being made by the Master in such manner as is or may from time to time be prescribed by rules of Court, and on notice being given to such persons as the Court may direct, set aside the said transfer, sale, alienation, charge, or lease, and may make such order in the premises as may be just; and for the purposes of the application the patient shall be prima facie deemed to have been insane at the time when he made or executed the transfer, sale, alienation, charge, or lease.

136. (1) After the discharge or death of a patient, the Master may pay over to him in the case of his discharge, or to his legal personal representative in the case of his death, all money standing to the credit of that patient in the trust fund, and may hand over to him or to his legal personal representative (as the case may be) all deposit receipts, debentures, stock, securities, title deeds, and chattels forming part of his estate. Payments to discharge patients and to personal representatives of deceased patients. 56 Vic. No. 23, s. 30.

(2) The receipt of the said patient or his legal personal representative shall be an absolute release to the Master, notwithstanding any informality in the discharge of the patient, or in the mode of obtaining the same.

(3) The Master may, in the exercise of his discretion, require a discharged patient, claiming money or property as aforesaid, to obtain the order of the Court.

(4) Where advertisements for creditors to come in and prove their debts have been duly published by the Master in the course of managing the property of a patient, and no debt has been proved within the time fixed for that purpose, or no debt remains unsatisfied, the Master may, in his discretion, after the death of the patient, pay any sum not exceeding one hundred pounds out of money standing to the credit of the patient in the trust fund, or may hand over any deposit-receipts, debentures, stock, securities, title-deeds, and chattels not exceeding that value and forming part of the estate of the patient to any person claiming as entitled in the distribution of his estate, or as a legatee under his will, notwithstanding letters of administration have not been obtained or the will proved, and notwithstanding legal proof is not given of the right or title of the person claiming as aforesaid. Payment of sum not exceeding £100 to representatives or legatees.

137. (1) All personal effects in the hands of the Master belonging to a patient, and not claimed within two years from the date of the discharge of that patient, may be sold by direction of the Master, and the proceeds of the sale shall be paid by him into the consolidated revenue. Provisions as to personal effects of patient in hands of Master not claimed for two years, and as to moneys standing to credit of patient for a period of six years after his death.

(2) All moneys standing to the credit of a patient in the trust fund at the end of six years from the death of such patient shall be carried to and form part of the consolidated revenue. Ibid. s. 32.

(3)

Lunacy.

(3) Nothing herein contained shall affect the right of a person under the disability of infancy, coverture, insanity, or absence beyond the seas to recover the said moneys or the proceeds of the said sale at any time within six years from the removal of that disability.

138. (1) Notwithstanding the discharge or death of a patient, the Master may continue to perform the duties and exercise the powers conferred upon him with respect to the estate of that patient until he receives notice of such discharge or death as aforesaid.

Master may act until he receives notice of death or discharge of patient.

56 Vic. No. 23, s. 33.

(2) On the discharge or death of a patient, he or his legal personal representatives (as the case may be) shall be bound by and may take advantage of an act lawfully done by the Master on behalf of the patient, as if the said act had been done by the patient himself while sane.

139. The Master may agree with any relative, guardian, or friend of any patient detained in any hospital for the insane or licensed house for his maintenance while detained therein, and such relative, guardian, or friend shall be entitled to be reimbursed all necessary sums expended in such maintenance and interest thereon out of any real or personal property of such patient.

Relative, &c., may agree for maintenance of insane patient.

42 Vic. No. 7, s. 145.

140. (1) If the health officer, or the immigration officer, or the Inspector-General of Police, or the Inspector-General certifies to the Master within sixty days after the arrival of any ship at any port in New South Wales that a passenger or seaman arriving by that ship is insane, imbecile, or idiotic, and has become, or is likely to become, a charge upon the public as an inmate of a reception house or hospital for the insane, it shall be lawful for the Master thereupon to require the owner, charterer, agent, or master of that ship to execute, with two sufficient sureties, jointly and severally, a bond to Her Majesty in such sum as the Master may determine, not exceeding five hundred pounds, conditioned to pay to the Master the maintenance of that passenger or seaman in such reception house or hospital at such rate and for such term as may be determined by the Master; or, at the option of the owner, charterer, agent, or master of the ship, subject to the approval of the Master, to return such passenger or seaman to the place whence he was shipped.

Owner, charterer, agent, or master of ship liable for maintenance of any passenger or seaman being insane and a charge upon the public.

56 Vic. No. 23, s. 4.

(2) The sureties shall justify before or to the satisfaction of the Master, and shall, by their oaths or affirmations, satisfy him that they are respectively resident in New South Wales, and worth treble the amount of the penalty of the bond over and above all liabilities.

(3) No bond shall be required when the passenger or seaman is, at the date of the arrival of the ship, domiciled in New South Wales; but the onus of proving such domicile as aforesaid shall be upon the said owner, charterer, agent, or master of the ship.

Lunacy.

141. If the said owner, charterer, agent, or master of the ship neglects or refuses to execute the bond as aforesaid within seven days after being so required, he shall be liable to a penalty not exceeding five hundred pounds, to be recovered summarily before a police or stipendiary magistrate; and the said ship shall not be cleared out until the bond is executed as aforesaid.

Penalty if owner, charterer, agent, or master neglects or refuses to execute bond.
56 Vic. No. 23, s. 5.

142. (1) If it appears to two Justices, on application by or on behalf of the Master, that any patient has not an estate or any sufficient estate applicable to the maintenance of such patient, and that any person related to such patient, in the manner next herein-after specified, is of ability to maintain or contribute to the maintenance of such patient, such Justices may make an application in writing—

Justices may make an order upon relations of patient for his support.
42 Vic. No. 7, s. 147.
58 Vic. No. 5, s. 11.

- (a) To the father of such patient; or, if the father be dead,
- (b) To the mother of such patient; or
- (c) To the husband or wife of such patient, as the case may be; or
- (d) To one or more of the children of such patient, being of the age of twenty-one years, or upwards;

for the payment to the Master of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices shall direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(2) If the sum referred to in such application is not paid pursuant thereto, the Justices shall, on complaint made by or on behalf of the Master, issue a summons to be served on the person so applied to and failing to pay as aforesaid, to answer such complaint, and upon return of such summons the Justices may, upon being satisfied as to the matters aforesaid, make an order on such person for the payment of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(3) No wife of an insane patient shall be liable under the provisions of this section except in respect of her separate estate.

(4) Payments made pursuant to any such application or order shall be sufficient discharges for such payments.

(5) Orders made under the provisions of this section shall be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under the "Deserted Wives and Children Act of 1840," or any Act passed or to be passed amending or consolidating the same.

143. (1) Upon application being made to Justices under the last preceding section of this Act, there shall be lodged with the Justices the affidavit or statutory declaration hereinafter mentioned, together with a true copy of the same.

Application for maintenance to be supported by affidavit.
58 Vic. No. 5, s. 12.

(2)

Lunacy.

(2) The affidavit or declaration shall be made by the Master or the Chief Clerk in Lunacy, on his behalf, setting forth among other things the following facts to the best of his knowledge, information, and belief:—

- (a) The degree of relationship of the person sought to be charged to the patient;
- (b) That such person is of ability to pay for or towards the maintenance of the patient;
- (c) The particulars of the patient's property (if any) and that the same is not sufficient for his maintenance, clothing, medicine, and care.

144. Upon complaint being made under section one hundred and forty-two of this Act, the copy of the affidavit or declaration lodged with the Justices as abovementioned shall be served with the summons; and the affidavit or declaration, or the copy served as aforesaid shall, at the hearing of the complaint, be evidence of the matters therein stated.

Proceedings on
complaint made.
58 Vic. No. 5, s. 13.

145. The Justices may on complaint made by or on behalf of the Master under the provisions of section one hundred and forty-two of this Act order payment of a reasonable sum for or towards the past maintenance of a patient, and for or in respect of money expended on his clothing, medicine, and care; and such order may be made notwithstanding the patient has been discharged or is dead.

Justices may make
orders for payment
of arrears of
maintenance.
56 Vic. No. 23, s. 35.

146. If the amount mentioned in an order made by Justices under the provisions of section one hundred and forty-two, or of the last preceding section of this Act, remains unpaid for six months from the date thereof, the Master may apply, on notice to the person named in such order as aforesaid, to the Court for an order directing payment of the amount due; and upon the hearing of that application the Court may make such order in the premises as may seem just for payment of the amount found to be due as aforesaid, together with the costs of the application:

Procedure if amount
mentioned in order
remains unpaid for
six months.
Ibid. s. 36.

Provided that nothing herein contained shall affect any other remedies which the Master may have for enforcing the order of the Justices.

147. Where it appears to the Master that payments agreed to be made under this Act for the maintenance of or otherwise on behalf of an insane person or patient have fallen into arrears through circumstances beyond the control of the person agreeing as aforesaid, the master may in his discretion:—

Maintenance.
Discretion of Master
to forego arrears or
to accept a smaller
sum in satisfaction.
*Ibid.*s. 34.

- (a) forego altogether the payment of such arrears; or
- (b) accept a smaller sum in satisfaction thereof; or
- (c) make such other agreement as he may think just and reasonable.

Lunacy.

148. The Court may direct the Master to personally examine any insane patient, and take evidence and call for information as to the insanity of such patient, and report thereon to the Court, and the Court may make orders for—

The Court may direct the Master to report as to the insanity of any patient, &c. —
42 Vic. No. 7, s. 146.

- (a) the appointment of a guardian or otherwise for the protection, care, and management of the person or of the estate, or of the person and estate, of any patient who by any such report is found to be insane; such guardian, according to the nature of his appointment, to have the same powers and authorities, and be subject to the same control and liabilities, as a committee of the person and estate of an insane person appointed under this Act; and also
- (b) the appointment of a receiver or otherwise for the protection, care, and management of the estate of such insane patient; such receiver to have the same powers and authorities and be subject to the same control and liabilities as a receiver of the estate of an insane person appointed under this Act; and also
- (c) the application of the income of such insane patient or a sufficient part thereof for his maintenance and support, and in payment of the costs, charges, and expenses attending the protection, care, and management of the person and estate of such insane patient, and of or in connection with the said examination by the Master and the obtaining of such orders by the Court; and as to
- (d) the investment or other application for the purpose of accumulation or otherwise of the surplus (if any) of such income as last mentioned for the use of such patient, his wife, or children as to the Court may seem fit.

(3.) *Management of the estates of insane persons.*

149. (1) The Court may order that any property of an insane person, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the Court thinks most expedient for the purpose of raising or securing or repaying with or without interest money which is to be or which has been applied to all or any of the purposes following:—

Power to raise money for certain purposes.
53 and 54 Vic., c. 5, s. 117.
42 Vic. No. 7, ss. 106, 151.

- (a) Payment of the insane person's debts or engagements;
- (b) Discharge of any incumbrance on his property;
- (c) Payment of any debt or expenditure incurred for the insane person's maintenance or otherwise for his benefit;
- (d) Payment of or provision for the expenses of his future maintenance.
- (e) Payment of the costs of any proceeding under this Act, or of any sale or other disposition made under this Act.

(2)

Lunacy.

(2) In case of a charge or mortgage being made under this Act for the expenses of future maintenance the Court may direct the same to be payable, either contingently, if the interest charged is a contingent or future one, or upon the happening of the event if the interest is depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as the Court thinks expedient.

150. The Court may by order authorise and direct the committee of the estate of an insane person to do all or any of the following things:—

- Powers exercisable by committee under order of Court.
53 and 54 Vic., c. 5, s. 120.
42 Vic. No. 7, ss. 100, 151, 160.
Ibid. s. 160, 161.
Ibid. s. 106.
Ibid. s. 164.
Ibid. s. 148.
Ibid. s. 166.
Ibid. s. 165.
Ibid. s. 158.
Ibid. s. 163.
Ibid. s. 168.
- (a) Sell any property belonging to the insane person ;
 - (b) Make exchange or partition of any property belonging to the insane person, or in which he is interested, and give or receive any money for equality of exchange or partition ;
 - (c) Carry on any trade or business of the insane person ;
 - (d) Grant leases of any property of the insane person for building, agricultural, or other purposes ;
 - (e) Surrender any lease and accept a new lease ;
 - (f) Accept a surrender of any lease and grant a new lease ;
 - (g) Execute any power of leasing vested in an insane person having a limited estate only in the property over which the power extends ;
 - (h) Perform any contract relating to the property of the insane person entered into by the insane person before he became an insane person ;
 - (i) Surrender, assign, or otherwise dispose of, with or without consideration, any onerous property belonging to the insane person ;
 - (j) Exercise any power or give any consent required for the exercise of any power where the power is vested in the insane person for his own benefit, or the power of consent is in the nature of a beneficial interest in the insane person ;
 - (k) Sequestrate the estate of the insane person under the provisions of the bankruptcy laws ;
 - (l) Bring lands under the provisions of the "Real Property Act" or any Act passed or to be passed amending or consolidating the same ;
 - (m) Bring and defend actions, suits, and other proceedings on behalf of the insane person.

151. Any property taken in exchange and any renewed lease accepted on behalf of an insane person under the powers of this Act, shall be to the same uses and be subject to the same trusts, charges, incumbrances, dispositions, devises, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to.

Property exchanged and renewed lease to be to same uses as before.
53 and 54 Vic., c. 5, s. 121.
42 Vic., No. 7, ss. 150, 160.

Lunacy.

152. (1) The power to authorise leases of an insane person's property under this Act shall extend to property of which the insane person is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the insane person, and all persons entitled in remainder and reversion expectant upon the estate tail of the insane person including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the insane person shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the insane person or his committee would have had.

Extent of leasing power.

53 and 54 Vic., c. 5, s. 122.

42 Vic. No. 7, s. 164.

(2) Leases authorised to be granted and accepted by or on behalf of an insane person under this Act may be for such number of lives or such term of years at such rent and subject to such reservations, covenants, and conditions as the Court may order.

42 Vic. No. 7, ss.

148, 161, 166.

(3) Fines or other payments on the renewal of leases may be paid out of the estate of the insane person, or charged with interest on the leasehold property, as the Court may order.

Ibid. s. 149.

153. (1) The insane or incapable person, his heirs, next of kin, devisees, legatees, executors, administrators, and assigns shall have the same interest in any moneys arising from any sale, mortgage, charge, or other disposition of land under the powers of this Act, which may not have been applied under such powers as he or they would have had in the property the subject of the sale, mortgage, charge, or disposition, if no sale, mortgage, charge, or disposition had been made, and the surplus moneys shall be of the same nature as the property sold, mortgaged, charged, or disposed of.

Insane person's interest in property not to be altered.

53 and 54 Vic., c. 5, s. 123.

42 Vic. No. 7, s. 155.

(2) Moneys received for equality of partition and exchange, and all fines, premiums, and sums of money received upon the grant or renewal of a lease where the property, the subject of the partition, exchange, or lease was real estate of the insane or incapable person shall, subject to the application thereof for any purposes authorised by this Act, be considered as real estate, except in the case of fines, premiums and sums of money received upon the grant or renewal of leases of which the insane person was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the insane person.

42 Vic. No. 7, ss.

160, 167.

(3) In order to give effect to the foregoing provisions of this Act the Court may make such orders and direct such conveyances, deeds, and things to be executed and done as it thinks fit.

Ibid. ss. 106, 155,

160.

154. (1) The Court may order that the whole or any part of any moneys expended or to be expended under its order for the permanent improvement, security, or advantage of the property of the insane person, or of any part thereof, shall with interest be a charge upon the improved property or any other property of the insane person, but so that no right of sale or foreclosure during the lifetime of the insane person

Expenses of improvements may be charged on estate.

53 and 54 Vic., c. 5, s. 118.

42 Vic. No. 7, s. 154.

Lunacy.

person be conferred by the charge, and the interest shall be kept down during his lifetime out of the income of his general estate as far as the same is sufficient to bear it.

(2) The charge may be made either to some person advancing the money, or, if the money is paid out of the insane person's general estate, to some person as a trustee for him as part of his personal estate.

155. Where the net amount or net estimated value of the property of any insane person does not exceed the sum of five hundred pounds, the Court may order the amount of the property or the produce thereof when realized to be paid or transferred to some fit person, to be applied in or towards the maintenance of the insane person, either at his discretion, or in such manner, and subject to such control as the Court may direct, and for the purpose of giving effect to any such order the Court may order any real estate or other property whatsoever of the insane person to be sold, and a valid conveyance or transfer thereof to be executed or made by such person as it shall direct.

Where property very small the Court may apply same directly for insane person's maintenance.

42 Vic. No. 7, s. 156.

156. (1) Where it appears to the Court that there is reason to believe that the unsoundness of mind of any insane person is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of such insane person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income, or of ready money belonging to the insane person, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the Court may allow thereout such amount as it may think proper for the temporary maintenance of the insane person and the members of his immediate family who are dependent upon him for maintenance, and may order the payment of any such sum of money as aforesaid, or any part thereof, to some fit person, and may direct the same to be paid to such person accordingly, and when received to be applied, and the same shall accordingly be applied in or towards such temporary maintenance as aforesaid.

Where insanity temporary the Court may apply cash arising from income for temporary maintenance.

53 and 54 Vic., c. 5, s. 127.

42 Vic. No. 7, s. 157.

(2) The receipt in writing of the person named in the order to whom payment is to be made for any moneys payable to him by virtue thereof shall effectually discharge the banker, agent, or other person paying the same from the moneys therein respectively expressed to be received.

(3) The person so receiving any moneys by virtue of this present provision shall pass an account thereof before the Master when required.

157. Where a person, being a member of a copartnership firm, becomes insane, the Court may, by order, dissolve the partnership.

The Court may dissolve partnership.

Ibid. s. 119.

158. *Ibid.* s. 159.

Lunacy.

158. (1) The committee of the estate, or such person as the Court approves, shall, in the name and on behalf of the insane person, execute, make, and do all such conveyances, deeds, transfers, and things for giving effect to any order under this Act as the Court directs; and every such conveyance, deed, transfer, and thing shall be valid and effectual, and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject.

Power to carry orders into effect. 53 and 54 Vic., c. 5, s. 124. 42 Vic. No. 7, ss. 152, 154, 159.

(2) Where by the order of the Court any real estate is ordered to be sold, mortgaged, or charged, an effectual conveyance, mortgage, or charge may be made of any interest of a married woman in such estate, being an insane person, without any acknowledgment by her.

Conveyance of interest of married woman. 56 Vic. No. 23, s. 16.

159. Where a power is vested in an insane person in the character of a trustee or guardian, or the consent of an insane person to the exercise of a power is necessary in the like character or as a check upon the undue exercise of the power—and it appears to the Court to be expedient that the power should be exercised or the consent given (as the case may be), the committee of the estate, in the name and on behalf of the insane person, under an order of the Court made upon the application of any person interested in the exercise of the power, may exercise the power or give the consent (as the case may be) in such manner as the order may direct.

Committee may exercise power vested in insane person in character of guardian, &c. 53 and 54 Vic., c. 5, s. 128. 42 Vic. No. 7, s. 168.

160. Where under this Act the committee of the estate, under order of the Court, exercises in the name and on behalf of the insane person a power of appointing new trustees vested in him, the persons who shall after and in consequence of the exercise of the power be the trustees shall have all the same rights and powers as they would have had if the order had also been made by the Supreme Court under any law for the time being in force relating to trusts; and the Court may in such case where it seems to be expedient make any such order respecting the property subject to the trust as might have been made in the same case under the provisions of any such law as aforesaid on the appointment thereunder of new trustees.

Appointment of new trustees under power to have effect of appointments by Court and like orders may be made as under any law relating to trusts. *Ibid.* s. 129. *Ibid.* s. 169.

161. In any case where, pending the appointment of committees, it appears to the Master desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the insane person, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers, or of any other person, the Master may, by certificate, authorise such banker or other person to pay to the person to be named in such certificate such sum as he certifies to be proper; and may, by such certificate, give any directions as to the proper application thereof for the insane person's benefit by that person, who shall be accountable for the same, as the Master directs.

Temporary provision for maintenance of insane person. 53 and 54 Vic., c. 5, s. 130.

Lunacy.

162. Where any stock is standing in the name of or is vested in an insane person beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of an insane person in trust for the insane person or as part of his property, and the committee dies intestate or himself becomes insane or is out of the jurisdiction, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock and to receive and pay over the dividends thereof to a new committee or as he directs for the space of fourteen days after a request in writing for that purpose made by a new committee, then the Court may order some fit person to transfer the stock to or into the name of a new committee or otherwise, and also to receive and pay over the dividends thereof, or such sums of money, and in such manner as the Court directs.

Stock belonging to insane person may be ordered to be transferred.
53 and 54 Vic., c. 5, s. 133.
42 Vic. No. 7, s. 170.

163. Where any stock is standing in the name of, or vested in, a person residing out of New South Wales, the Court, upon proof to its satisfaction that such person has been declared idiot, lunatic, or of unsound mind, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where he is residing, may order some fit person to make such transfer of the stock to or into the name of the curator or other person appointed as aforesaid or otherwise, and also to receive and pay over the dividends thereof as the Court thinks fit.

Stock in name of insane person residing out of New South Wales may be ordered to be transferred.
Ibid. s. 134.
Ibid. s. 171.

164. Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made.

Who shall be appointed to make transfer.
42 Vic. No. 7, s. 172.

165. The Court may order the costs and expenses of and relating to the petitions, applications, orders, directions, conveyances, and transfers to be presented or made in pursuance of this part of this Act to be paid and raised out of or from the property, or the rents, income, or profits in respect of which the same respectively shall be presented or made in such manner as it may think proper; and the Court may order such sum by way of remuneration to be paid out of the estate to the committee of any insane person as the Court may think fit.

Costs and remuneration may be paid out of estate.
Ibid. s. 173.

166. Every conveyance, lease, surrender, transfer, charge, or other disposition made or accepted or executed and every payment made under this Act shall be valid to all intents and binding upon all persons whomsoever; and this Act shall be a full indemnity and discharge to all persons for all acts and things done or permitted to be done in pursuance thereof, or of any order of the Court made or purporting to be made under this Act.

All deeds, transfers, payments, &c., made in pursuance of this Act, to be valid and binding.
Ibid. s. 174.

Lunacy.

167. Nothing in this Act contained shall subject any part of the property of an insane person to the debts or demands of his creditors, further or otherwise than as the same is now subject thereto by due course of law.

Act not to subject insane's person's property to debts.
53 and 54 Vic., c. 5, s. 116 (5).
42 Vic. No. 7, s. 175.

PART IX.

Court visitor.

168. The Court may by general rule or special order:—
- (a) direct the Inspector-General or other fit person to visit any insane person and to make a report in writing to the Court or a Judge of the state of mind and bodily health and general condition, and also of the care and treatment of the person visited;
 - (b) direct that such information as may be deemed necessary be given to the person making the visit as to the nature and extent of the fortune of the person visited, and as to the orders of the Court made in respect thereof;
 - (c) order that any fees and expenses connected with the visit be paid out of the estate of the person visited.

Court may order insane person to be visited.
56 Vic. No. 23, s. 13.

PART X.

Miscellaneous provisions.

169. (1) The Judges, or any three of them, may make general orders and rules for regulating, in all cases, the form and mode of proceeding before the Court, and before and by the Master, for carrying into effect the several objects of Parts VII and VIII of this Act, so far as the same relate to the powers or duties of the Court or of the Master, and for regulating the practice and forms in all matters of Lunacy, and the amount of percentage, and of the fees payable in proceedings relating to insane persons and patients and their estates, and the mode in which the same shall be ascertained and paid:

Power to judges of Supreme Court to make general orders.
42 Vic. No. 7, s. 176.
56 Vic. No. 23, s. 20
(1).
58 Vic. No. 5, s. 14
(11).

(2) A copy of every such rule shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

170. The Governor may make regulations for carrying into effect the purposes and provisions of this Act in all respects other than as hereinbefore provided for, and in particular for the care and maintenance

Governor may make regulations.
Ibid. s. 177.
58 Vic. No. 5, s. 15.

Lunacy.

maintenance of patients while boarded-out and the inspection of those patients and of the houses and premises where they may reside, and may impose any penalty not exceeding twenty pounds for any breach of those regulations; and all regulations when made and published in the Gazette shall have the force of law, and shall be laid before both Houses of Parliament without delay.

171. In any proceeding taken against a superintendent of an hospital for the insane or for the criminal insane, licensed house, or reception house, or other person authorised by this Act to take charge of any person as insane, or against any assistant or servant of any such superintendent or person authorised as aforesaid for taking, confining, detaining, or retaking any person as an insane person or patient, the party complained of may plead the general issue, and may under that plea give in evidence the order, request, and certificates or certificate mentioned in parts I to VI (inclusive) of this Act in his defence; and the certificate or certificates and the request, or the certificate or certificates and the order (as the case may be) shall be a justification for taking, confining, detaining, or retaking that insane person or patient.

Superintendents, &c., may plead the general issue.
Certificates, &c., a bar to proceedings.
56 Vic. No. 23, s. 10.

172. (1) No suit or action shall lie against any person for or on account of any act, matter, or thing done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if that person has acted in good faith and with reasonable care.

No action to lie against person who has acted in good faith, &c.
Ibid. s. 11.

(2) No such suit or action as aforesaid shall be commenced but within three months after the alleged cause of action, or, in the case of a suit or action by a person who has been an insane person or patient, but within three months next after the making of a superseding order, or next after the discharge of the patient.

Or where action not commenced within three months.

(3) Proceedings in such suit or action as aforesaid may, on summary application to the Court, be stayed upon such terms as to costs or otherwise as the Court may think fit, if the Court is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care, or that the said proceedings have been commenced after the expiration of the three months aforesaid.

Stay of proceedings.

173. Any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, hospital for criminal insane, public hospital, or gaol, who strikes, wounds, illtreats, or wilfully neglects any insane patient confined or detained therein shall for every such offence, be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding six months:

Penalties on officers or servants illtreats the insane,
42 Vic. No. 7, s. 179.

Provided that nothing in this clause contained shall prejudice or affect the civil or criminal responsibility (if any) of the offender at common law or under any Statute.

Lunacy.

174. If any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, public hospital, or gaol, through wilful neglect or connivance, permits any insane patient to escape from any such hospital, licensed house, reception house, or gaol, or to be at large without such order as in this Act mentioned (save in the case of temporary absence authorised under the provisions aforesaid), or secretes, or abets, or connives at the escape of any such person, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

Penalty on officers, &c., allowing patients to escape or be at large without permission.
42 Vic. No. 7, s. 180.

175. Every superintendent of an hospital for the insane shall forward to the Master, within fourteen days from the reception of any patient into any such hospital, the name of such patient, together with a true and particular account, so far as the same is known or can be ascertained, of his property, and of the names and residences of his relatives known, or supposed, to be able to maintain or contribute to the maintenance of such patient; and shall from time to time, without any unnecessary delay, forward to the Master a report in writing of the death, discharge, removal, absence on trial or for the benefit of his health, return, escape, and recapture of every patient in the said hospital; and every such superintendent and the Inspector-General, and every official visitor, shall communicate to the Master all particulars that may come to his knowledge respecting the property of any patient in any hospital for the insane, reception house, or public hospital, and if any such superintendent, Inspector-General, or official visitor has reason to believe that the property of any such patient is not duly protected, or that the income thereof is not duly applied for his maintenance, such superintendent, Inspector-General, or official visitor shall report thereon to the Colonial Secretary as well as to the Master.

Reports to be made to the Master and in certain cases to the Colonial Secretary.
Ibid. s. 181.
56 Vic. No. 23, s. 31.

176. (1) The superintendent of every such hospital, reception house, licensed house, or other place officially visited under this Act, shall show to the Inspector-General or official visitors visiting the same, every part thereof respectively, and every person detained therein, and shall give full and true answers to the best of his knowledge to all questions which the Inspector-General or official visitors shall ask in reference to the said hospital, reception house, licensed house, or other place, and the patients confined therein, and shall produce to the Inspector-General and official visitors respectively the several books by this Act required to be kept, and shall furnish all such returns as may be required by the Inspector-General or official visitors.

Superintendents of hospitals and licensed houses to show official visitors and Inspector-General the whole of house and answer inquiries.
Ibid. s. 82.

(2) Every such superintendent or other officer and every servant of any such superintendent or other officer who:—

- (a) conceals or attempts to conceal, or refuses or wilfully neglects to show any part of such hospital or house or other place, or any building or appurtenances belonging thereto, or any person detained or being therein from or to any such official visitors or Inspector-General as aforesaid; or

(b)

Lunacy.

- (b) does not give true and full answers to the best of his knowledge to all questions which the official visitors or Inspector-General ask in reference to the matters aforesaid; or
- (c) neglects or refuses to furnish such returns as aforesaid, or to produce to the Inspector-General or official visitors—
- (i) the several books by this Act required to be kept; and also
 - (ii) all orders and certificates relating to patients admitted since the last visitation of the Inspector-General or official visitors; and
 - (iii) in the case of a licensed house, the license then in force for such house; and
 - (iv) such other documents and papers relating to any of the patients at any time received into such hospital, licensed house, reception house, or other place as the Inspector-General or official visitors shall require to be produced to him or them;

shall be guilty of a misdemeanour.

177. (1) Every letter written by a patient in any such hospital, licensed house, reception house, or other place officially visited under this Act and addressed to the Inspector-General or official visitors shall be forthwith forwarded unopened.

Letters of patients to be forwarded, or if not, to be laid before Inspector-General, &c.

(2) Every letter written by any such patient and addressed to any person other than those abovementioned shall be forwarded to the person to whom it is addressed, unless the superintendent of such hospital, licensed house, or reception house, or in the case of a single patient the person having charge of him shall upon reading the same prohibit the forwarding of such letter by endorsement to that effect under his hand on the letter, and in such case he shall lay the letter so endorsed before the Inspector-General or official visitors, whichever shall next thereafter visit such hospital, reception house, licensed house, or such other house as aforesaid on his or their next visit, and no such letter if unsend shall be destroyed until it has been submitted to the Inspector-General.

42 Vic. No. 7, s. 183.

(3) Any such superintendent or any such person in charge as aforesaid who fails to comply with any of the requirements of this section shall be liable to a penalty not exceeding ten pounds in respect of every such offence.

Penalty.

178. Every person who for the purposes of this Act—

- (a) signs or describes himself in any statement or certificate as a medical practitioner, not being such within the meaning of this Act; or
- (b) wilfully makes or is privy to the making of an untrue entry in any of the books required by this Act to be kept; or
- (c) wilfully makes an untrue statement in any report, or with reference to anything by this Act required to be made or done;

Misdemeanours.
Medical practitioner
—untrue entry—
untrue statement.
Ibid. s. 184.

shall be guilty of a misdemeanour.

179.

Lunacy.

179. (1) The Inspector-General or official visitors visiting any hospital, licensed house, reception house, or other place officially visited under this Act may require by summons according to the form in Schedule Nineteen to this Act any person to appear before him or them to testify on oath the truth touching any of the matters respecting which the Inspector-General or official visitors is or are by this Act authorised to inquire.

Power to Inspector-General and official visitors to summon witnesses.
42 Vic. No. 7, s. 185.
Nineteenth Schedule.

(2) Every person who does not appear pursuant to such summons (having had his reasonable expenses paid or tendered to him at the time of service of such summons), or does not assign some reasonable excuse for not so appearing, or appears and refuses to be sworn or examined shall, for every such neglect or refusal, be liable to a penalty not exceeding ten pounds.

Penalty.

(3) The Inspector-General or official visitors may also examine on oath any person appearing as a witness or present at the time of any such inquiry touching any of the matters aforesaid although no such summons as aforesaid may have been served upon him.

Also to examine persons not summoned.

180. Penalties may, except where otherwise provided under this Act, be recovered before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

Penalties.
42 Vic. No. 7, s. 186.
58 Vic. No. 5, s. 16.

SCHEDULES.

SCHEDULE ONE.

Date of Act.	Title of Act.	Extent of Repeal.
22 Vic. No. 14	An Act to expedite suits, &c.	Section 6 so far as it deals with jurisdiction in lunacy.
42 Vic. No. 7	Lunacy Act of 1878	The whole.
45 Vic. No. 16	Lunacy Act Amendment Act of 1881	The whole.
56 Vic. No. 23	Lunacy Act Further Amendment Act of 1893.	The whole.
58 Vic. No 5	Lunacy Convention Act of 1894	The whole.

SCHEDULE

Lunacy.

SCHEDULE TWO.

Form of medical certificates to accompany order or request for reception into an hospital or licensed house.

I, THE undersigned, being a medical practitioner, hereby certify that I, on the 42 Vic. No. 7.
day of , one thousand eight hundred and , at [here insert the particulars] Schedule Two.
of the place of examination, as the street, number of the house, or other particulars
separately from any other medical practitioner, personally examined , of
[insert residence, and profession or occupation, if any] and that the said
is [insane or an idiot] 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 one thousand eight hundred and

(Signed)

Place of abode.

SCHEDULE THREE.

Order for conveyance to an hospital or licensed house.

WE, the undersigned Justices, having called to our assistance and *Ibid.* Schedule Three.
medical practitioners, and having examined , of [insert residence and occupation,
if any] who has been brought before us as being deemed to be insane, as also the said
medical practitioners, and having made such inquiry relative to the said as we
have deemed necessary, and being, upon such examination [if other evidence of the
insanity add "with other proof"] satisfied that the said is insane and in indigent
circumstances [or is insane and was wandering at large] [or is insane and was
discovered under circumstances that denoted a purpose of committing some offence
against the law] [or is insane, and is not under proper care and control] [or is insane
and is cruelly treated or neglected by , a relative or a 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, do hereby direct you [the superintendent of the
hospital or licensed house] at to receive into the said hospital [or licensed house]
the said

Given under our hands and seals this day of one thousand eight
hundred and ninety

(Signed)

J.P.

J.P.

To superintendent of the hospital (or licensed house) at
Subjoined is a statement respecting the said

NOTE.—When the case is one of emergency and a certificate is signed in the form of Schedule Seven,
this form must be altered so as to refer to one medical practitioner.

Lunacy.

SCHEDULE FOUR.

I THE undersigned hereby request you to receive person certified to be insane into the hospital [*or licensed house*] of which you are the superintendent. Subjoined is a statement respecting the said *a Ibid. Schedule Four*

Name of person signing the request—

Occupation [*if any*] of that person—

Place of his abode—

Degree of relationship [*if any*] or other circumstances of connection of the person signing the request with the person so certified to be insane—

Dated this day of one thousand eight hundred and

(Signed)

To superintendent of the hospital [*or licensed house*] of at

SCHEDULE FIVE.

STATEMENT.

If any particulars in this statement be not known the fact is to be so stated. *Ibid. Schedule Five.*

Name in full?

Age?

Married, single, or widowed?

Number of children?

Age of youngest child?

Previous occupation?

Native place?

Late residence?

Religious persuasion?

Supposed cause of insanity?

How long has the attack lasted?

Has been insane before?

State the number of attacks?

Age [*if known*] at first attack?

Has any insane relations?

Has ever been an inmate of any institution for the insane?

Is subject to fits?

Is suicidal?

Is dangerous to others?

Name and address of nearest relations or friends?

Special circumstances [*if any*] preventing the patient being examined before admission separately by two medical practitioners.

(Signed)

(Address)

When the person signing the statement is not the person who signs the order or request for the admission of the insane person 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 circumstances of connection with the patient?

SCHEDULE

Lunacy.

SCHEDULE SIX.

58 Vic. No. 5.
Schedule.

Order to convey an insane patient to adjacent colony.

WE, the undersigned Justices, having called to our assistance and , medical practitioners, and having examined of [*insert residence and occupation, if any*], who has been brought before us as being deemed to be insane, as also the said medical practitioners; and having made such inquiry relative to the said as we have deemed necessary, and being upon such examination [*if other evidence of the insanity, add "with other proof"*] satisfied that the said is insane and in indigent circumstances, or is insane and was wandering at large, or is insane and was discovered under circumstances that denoted a purpose of committing some offence against the law, or is insane and is not under proper care and control, or is insane and is cruelly treated or neglected by , a relative or a 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 that it is for his benefit that he should be sent for care, treatment, and maintenance to the colony of [*here insert name of colony*], do hereby direct you [*person to convey insane patient to adjacent colony*] to convey him to [*place in adjacent colony agreed upon*] and there to set him at large, and thereupon to identify him to [*name of a police officer of the adjacent colony*] so that the said may apprehend him in due course pursuant to the lunacy statutes of the said colony to be dealt with thereunder.

Given under our hands and seals this day of one thousand eight hundred and ninety

(Signed)

J.P.
J.P.

SCHEDULE SEVEN.

42 Vic. No. 7.
Schedule Six.

Certificate of emergency.

WE, the undersigned Justices, certify that we cannot call to our assistance two medical practitioners without causing delay prejudicial to , a person certified by one medical practitioner to be insane, and do direct his reception into a reception house, gaol, or public hospital for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this day of one thousand eight hundred and ninety

(Signed)

J.P.

SCHEDULE EIGHT.

I, THE undersigned Justice, do direct that , a person for whose reception into an hospital for the insane or licensed house the proper authority has been signed and remains in force, be received into a reception house, public hospital, or gaol, for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this day of one thousand eight hundred

(Signed)

J.P.

Lunacy.

SCHEDULE FIFTEEN.

Ibid. Schedule Thirteen.

Form of license to keep a licensed house.

I do hereby, in pursuance of the Lunacy Act 1898, grant to
of a license to be in force for three years from the date hereof
to keep for the reception of insane persons of the male (*or* female)
sex (*or* of both sexes) the house, the particulars of which appear in the notice given
on the day of to the Colonial Secretary.

Witness my hand this day of one thousand eight hundred and

Governor.

SCHEDULE SIXTEEN.

Ibid. Schedule Fourteen.

Statement respecting the criminal insane.

(If any particulars in this statement be not known the fact is to be so stated.)

- Name in full ?
- Age ?
- Married, single, or widowed ?
- Number of children ?
- Age of youngest child ?
- Previous occupation ?
- Native place ?
- From whence brought ?
- Religious persuasion ?
- Supposed cause of insanity ?
- How long has the attack lasted ?
- Has been insane before ?
- State number of attacks ?
- Age if known at first attack ?
- Has any insane relations ?
- Has ever been an inmate of any institution for the insane ?
- Is subject to fits ?
- Is dangerous to others ?
- Crime or offence ?
- Verdict of jury ?
- Sentence ?
- Name and address of nearest relations and friends ?

SCHEDULE SEVENTEEN.

Ibid. Schedule Fifteen.

WHEREAS it has been duly certified under section sixty-six of the Lunacy Act, 1898, that
[A.B.], a prisoner in gaol, is insane, I hereby order the said [A.B.] to be
removed to the hospital for the criminal insane at , there to remain until he has
become of sound mind or until he be otherwise discharged by due course of law.

Dated this

Colonial Secretary.

Lunacy.

SCHEDULE EIGHTEEN.

I [A.B.], a medical practitioner, have this day examined [C.D.], residing at _____ and hereby certify that he is still insane, and that he appears to be kindly treated by the persons under whose care he is living.

Ibid. Schedule Sixteen.

(Signed)
(Address)

Dated this _____ day of _____ one thousand eight hundred and _____

SCHEDULE NINETEEN.

I [A.B.], the Inspector-General (*or* we official visitors of the hospital or licensed house situate at _____), appointed under and by virtue of the Lunacy Act of 1898, hereby summon and require you personally to appear before me [*or* us] at _____, on next, the _____ day of _____, at the hour of _____, in the _____ noon of the same day, and then and there to be examined and to testify the truth concerning certain matters relating to the execution of the said statute.

Ibid. Schedule Seventeen.

Dated this _____ day of _____, one thousand eight hundred and _____
(Signature)

AMERICA

AMERICAN HISTORY

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Memo. and Certificate to accompany the Lunacy Bill.

THIS Bill consolidates the whole or portions of the following Acts:—

22 Vic. No. 14;
42 Vic. No. 7;
45 Vic. No. 16;
56 Vic. No. 23;
58 Vic. No. 5.

Clause 3.—The expressions “insane person” and “insane patient” are loosely used through the Act 42 Vic. No. 7. They are now defined and carefully used throughout the Bill to agree with the defined meanings. The limitation of the definition of “insane person” to persons so found under part VII of 42 Vic. No. 7 has been removed in consequence of decisions of Mr. Justice Owen under sec. 146 of the same Act. “Incapable person” is also defined for the whole Act, but the expression is only used where it formerly appeared, *i.e.*, in the clauses taken from the Lunacy Convention Act, 58 Vic. No. 5.

Clause 6 (2).—There has been a great difficulty under the old Acts, which will be appreciated if the proviso to sec. 15, sec. 49, and Schedule 6, of the 42 Vic. No. 7 are referred to. A power was given to *receive* an insane patient into a reception-house, public hospital, or gaol (which would be all places of mere temporary detention) upon the certificate of one medical man alone, and there was apparently an intention to confer a similar power on Justices to *direct* such a reception upon one such certificate, but the latter intention has been frustrated by some words in sec. 49, perhaps added in Committee of one of the Houses without their precise effect being perceived. The result has been, it appears, very unfortunate. In many country districts, where only one medical man can be easily obtained, great delay, to the prejudice of the unfortunate patient, has been caused by the necessity of waiting till a second medical man could be brought from a distance to sign the certificate. After much consideration, and consultations between the Master-in-Lunacy and the Inspector General of the Insane, the present clause has been drafted, removing the difficulty which formerly existed. As the matter now stands, if the Justices are satisfied that the delay necessary to procure a second medical certificate will be injurious to the patient, and sign a certificate to that effect, they may send the patient to a reception-house, public hospital, or gaol, upon the certificate of one medical man. These are places in which the patient can only be detained for a very short time, and before he can be forwarded to any hospital for the insane a second medical examination must be made and a second medical certificate given. The point is one of extreme importance, as involving the liberty of the subject, but as it seems clear that it was only by an inadvertence in drafting that the power intended to be given by the Legislature was rendered inoperative, and as any detention upon a single medical certificate can only be for a few days, the step has been ventured upon of removing the existing doubt and making the matter clear.

Clauses 30 and 48.—There has been added to the persons to whom notice of the death of a patient must be sent, the committee, where such committee has signed the order for the reception of the patient into the hospital.

Clause 96.—The words “or permitted to be absent therefrom” are new, to meet an apparently omitted case.

Clause 101.—This is new, and embodies the practice that has always been followed. There is some little doubt under the existing Acts what the precise position of the lunacy jurisdiction is. Section 6 of 22 Vic. No. 14 has always been relied upon as giving jurisdiction to the Primary Judge in Equity. The intention of the Legislature seems pretty clear, and as the practice has always followed that, it is now made plain in this clause.

Clause 105.—The procedure is here left to be fixed by rules of Court. This will do away with the unnecessary expense of making applications under sections 92 and 93 of the original Act by *petition*, and will enable the judge to permit of simpler and cheaper modes of application in the appropriate cases.

Clause 106 (2).—Here too an extended power is given in order to save expense. Sometimes the superintendent of a hospital for the insane refuses to allow personal service of some legal notice on a patient, on the ground that it would excite him injuriously. In such cases a special application has to be made to the Court to dispense with personal service. To save this expense power is now inserted to make general rules of Court applicable to such cases.

Clause 132.—The words “carrying on the business of banking in Sydney, which has been approved by the Court” are a change from the former words, and follow an identically similar change made in the Equity rules. The words give wider powers of investment, and additional protection to the capital invested by requiring the approval of the Court.

Clause 142.—This has been re-drafted to conform to the decision in *ex p. Clarke*, 17 N.S.W. R., p. 249.

Clauses 116 and 169 (1).—Sections 113 to 139 inclusive, and sec. 162 of 42 Vic. No. 7, have been omitted from this Bill as referring to matters which are more properly subjects for rules of Court than for enactments, and which sec. 8 of 58 Vic. No. 5 appears to show should be left to the Master-in-Lunacy subject to rules of Court and the supervision of the Court. A similar course was followed in England by the Consolidation Commissioners there.

Clauses 149 and 150.—These follow the wording of the sections of the English Statutes mentioned in the margin, and are simply consolidation, except as to 150 (*k*), (*l*), and (*m*), which supply an omission by giving the Court the same powers, where there is a committee, as to the estates of insane *persons*, as the Master, under clause 126 has in regard to the estates of insane *patients*. See also clause 127.

Clause 161.—This also provides for the omitted case of the maintenance of an insane person and his family pending the appointment of a committee. It is taken from sec. 130 of the English Act 53 and 54 Vic., c. 5.

I must express my great obligations in this consolidation to Mr. H. F. Barton, the Master-in-Lunacy. He has placed at my disposal his very complete knowledge of the Lunacy Acts which he has so large a share in administering, and has been kind enough to go over the present Bill many times with great care. He has reported to me fully upon most of the points which have arisen, and has consulted with Mr. Justice Owen and with Dr. Manning, the late, and Dr. Sinclair, the present, Inspector General of the Insane.

I now certify that, except as hereinbefore mentioned, this Bill solely consolidates, and in no way alters, adds to, or amends the law as contained in the Acts therein consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Lunacy Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
		22 VICTORIA No. 14.
6	101	
		42 VICTORIA No. 7.
1	1	
2	2	
3	3	
4	4	
5	5	
6	6	
7	8	
8	9	
9	10	
10	.....	Repealed by 56 Vic. No. 23, section 3.
11	13	
12	.....	Repealed by 45 Vic. No. 16, section 8.
13	.....	Repealed by 56 Vic. No. 23, section 3.
14	16	
15	6 (2), 17	
16	18	
17	25	
18	25	
19	26	
20	27	
21	28	
22	29	
23	30	
24	31	
25	32	
26	33	
27	34	
28	35	
29	36	
30	37	
31	38	
32	39	
33	40	
34	41	
35	42	
36	43	
37	44	
38	45	
39	46	
40	47	
41	48	
42	49	
43	50	
44	51	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA NO. 7— <i>continued.</i>		
45	52	
46	53	
47	54	
48	55	
49	56	
50	57	
51	58	
52	59	
53	60	
54	61	
55	62	
56	63	
57	64	
58	.....	Repealed by 45 Vic. No. 16, section 8.
59	66	
60	.....	Repealed by 45 Vic. No. 16, section 8.
61	70	
62	71	
63	72	
64	73	
65	74	
66	75	
67	76	
68	77	
69	78	
70	78	
71	79	
72	80	
73	81	
74	82	
75	83	
76	84	
77	85	
78	86	
79	87	
80	88	
81	89	
82	90	
83	.....	Repealed by 45 Vic. No. 16, Section 8.
84	93	
85	94	
86	95	
87	96	
88	97	
89	98	
90	99	
91	100	
92	102	
93	104	
94	105, 106 (1)	
95	106 (2)	
96	105	
97	107	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA NO. 7— <i>continued.</i>		
98	108	
99	109	
100	110	
101	111	
102	112	
103	113	
104	114	
105	115, 116	
106	149 (1), 150 (a) (c) 153 (3)	
107	125	
108	117	
109	120	
110	121	
111	122	
112	123	
113	.....	To be dealt with by rule.
114	.....	” ”
115	.....	” ”
116	.....	” ”
117	.....	” ”
118	.....	” ”
119	.....	” ”
120	.....	” ”
121	.....	” ”
122	.....	” ”
123	.....	” ”
124	.....	” ”
125	.....	” ”
126	.....	” ”
127	.....	” ”
128	.....	” ”
129	.....	” ”
130	.....	” ”
131	.....	” ”
132	.....	” ”
133	.....	” ”
134	.....	” ”
135	.....	” ”
136	.....	” ”
137	.....	” ”
138	.....	” ”
139	.....	” ”
140	118	
141	124	
142	129	
143	.....	Repealed by 56 Vic. No. 23, section 3.
144	.....	” ”
145	139	
146	148	
147	142	
148	150 (e), 152 (2)	
149	152 (3)	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA No. 7—continued.		
150	151	
151	149 (1), 150 (a)	
152	158 (1)	
153	149 (2)	
154	154, 158 (1)	
155	153 (1), (3)	
156	155	
157	156	
158	150 (h)	
159	157, 158 (1)	
160	150 (a), (b); 151, 153 (2), (3)	
161	150 (b)	
162	.....	To be dealt with by rule.
163	150 (i)	
164	150 (d), 152 (1), (2)	
165	150 (g)	
166	150 (f), 152 (2)	
167	153 (2)	
168	150 (j), 159	
169	160	
170	162	
171	163	
172	164	
173	165	
174	166	
175	167	
176	169	
177	170	
178	.....	Repealed by 56 Vic. No. 23, section 3.
179	173	
180	174	
181	175	
182	176	
183	177	
184	178	
185	179	
186	180	
Schedule	Schedule	
1	.....
2	2	
3	3	
4	4	
5	5	
6	8	
7	9	
8	10	
9	11	
10	12	
11	13	
12	14	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
42 VICTORIA NO. 7— <i>continued.</i>		
13	15	
14	16	
15	17	
16	18	
17	19	
45 VICTORIA NO. 16.		
1	7	
2	65	
3	67	
4	68	
5	69	
6	92	
7	14	
8	.....	Omitted.
9	.....	”
56 VICTORIA NO. 23.		
1	.....
2	3	
3	.....
4	140	
5	141	
6	.....	Validating.
7	11	
8	12	
9	15	
10	171	
11	172	
12	78	
13	168	
14	107	
15	.....
16	158 (2)	
17	110	
18	118	
19	119	
20 (1)	169	
20 (2)	119	
21	126	
22	127	
23	128	
24	130	
25	131	
26	132	
27	133	
28	134	
29	135	
30	136	
31	175	
32	137 (2)	
33	138	
34	147	
35	145	
36	146	

Section of Repealed Acts.	Section of Consolidated Act.	Remarks.
58 VICTORIA No. 5.		
1	3, 19	
2	3, 20	
3	3, 21	
4	22	
5	23	
6	24	
7 (1)	91	
7 (2)	3	
8	116	
9	115	
10	77	
11	142	
12	143	
13	144	
14 (1)	103	
14 (2)	119, 169	
15	170	
16	180	
17	.....
18	.....
Schedule.	Schedule 6.	

Legislative Council.

No. _____, 1898.

A BILL

To consolidate the Law respecting the Insane.

[DR. GARRAN ;—12 October, 1898.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Lunacy Act of 1898, and its sections are divided into Parts as follows:—

Commencement
short title, and
division.

PART I.—*Proceedings by which persons of unsound mind may be (1.) placed under restraint; (2.) removed to and from an adjacent colony and be treated therein—ss. 4–24.*

42 Vic. No. 7, s. 1.

PART II.—*Hospitals for the insane—ss. 25–30.*

A

PART

PART III.—*Licensed-houses—ss. 31-51.*

- (1.) *For the reception of the insane.*
- (2.) *For the reception of a single patient.*

PART IV.—*Reception-houses for the temporary treatment of the insane—ss. 52-58.*PART V.—*Hospitals for the criminal insaness. 59-76.*PART VI.—*Inspection, transfer, and discharge of patients—ss. 77-100.*

- (1.) *Inspection of patients.*
- (2.) *Transfer of patients.*
- (3.) *Discharge of patients.*

PART VII.—*Proceedings for declaring persons insane or incapable and for the appointment of committees, &c.—ss. 101-114.*PART VIII.—*Administration and management of the estates of insane persons and patients—ss. 115-167.*

- (1.) *General powers and duties of Master in Lunacy.*
- (2.) *Powers and duties of Master in Lunacy in respect to estates of insane patients.*
- (3.) *Management of the estates of insane persons.*

PART IX.—*Court visitor—s. 168.*PART X.—*Miscellaneous provisions—ss. 169-180.*

Repeal
First Schedule.
42 Vic. No. 7, s. 2.

2. (1) The several enactments mentioned in Schedule One to this Act to the extent therein expressed are hereby repealed.

(2) All persons appointed by virtue of the provisions of any Act hereby repealed, and holding office at the passing of this Act, shall be deemed to have been appointed hereunder.

(3) All rules of Court and regulations made under the authority of any Act hereby repealed and being in force at the passing of this Act shall be deemed to have been made under the authority of this Act.

Interpretation terms.
Ibid. s. 3.

3. In this Act and in the Schedules thereto, the following terms shall, if not inconsistent with the subject-matter or context, have the respective meanings hereby assigned to them (that is to say)—

“Court”—The Supreme Court, in its Lunacy jurisdiction.

“Incapable person”—Any person who is proved to the satisfaction of the Court, under this Act, to be incapable through mental infirmity, arising from disease or age, of managing his affairs.

“Insane patient” and “patient”—Any person detained at the commencement of this Act in any public or private establishment in New South Wales for the reception of the insane, and

and any person hereafter received into and detained in any hospital, reception house, licensed house, or other place respectively appointed or licensed under the provisions of this Act for the reception of the insane, and any such person, while absent from an hospital or licensed house in a specified place for the benefit of his health, or upon trial, under the provisions of section ninety, or boarded out under the provisions of section ninety-one, and also any person subject to the provisions of section twenty-one to the extent therein mentioned.

56 Vic. No. 23, s. 2,
58 Vic. No. 5, ss. 1,
2, 3, & 7 (II).

- “Insane person”—Any person who has been found or declared, whether by inquisition or under this Act, or under any Act hereby repealed, to be insane or of unsound mind and incapable of managing himself or his affairs.
- “Inspector-General”—Inspector-General of the insane, and shall include the Deputy Inspector-General.
- “Judge”—Any Judge of the Supreme Court.
- “Justice”—Justice of the peace.
- “Master”—Master in Lunacy.
- “Medical practitioner”—A legally qualified medical practitioner within the meaning of any law relating to the qualification of medical practitioners.
- “Public hospital”—Such portion of any hospital or infirmary for the care and treatment of the sick, or of any benevolent asylum, as is set apart and declared to be for the temporary reception of the insane.
- “Ship”—Any vessel used in navigation not propelled by oars.
- “Stock”—Shall comprehend any share or other interest in any company, society, or association established or to be established, and any fund, annuity, or security transferable in books, kept by any company, society, or association established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any money payable for the discharge or redemption thereof and any share or interest therein respectively.
- “Superintendent”—Shall include the deputy superintendent of any hospital for the insane, licensed house, or reception house.

42 Vic. No. 7, s. 3.

PART I.

(1.) *Proceedings by which persons of unsound mind may be placed under restraint.*

Insane persons in indigent circumstances without sufficient means of support.

42 Vic. No. 7, s. 4.

Insane persons wandering at large, &c.

Persons deemed to be insane not taken care of or cruelly treated.

Ibid. s. 5.

Course to be pursued when the person deemed to be insane without means of support is brought before the Justices.

Ibid. ss. 6, 15.

Second Schedule.

4. Upon information on oath before a Justice that a person deemed to be insane is without sufficient means of support, or is wandering at large, or has been discovered under circumstances that denote a purpose of committing some offence against the law, such Justice may by order under his hand require a constable to apprehend such person and bring him before two Justices; and every constable finding any such person so wandering or under such circumstances as are lastly above mentioned may without any such order apprehend him and take him before two Justices.

5. Any constable who has knowledge that any person deemed to be insane is not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, shall forthwith give information thereof upon oath to a Justice, and such Justice upon such information or upon the information upon oath of any person whomsoever to the like effect shall either himself visit and examine such person and make inquiry into the case, 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 thereon, and if 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 insane and not under proper care and control, or is cruelly treated or cruelly neglected by any relative or other person having or assuming the care or charge of him, the Justice may by order under his hand require any constable to bring such person before two or more Justices.

6. (1) The Justices before whom any such person as aforesaid is brought shall call to their assistance any two medical practitioners who have previously examined such person apart from each other and separately signed certificates with respect to such person according to the form in Schedule Two of this Act, and if upon examination of such person and such medical practitioners and upon other proof (if any) such Justices be satisfied that such person is insane and

(a) is without sufficient means of support; or

(b) was wandering at large; or

(c) was discovered under circumstances that denote a purpose of committing some offence against the law; or

(d) is not under proper care and control; or

(e) is cruelly treated or neglected by any person having or assuming the charge of him;

and is a proper person to be taken charge of and detained under care and

and treatment, the said Justices may by an order under their hands according to the form in Schedule Three of this Act, to be accompanied by such statement of particulars as is contained in Schedule Five, direct such person to be removed into some hospital for the insane or licensed house to be named in such order, and such person shall be forthwith conveyed to, and upon production of such order, statement, and medical certificates, shall be received into and detained in such hospital or licensed house accordingly, and such Justices may examine the person deemed to be insane and any witness in the matter at any convenient place, and proceed in all respects as if such person were brought before them at a court of petty sessions.

(2) Where it appears to the Justices that they cannot call to their assistance two medical practitioners without causing delay prejudicial to such person, they may by order under their hands as aforesaid, but upon the certificate and examination of one medical practitioner alone, direct such person to be removed to the hospital for the insane or licensed house mentioned in the order; but in every such case a certificate, in the form of Schedule Seven hereto, shall be made by such Justices, and appended to such order, directing the reception of such person into some reception house, public hospital, or gaol, for immediate treatment, pending his removal to such hospital for the insane or licensed house; and he shall be forthwith conveyed to such reception house, public hospital, or gaol, and treated therein accordingly, and before such person shall be received into such hospital for the insane or licensed house, one other medical certificate shall be lodged with or obtained by the superintendent or officer in charge of such reception house, public hospital, or gaol, and be by him transmitted, together with the order and statement of the Justices and the original medical certificate, to the superintendent or officer in charge of such hospital for the insane or licensed house, with the patient.

(3) The Justices may suspend the execution of any such order for any period not exceeding fourteen days, and in the meantime give such directions or make such arrangements for the proper care and control of such person as they consider necessary.

(4) If the medical practitioners or one of them, 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 certify in writing that such person is fit to be removed.

(5) Any relative or friend may retain or take such person under his own care, if he satisfies the Justices before whom such person is brought that such person will be properly taken care of, anything in this Act to the contrary notwithstanding.

(6)

Report to be made by Justices in certain cases.

(6) Whenever any such examination is had at any other place than a public police office, the Justices shall report to the Colonial Secretary the name, residence, and other particulars pertaining to such person, and if such Justices fail to make such report for the period of ten days they shall be each liable to a penalty not exceeding one hundred pounds.

Option to Justices in respect of remands.
45 Vic. No. 16, s. 1.

7. The Justices before whom any person is brought to be dealt with under the preceding section of this Act may, in lieu of a remand to the places provided by the Imperial Act eleventh and twelfth Victoria, chapter forty-two, as adopted by "the Justices' Act of 1850," or by any Act consolidating or amending the same, but in the same manner as provided thereby, remand such person to any reception house or public hospital, unless it appears that such person has been previously detained in any gaol on conviction for any offence.

Power to justices to order payment of fees to medical practitioners and expenses of conveyance to hospital.

42 Vic. No. 7, s. 7.

8. The Justices causing any person to be examined by any medical practitioners under the provisions hereinbefore contained may grant a certificate for the payment of remuneration to such medical practitioners, and of all other expenses in or about the examination of such person, and the bringing him before Justices and of conveying him to an hospital for the insane, licensed house, reception house, or other place, or for his proper care and control, as in the sixth section mentioned, as to such justices may seem proper, and such expenses, where they cannot be obtained from the estate of the person examined, shall be defrayed out of such fund as has been appropriated by Parliament for such purposes:

Provided always that the remuneration and expenses so awarded or sanctioned shall in every case be subject to the approval of the Colonial Secretary.

Any person to be received into hospital upon a request in writing together with statement and two medical certificates

Ibid. s. 8.

Fourth Schedule.

Fifth Schedule.

Second Schedule.

9. Any person may be received and detained as a patient in an hospital for the insane or a licensed house on the authority of a request under the hand of some person, according to the form in Schedule Four, authenticated by a Justice or minister of religion authorised to celebrate marriage, together with such statement of particulars as is contained in Schedule Five, and two medical certificates, each of which certificates shall be according to the form and contain the particulars required in Schedule Two of this Act, and be signed by a medical practitioner, who has, separately from the medical practitioner who has signed or shall thereafter sign the other of such certificates, personally examined the person to whom such certificate relates not more than ten clear days previously to the reception of such person into such hospital or licensed house, and such request as aforesaid may be signed before or after the date of such medical certificates, or either of them.

Medical certificates to specify facts upon which opinion of insanity has been formed.

Ibid. s. 9.

10. Every medical practitioner who signs 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

certificate relates is insane, and shall distinguish in such certificate facts observed by himself from facts communicated to him by others, and no person shall be received into any hospital for the insane, licensed house, reception house, public hospital, or gaol, under any certificate which purports to be founded only upon facts communicated by others.

11. A medical practitioner shall not sign a certificate for the reception of a patient into an hospital for the insane, reception house, or licensed house in any of the following circumstances:—

Medical practitioner shall not sign certificates in certain circumstances.
56 Vic. No. 23, s. 7.

- (a) Where he has signed the order or request for the reception of that patient into that hospital, reception house, or licensed house.
- (b) Where his father, brother, son, partner, or assistant has signed the order, request, certificate, or one of the certificates for the reception of that patient into that hospital, reception house, or licensed house.
- (c) Where the said medical practitioner, or his father, brother, son, partner, or assistant is the superintendent or medical officer of that hospital for the insane, reception house, or licensed house, or a regular professional attendant in that licensed house, or wholly or in part the proprietor, mortgagee, or lessee of that licensed house, or receives a percentage on or is otherwise interested in the payments to be made by or on account of any patient received into that hospital, reception house, or licensed house.

12. If a medical practitioner, or his father, brother, son, partner, or assistant has signed one of the certificates for the reception of a person into a licensed house, such medical practitioner shall not:—

Medical practitioner signing certificate shall not board or attend insane patient.
Ibid. s. 8.

- (a) by himself or by his servants or agents, receive, or board or lodge, or take the charge of that person in the said licensed house;
- (b) be the regular professional attendant on that person while under care or charge under such certificate as aforesaid.

13. If any medical practitioner grants any such certificate as aforesaid without having seen and carefully examined the person to whom it relates, at the time and in the manner specified in such certificate, for the purpose of ascertaining the condition of such person to the best of his knowledge and power, he shall for every such offence be liable to a penalty not exceeding fifty pounds; and if any such practitioner wilfully and falsely certifies in writing that any person is insane, knowing him not to be insane, the practitioner so certifying shall be guilty of a misdemeanour.

No certificate to be granted without examination.
42 Vic. No. 7, s. 11.

14. No order for the reception of any patient into an hospital for the insane or licensed house shall remain in force after twenty-eight days from the date of the medical certificates which have been given under the provisions of this Act in respect of such patient or the date of the last of them.

Duration of order for reception into hospital.
45 Vic. No. 16, s. 7.

15.

Orders and medical certificates may be amended.

56 Vic. No. 23, s. 9.

15. (1) Any order, request, medical certificate, or other document, by virtue of which any person has been received into an hospital for the insane, or licensed house, and which is incorrect or defective in any particular, may, with the approval of the Inspector-General, and within twenty-eight days after the reception of such person, be amended by the person who has signed the same; and the order, request, medical certificate, or other document so amended shall thereupon be deemed to have operated and to operate from its original date.

(2) If the order, request, certificate, or document is not so amended, the Inspector-General may order the discharge of the person so received as aforesaid, and that person thereupon shall be discharged accordingly; or he may direct the superintendent of the said hospital or licensed house to obtain a new order, request, certificate, or document which shall be as effectual for all purposes as if it had been obtained, made, and executed previously to the reception of such person.

Reception of persons found insane by proceedings before the Court.

42 Vic. No. 7, s. 14.

16. Where any person has been found insane by any proceeding in the Court, an order signed by a Judge or by the committee appointed by the Court, and having thereto annexed an office copy of the order appointing such committee, shall be sufficient authority for the reception of such person into any hospital for the insane, or licensed house, without any further order, or any such medical certificate as hereinbefore mentioned.

Penalty for receiving person into hospital, &c., without the requisite documents, &c.

Ibid. s. 15.

17. Every person who receives any person into any hospital for the insane, reception-house, licensed house, or other place appointed under this Act, without such order, statement, and medical certificates, or other proper authority, as in such case is required under the provisions of this Act, shall be guilty of a misdemeanour.

Persons received into hospitals, &c., may be retained, and on escape recaptured.

Ibid. s. 16.

18. Every person lawfully received into any hospital for the insane, reception house, licensed house, or other place appointed under this Act shall be detained therein until he be removed or discharged in the manner authorised by this Act, and in case of escape therefrom may be retaken at any time within twenty-eight days after his escape, by the superintendent of such hospital, reception house, licensed house, or other place, or any other officer, or any servant belonging thereto, or by any constable, or by any other person authorised in that behalf by such superintendent, and may be conveyed to, and received, and detained in such hospital, reception house, licensed house, or other place.

(2.) *Proceedings by which persons of unsound mind may be removed to and from an adjacent colony and be treated therein.*

Conventions with Governments of adjacent colonies.

58 Vic. No. 5, s. 1.

19. The Colonial Secretary may, on behalf of the Government, from time to time, by convention or otherwise, agree with the Government of any adjacent colony for the apprehension, care, treatment, maintenance,

maintenance, and burial, and for the payment of the expenses under the Lunacy statutes of that adjacent colony of persons set at large in that colony under the provisions of this Act; and for the care, treatment, and maintenance under those statutes of persons admitted from New South Wales, at the request of relations or friends, into lunatic asylums of the adjacent colony.

20. (1) In any matter or proceeding under section six of this Act, the Justices, on proof to their satisfaction of the matters in that section mentioned, and that it is for the benefit of the person found by them to be insane that he should be sent for care, treatment, or maintenance to an adjacent colony, with the Government of which an agreement has been made as aforesaid, either before or after the passing of this Act, may, by order in the form of Schedule Six to this Act, direct some person named in the order to take such person to such place in the adjacent colony as may be agreed upon by the said convention or otherwise, and as may be named in the order, and there to set him at large, and thereupon to identify him to some officer of police of the adjacent colony nominated by the Government thereof and named in the order, so that the officer of police may apprehend such person in due course, under the provisions of the Lunacy statutes of the adjacent colony, to be dealt with thereunder.

Justices may send persons found by them to be insane for treatment in adjacent colony.
58 Vic. No. 5, s. 2.

Sixth Schedule.

The order shall be subject to the provisions of section six of this Act and shall be a sufficient authority to all persons for anything done in pursuance of the same.

(2) The Justices shall forward the order, together with all certificates and evidence upon which the same has been made, to the officer of police named in the order, and shall also forthwith forward to the Inspector-General a true copy of the order and of the certificates and evidence.

21. Any person for whose care, treatment, or maintenance the Government has made provision under any agreement made with the Government of an adjacent colony shall, so long as he remains an inmate of any lunatic asylum in that adjacent colony, and so long as the first-mentioned Government is responsible for the payment of his maintenance therein, be deemed with regard to the management and disposition of his property in New South Wales, and the liability of his relations residing therein to pay for or contribute to his maintenance, clothing, medicine, and care, to be an insane patient within the meaning of this Act.

Those persons to be insane patients for certain purposes.
Ibid. s. 3.

22. Any right of action that may accrue to the Government against relations or friends of any person, for the payment of whose maintenance the Government has become responsible, shall be vested in the Master.

Right of action vested in the Master.
Ibid. s. 4.

23. If at any time it is deemed expedient to remove any person for the payment of whose care, treatment, and maintenance the Government

Removal of patient to hospital in this colony.
Ibid. s. 5.

Government is responsible from any lunatic asylum in an adjacent colony to any hospital for the insane in New South Wales, the Colonial Secretary may order the removal of that person accordingly; and the order of the Colonial Secretary under his hand shall be a sufficient authority to any person named therein to apply to the proper authorities in the adjacent colony for the discharge of the first-mentioned person to his care, and to convey him to any hospital for the insane in New South Wales, and shall be a sufficient authority to the medical superintendent of the hospital for the insane to which that person is sent to receive him.

Person discharged in adjacent colony entitled to expenses of his return.
58 Vic. No. 5, s. 6.

24. Any person taken into an adjacent colony under the authority of this Act, and there discharged from a lunatic asylum in that colony, shall be entitled to be paid out of the consolidated revenue fund the expenses of his return to New South Wales.

PART II.

Hospitals for the insane.

Governor may appoint hospitals for the insane.
42 Vic. No. 7, ss. 17, 18.

25. The Governor may, by notification published in the Gazette, appoint any place to be an hospital for the insane, and in and by such notification may assign a name to such hospital; and any such appointment may be revoked in like manner; and all places appointed or deemed to have been appointed to be lunatic asylums or hospitals for the insane under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed and to be hospitals for the insane under this Act.

Superintendent, deputy superintendent may be appointed for each hospital.

Ibid. s. 19.

A register of patients to be kept.

Ibid. s. 20.

Ninth Schedule.

26. The Governor may appoint for every such hospital a superintendent, who shall be a medical practitioner, and also a deputy superintendent, and such other officers as he may deem necessary.

27. Immediately on the admission of any person as a patient into any such hospital an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars, as the Colonial Secretary may direct (except as to the form of disorder, the entry as to which shall be supplied by the superintendent of the hospital within one month after the admission of the patient, and except as to the discharge, removal, or death of the patient, the entry as to which shall be made when the same happens), and after the second, and before the end of the seventh, clear day from the day of admission of any person as insane into any such hospital, a notice of

of such admission shall be transmitted to the Colonial Secretary in the form of Schedule Ten to this Act, with a copy of the order, statement, and certificates, or other proper authority, on which such insane patient has been received, together with a statement to be made and signed by the superintendent of such hospital not sooner than two clear days after such admission according to the form in the said last-mentioned Schedule.

28. In every such hospital the superintendent shall, once at least in every week, enter, or cause to be entered, in a book to be kept for the purpose to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form and manner as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and, in case of death, an exact account of the autopsy (if any) of such patient.

29. Within forty-eight hours after the discharge, removal, escape, or recapture of any patient, a written notice of such discharge, removal, escape, or recapture, according to the form in Schedule Twelve of this Act, shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose, according to the form and containing the particulars in Schedule Thirteen of this Act.

30. In case of the death of any patient in any such hospital, a notice and statement, according to the form in Schedule Fourteen of this Act, respecting the death and cause of the death of such patient, shall be drawn up and signed by the superintendent of such hospital, and transmitted—in addition to any notice respecting such death required by any law for the time being in force relating to the registration of deaths—within forty-eight hours after such death to the Colonial Secretary, and also to a relation named in the statement subjoined to the order or request for admission of such patient, or to the person who signed such request, or to the committee, if any, who signed an order under section sixteen hereof.

Tenth Schedule.

Medical journal.

Ibid. s. 21.

Eleventh Schedule.

Case book.

Entries to be made of deaths, discharges, removals, escapes, and recaptures, and notice given to the Colonial Secretary.

Ibid. s. 22.

Twelfth Schedule.

Thirteenth Schedule.

Notice of death of patient to be transmitted to the Colonial Secretary and to relations of patients.

Ibid. s. 23.

Fourteenth Schedule.

PART III.

Licensed houses.(1.) *For the reception of the insane.*

Governor in Council
may grant licences
for houses for the re-
ception of the insane.
42 Vic. No. 7, s. 24.
Fifteenth Schedule.

31. (1) The Governor may, subject to the provisions hereinafter contained, by writing under his hand as nearly as conveniently may be in the form in Schedule Fifteen to this Act, grant to any person or to two or more persons jointly, a licence for any period not exceeding three years, to keep a house for the reception of a certain number of insane patients to be mentioned in such licence, and may renew or revoke such licence.

(2) Any licence granted under any Act hereby repealed and unexpired at the passing of this Act shall be deemed to have been granted under this Act for the unexpired term of such licence.

Notice of intended
application for and
plan of licensed house
to be given to the
Colonial Secretary.
Ibid. s. 25.

32. The person who desires to obtain a licence for a house for the reception of insane patients shall give a notice to the Colonial Secretary, which shall contain the name in full, place of abode, and occupation of such person, and a true and full description of his estate or interest in such house, and such notice when given for any house which has not been previously licensed shall be accompanied by a plan of such house, to be drawn upon a scale of not less than one-eighth of an inch to a foot, with a description of the situation thereof, and the length, breadth, and height of, and a reference by a figure or letter to, every room or apartment therein, and a statement of the quantity of land not covered by any building annexed to such house, and to be appropriated to the exclusive use, exercise, and recreation of the patients proposed to be received therein, and also a statement of the number of patients proposed to be received into such house, and whether the licence so applied for is for the reception of male or female patients, or both, and if for the reception of both, of the number of each sex proposed to be received into such house, and of the means by which one sex may be kept distinct and apart from the other.

What may be inclu-
ded in one licence.
Ibid. s. 26.

33. Any one licence to be granted for the reception of insane patients may include two or more houses belonging to one proprietor or two or more joint proprietors:

Provided that no one of such houses be separated from the other or others of them otherwise than by land in the occupation of such proprietor or proprietors, and by a road, or by either of such modes; and all houses, buildings, and lands intended to be included in any license shall be specified, delineated, and described in the plan hereinbefore required.

Notice of all addi-
tions and alterations
to be given to the
Colonial Secretary.
Ibid. s. 27.

34. No addition or alteration shall be made to, in, or about any licensed house or the appurtenances thereof, unless previous notice in writing of such proposed addition or alteration, accompanied by a plan of

of such addition or alteration to be drawn upon the scale aforesaid, and to be accompanied by such description as aforesaid, has been given by the licensee to the Colonial Secretary, and the consent in writing of such Colonial Secretary has been previously given.

35. Any person applying for the renewal of a licence shall, with such application, transmit to the Colonial Secretary a statement signed by the person so applying, containing the names and number of the patients of either sex then detained in such house.

Every person applying for the renewal of a licence, to furnish a statement as to the patients then detained.

42 Vic. No. 7, s. 28.

36. If any licensee under this Act by sickness or for other sufficient reason becomes incapable of keeping the licensed house, or dies before the expiration of the licence, the Colonial Secretary may by writing indorsed on such licence, transfer the said licence with all the privileges and obligations annexed thereto for the term then unexpired to such person as he may approve, and in the meantime such licence shall remain in force and have the same effect as if granted to such person, and in case a licence has been or is granted to two or more persons, and before the expiration thereof any of such persons dies leaving the other or others surviving, such licence shall remain in force and have the same effect as if granted to such survivors or survivor.

Provision in case of the incapacity of the person licensed.

Ibid. s. 29.

37. If any licensed house is pulled down or occupied under the provisions of any Act of Parliament, or is rendered by fire, tempest, or other accident, unfit for the accommodation of insane patients, or if the person keeping such house desires to transfer the patients to another house, the Colonial Secretary may grant to the licensee of such house a licence to keep another house for the reception of insane patients, for any time not exceeding the period for which the current licence is then held:

In case of a licensed house being taken for public purposes or accidentally rendered unfit, or of the keeper wishing to transfer his patients to a new house.

Ibid. s. 30.

Provided always that a like notice, accompanied by a like plan, statement, and description, shall be given as to such intended new house as is hereby required when application is first made for a licence for any house, and shall be accompanied by a statement in writing of the cause of such change of house.

38. Before the revocation of any such licence, notice in writing shall seven clear days previously be given to the licensee, or shall be left at the licensed house.

Notice of revocation of licences.

Ibid. s. 31.

39. If after a lapse of two months from the expiration of any licence for the use of any house for the reception of the insane which has not been renewed, or if after the revocation of any such licence there is in any such house any insane patient, every person keeping such house or having the care and charge of such patient shall be guilty of a misdemeanour.

Detention of patients after expiration or revocation of licence a misdemeanour.

Ibid. s. 32.

40. No person (unless he is a person who derives no profit from the charge, or a committee, or person appointed by the Court, or otherwise authorised under this Act) shall receive to board or lodge in

No unauthorised person to take charge of any patient for profit.

any *Ibid.* s. 33.

any house, or take the care or charge of, any patient, and any person offending against this provision shall be guilty of a misdemeanour.

Superintendent to reside.
42 Vic. No. 7, s. 34.

41. (1) Every licensed house containing more than one hundred patients shall have at all times a medical practitioner resident therein, whose name in full shall be given in the notice of application for the licence, and such medical practitioner, whether he is the licensee or proprietor or not, shall be the superintendent thereof.

(2) The licensee of such house may remove such medical practitioner and appoint some other medical practitioner, giving a notice containing the name in full of such medical practitioner to the Colonial Secretary; and every such house containing over fifty patients shall be visited daily by a medical practitioner; and every such house containing fifty or less than fifty patients shall be visited twice a week by a medical practitioner, and in all cases where a medical practitioner is not appointed as superintendent the licensee shall be the superintendent of the house named in the licence.

(3) No licence shall be of any validity unless the superintendent of the house licensed resides therein and the house is visited by a medical practitioner as and at such times as hereinbefore mentioned.

(4) When any house is licensed to contain less than ten patients the Colonial Secretary may permit such house to be visited by a medical practitioner less frequently than twice in every week.

Superintendent receiving any patient into a licensed house to make an entry thereof in a certain form.

Ibid. s. 35.
Ninth Schedule.

42. Every superintendent of a licensed house shall within two days after the reception of a patient make an entry with respect to such patient in a book to be kept for that purpose to be called the register of patients, according to the form, and containing the particulars required in Schedule Nine of this Act, or such other form and containing such other particulars as the Colonial Secretary may direct (except as to the form of the mental disorder, and except also as to the discharge, removal, or death of the patient, the entry as to which latter shall be made and signed by such superintendent when the same happens); and every such superintendent who does not make such entries within or at the times aforesaid shall be liable to a penalty not exceeding two pounds.

Penalty.

Form of patient's disorder to be entered in the register of the patients by medical officer.

Ibid. s. 36.

43. The form of the mental disorder of every patient received into any licensed house shall, within seven days after his reception, be entered in the said register of patients by the medical officer of such house; and every such medical officer who omits to make and sign any such entry within the time aforesaid shall for every such offence be liable to a penalty not exceeding two pounds.

Penalty.

Notice of admission with statement concerning mental disorder to be sent to the Colonial Secretary.

Ibid. s. 37.

Tenth Schedule.

44. The superintendent of every licensed house shall within twenty-four hours after the admission of any patient, transmit to the Colonial Secretary a notice of such admission in the form in Schedule Ten of this Act, with a copy of the order, statement, and medical certificates

certificates or other proper authority, on which such person has been received, and after two clear days and before seven clear days after such admission shall transmit to the Colonial Secretary a statement to be made and signed by the medical officer of such licensed house not sooner than two clear days after such admission according to the form in Schedule Ten of this Act; and every superintendent who neglects to transmit such copy, notice, or statement to the Colonial Secretary shall be guilty of a misdemeanour.

Misdemeanour.

45. Every superintendent of a licensed house shall once in every week enter and sign in a book to be kept at such house for that purpose to be called the medical journal a statement according to the form in Schedule Eleven hereto, and every such superintendent who omits to enter such report as aforesaid shall for every such omission be liable to a penalty not exceeding twenty pounds.

Medical journal.

42 Vic. No. 7, s. 38.

Eleventh Schedule.

Penalty.

46. There shall be kept in every licensed house a book to be called the medical case book in the form and manner directed by the Colonial Secretary in which the superintendent shall make or cause to be made entries of the mental state and bodily condition of each patient together with a correct description of the medicine and other remedies prescribed for the treatment of his disorder; and the Colonial Secretary may require such superintendent to transmit to him a correct copy of the entries in such medical case book relative to the case of any patient who is or has been confined in any such licensed house; and every such superintendent who neglects to keep the said medical case book or to keep the same according to the form directed as abovementioned, or to transmit a copy of the said entries pursuant to such direction or requisition as aforesaid, shall for every such offence be liable to a penalty not exceeding ten pounds.

A medical case book to be kept.

Ibid. s. 39.

Penalty.

47. Whenever any patient escapes from any licensed house the superintendent of such house shall within two clear days next after such escape transmit a written notice thereof to the Colonial Secretary, and such notice shall state the name in full of the patient who has so escaped, and his then state of mind, and also the circumstances connected with such escape, and if such patient is brought back to such house, such superintendent shall within two clear days next thereafter transmit a written notice thereof to the Colonial Secretary, and such notice shall state when such person was so brought back and the circumstances connected with his bringing back, and whether with or without a fresh order and certificates or certificate; and every superintendent omitting to transmit such notice, whether of escape or return, shall for every such omission be liable to a penalty not exceeding ten pounds.

Notices to be given in case of the escape of any patient and of his being brought back.

Ibid. s. 40.

Penalty.

48. Whenever any patient is removed or discharged from any licensed house, or dies therein, the superintendent of such house shall within two clear days next after such removal, discharge, or death, make

Entry to be made and notice given in case of the death, discharge, or removal of any patient.

Ibid. s. 41.

make and sign an entry thereof in a book to be kept for that purpose, according to the form and stating the particulars in Schedule Thirteen of this Act, and shall also in the case of a death, within two days after such death, transmit to the Colonial Secretary (in addition to any notice respecting such death required by any law now or hereafter to be in force relating to the registration of deaths) a written notice of the death of such patient, and of the cause thereof, according to the form in Schedule Fourteen of this Act, and, in the case of the removal or discharge of such patient, of such removal or discharge, according to the form in Schedule Twelve of this Act, and shall also in the case of such death transmit a copy of such notice to one of the relations named in the statement subjoined to the order or request for admission, or to the person who signed such request, or to the committee, if any, who signed an order for admission under section sixteen hereof; and every superintendent who neglects to make and sign such entry or transmit such notice or notices shall be guilty of a misdemeanour.

(2.) *For the reception of a single patient.*

Colonial Secretary may grant licences for houses for the reception of a single insane patient.

Ibid. s. 42.

But no person so licensed to take patients without such order, &c., as are required on reception into an hospital for the insane.

49. (1) The Colonial Secretary may grant to any person or to two or more persons jointly a licence to keep a house for the reception of a single insane patient, and from time to time may renew or revoke such licence.

(2) No person licensed under this section shall receive to board or lodge in any such licensed house for reward, or shall take the care or charge of any patient without the like order, statement, and medical certificates or other proper authority in respect of such patient as is hereinbefore required on the reception of a patient into an hospital for the insane.

(3) Every person licensed under this section shall within twenty-four hours after receiving a patient transmit to the Colonial Secretary a notice of such admission in the form in Schedule Nine of this Act, together with copies of the order, statement, and medical certificates or other proper authority on which such patient has been so received, and shall also after the second and before the end of the seventh clear day from such admission cause each patient to be visited by a medical practitioner, and forthwith transmit to the Colonial Secretary a statement in the form in Schedule Ten of this Act, to be made and signed by such medical practitioner so visiting such patient after such admission.

(4) Any such licence granted under any repealed Act, and still in force at the passing of this Act, shall be deemed to have been granted under this Act for the unexpired term of such licence.

Tenth Schedule.

Patient to be visited by medical practitioner.

Ibid. s. 43.

50. (1) Every such patient shall, after the second, and before the end of the seventh, clear day after his admission, and thereafter at least once in every two weeks, be visited by a medical practitioner not himself

himself deriving, and not having a partner, father, son, brother, or other relative who derives any profit from the care and charge of such patient, and such medical practitioner shall enter and sign in a book to be kept for that purpose, to be called the medical journal (regulations as to the form of which and the particulars to be entered therein shall be made by the Colonial Secretary) :—

- (a) the date of each of his visits ;
- (b) a statement of the condition of the patient's health, both mental and bodily, and of the condition of the house in which the patient is.

(2) Such book shall be produced to the Inspector-General on every visit and shall be signed by him as having been so produced, and the person by whom the care or charge of such patient has been taken or into whose house he has been received as aforesaid, shall transmit to the like persons the like notices and statements of the death, removal, escape, and recapture of such patient, and within the like periods as are hereinbefore required in the case of the death, removal, escape, or recapture of a patient received into a licensed house; and every person who fails to comply with the regulations made as aforesaid shall be guilty of a misdemeanour.

Misdemeanour.

51. (1) If any occupier or inmate of any private house keeps or detains therein any person who is insane, although he is a relative of such occupier or inmate, beyond the period of a year after the malady has become apparent and confirmed, and where the case has been such as to require during any part of such period coercion or restraint, such occupier or inmate, or the medical practitioner attending such person so detained, shall intimate such detention to the Colonial Secretary and shall transmit to the Colonial Secretary a written certificate signed by a medical practitioner of the condition of the person so detained, and shall state the reasons which rendered it desirable that such person should remain under private care, and the Colonial Secretary may thereupon, or without such intimation, authorise the Inspector-General or a Justice, such Justice to be accompanied by a medical practitioner, to visit and inspect such person and to make such inquiry respecting his treatment as to such Inspector-General or Justice and medical practitioner may seem fit.

Colonial Secretary may order examination of patient in private houses.

42 Vic. No. 7, s. 44.

(2) If upon such inquiry it appears that such person is insane and has been so for a space exceeding a year, and that restraint or coercion of any kind has been resorted to, and that the circumstances are such as to render the removal of such person to an hospital for the insane or licensed house necessary or expedient, the Colonial Secretary may order the removal of such person accordingly, and the order of the Colonial Secretary under his hand shall be sufficient authority to the superintendent of such hospital or licensed house to which such person is sent to receive him accordingly.

B

(3)

Penalty.

(3) Any person who keeps, harbours, conceals, or aids in keeping, harbouring, or concealing beyond such period as aforesaid, any such person as insane without such intimation thereof to the Colonial Secretary, and any medical practitioner attending on such person kept or detained as insane beyond such period who wilfully neglects to disclose the condition of such person so kept or detained to the Colonial Secretary, shall severally for every such offence be liable to a penalty not exceeding two hundred pounds or to imprisonment for any period not exceeding three months.

PART IV.

Reception-houses, &c., for the temporary treatment of the insane.

Governor may appoint reception houses for the insane.
42 Vic. No. 7, s. 45.

52. The Governor may, by notification in the Gazette, appoint such houses and premises as he may think expedient for the reception and temporary treatment of the insane, and every such house and premises shall be a reception-house for the insane; and any such appointment may be revoked in like manner; and every reception-house appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act.

Governor to appoint superintendent and medical officer.

Ibid. s. 46

Colonial Secretary to make regulations.

Ibid. s. 47.

Wards in public hospitals for temporary reception of insane.

Ibid. s. 48.

53. The Governor may appoint a superintendent and a medical officer for every such reception-house.

54. The Colonial Secretary shall make regulations for the government of reception-houses.

55. The Governor may, by notification in the Gazette, declare wards of any hospital or infirmary for the care and treatment of the sick or of any benevolent asylum, which may be set apart for such purpose by the committee, or the persons in whose hands is vested the management of such hospital, infirmary, or benevolent asylum, to be wards for the temporary reception of the insane, and thereupon the Colonial Secretary shall make regulations for the dietary treatment and inspection of patients in such wards.

Justice may order the detention of an insane person in reception house, &c.

Ibid. s. 49.

Eighth Schedule.

56. Any Justice may, by order under his hand in the form of Schedule Eight hereto, direct the reception and detention of any person (for whose reception into an hospital for the insane or licensed house the necessary order, medical certificates and statement, or other proper authority has been signed and remains in force) in any such reception house, or in any gaol, or in any public hospital for immediate treatment.

57. No insane patient shall be detained in any reception house, gaol, or public hospital beyond a period of fourteen days unless the medical officer thereof certifies in writing that such person is not in a fit state to be removed therefrom, or would be benefited by remaining therein, and in such case the removal of such patient shall be suspended until the visiting medical officer certifies that such person is fit to be removed.

No person to be detained in any reception house, &c., longer than fourteen days.
42 Vic. No. 7, s. 50.

58. On receipt of a certificate from the medical officer of such reception-house, gaol, or public hospital that any person confined therein as an insane patient is of sound mind, or may with safety be discharged to the care of a relation or friend, any Justice may order the discharge of such person.

Discharge of patients from reception house, gaol, &c.
Ibid. s. 51.

PART V.

Hospitals for the criminal insane.

59. The Governor may by notification published in the Gazette declare that any hospital for the insane, gaol or place, or part of any such hospital, gaol or place provided for or appropriated for that purpose shall be an hospital for the criminal insane, and any such appointment may be revoked in like manner, and any hospital for the criminal insane appointed or deemed to have been appointed under any former Act, where such appointment has not been revoked and is in force at the passing of this Act, shall be deemed to have been appointed under this Act.

Governor may appoint hospital for the criminal insane.
Ibid. s. 52.

60. The Governor may appoint for every hospital for the criminal insane a superintendent, a medical officer, and such other officers as he may deem necessary.

Governor may appoint superintendent and officers.
Ibid. s. 53.

61. The Colonial Secretary shall make regulations for the government and management of hospitals for the criminal insane.

Colonial Secretary to make regulations.
Ibid. s. 54.

62. Immediately on the admission of any person as a patient into an hospital for the criminal insane, an entry with respect to such patient shall be made 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 Schedule Nine of this Act or such other form, and containing such other particulars as the Colonial Secretary may direct (except as to the form of disorder, 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 except as to the discharge, removal, or death of the patient, the entry as to which is to be made when the same happens).

Register of patients to be kept.
Ibid. s. 55.

Ninth Schedule.

Medical journal.
42 Vic. No. 7, s. 56.

Eleventh Schedule.

Case book.

Entries to be made of
deaths, discharges,
removals, escapes, and
recaptures, and notice
given to the Colonial
Secretary.

Ibid. s. 57.

Twelfth Schedule.
Fourteenth Schedule.

Thirteenth Schedule.

Procedure where
persons charged with
offences are found to
be insane by a jury
or acquitted on the
ground of insanity.
45 Vic. No. 16, s. 2.

63. In every hospital for the criminal insane the superintendent thereof shall once at least in every week enter, or cause to be entered, in a book to be kept for the purpose, to be called the medical journal, a statement according to the form in Schedule Eleven of this Act, and shall also enter, or cause to be entered, in a book to be called the case book (to be kept in such form as the Colonial Secretary shall direct), 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 of his case whilst he continues in such hospital, together with a correct description of the medicines and other remedies prescribed for the treatment of his disorder, and in case of death an exact account of the autopsy (if any) of such patient.

64. Within forty-eight hours after the death, discharge, removal, escape, or recapture of any patient a written notice of such death, discharge, removal, escape, or recapture according to the form in Schedules Twelve and Fourteen of this Act respectively shall be transmitted to the Colonial Secretary, and within forty-eight hours after the death, discharge, or removal of any patient an entry thereof shall be made in the said register of patients, and also in a book to be kept for the purpose according to the form and containing the particulars in Schedule Thirteen of this Act.

65. (1) If any person indicted for any offence is insane, and, upon arraignment, is found to be so by a jury lawfully empannelled for that purpose, so that such person cannot be tried upon such indictment, or if upon the trial of any person so indicted such person appears to the jury charged with such indictment to be insane, the Judge before whom any such person is brought to be arraigned or tried as aforesaid may direct such finding to be recorded, and thereupon may order such person to be kept in strict custody in such place and in such manner as to such Judge may seem fit until he be dealt with as provided by the next succeeding section of this Act.

(2) In all cases where it is given in evidence upon the trial of any person charged with any treason felony or misdemeanour 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 insane at the time of the commission of such offence, and to declare whether such person was acquitted by them on account of such insanity.

(3) If they find that such last-mentioned person was insane at the time of committing such offence, the Judge before whom such trial is had shall order such person to be kept in strict custody, in such place and in such manner as to such Judge may seem fit until the Governor's pleasure be known, and thereupon the Governor may give such order for the safe custody of such person during his pleasure in such gaol or other place of confinement and in such manner as to the Governor seems fit.

(4)

(4) Upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, the Governor, by warrant under his hand, may direct that such last-mentioned person be conveyed to and kept in a hospital for the criminal insane during the Governor's pleasure.

66. (1) When any person committed to take his trial for any offence is certified by two medical practitioners in the form of Schedule Two of this Act to be insane, or is upon arraignment found by verdict to be insane, the Colonial Secretary may direct, by order under his hand in the form of Schedule Seventeen of this Act, that such person be removed to an hospital for the criminal insane, and detained in such hospital until he is certified by the medical officer and the Inspector-General, or by the said medical officer and two official visitors, to be of sound mind, whereupon the Colonial Secretary shall order his removal to the gaol from whence he came in order to be tried for such offence :

(2) Such detention for any period shall not operate as a bar to his subsequent indictment and trial for such offence.

67. If any person while detained in any gaol for debt, or in any gaol, reformatory, or industrial school, or other place of confinement, in consequence of any summary conviction or order by any Justice or in default of bail, appears to be insane, the Colonial Secretary may, upon the receipt of certificates by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Five of this Act, direct, by order under his hand, that such person be removed to and kept in such hospital for the insane or for the criminal insane as he may judge proper and appoint, until it is duly certified by the superintendent of such hospital and by the Inspector-General, or by the said superintendent and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol reformatory, industrial school, or other place from whence he has been taken, or to some other gaol or place of confinement, or if the period of detention or custody has expired that he be discharged.

68. If any person while imprisoned in any gaol, prison, or penal establishment, under any sentence of hard labour or imprisonment imposed otherwise than on the conviction or order of Justices appears to be insane, the Comptroller-General of prisons shall direct that such prisoner be placed under observation as in section seventy-six of this Act mentioned, and the Colonial Secretary may upon the receipt of certificates, by two medical practitioners in the form of Schedule Two of this Act, accompanied by a statement of particulars in the form of Schedule Sixteen of this Act, direct by order under his hand in the form of

Second Schedule.

Sixteenth Schedule.

Persons found to be insane before trial to be sent to hospital for the criminal insane.

42 Vic. No. 7, s. 59.

Seventeenth Schedule.

Procedure in reference to certain persons under detention appearing insane.

45 Vic. No. 16, s. 3.

Second Schedule.

Fifth Schedule.

Procedure on certain prisoners appearing to be insane.

Ibid. s. 4.

Second Schedule.

Sixteenth Schedule.

Seventeenth
Schedule.

of Schedule Seventeen of this Act, that such person be removed to and kept in a hospital for the criminal insane until it is duly certified by the medical officer of such hospital, and by the Inspector-General, or by the said medical officer and two official visitors that such person has become of sound mind, whereupon the Colonial Secretary shall, if such person remains subject to be continued in custody, issue his order to the superintendent of such hospital, directing that such person be removed to the gaol, prison, or penal establishment from whence he has been taken, or to some other gaol, prison, or penal establishment, or if the period of his imprisonment has expired that he be discharged.

Procedure on
prisoner under
sentence of death
appearing insane.
45 Vic. No. 16, s. 5.

69. If it is made to appear to the Colonial Secretary by any means whatsoever that there is good reason to believe that any prisoner in confinement under sentence of death is then insane, the Colonial Secretary may appoint two or more medical practitioners to inquire into the insanity of such prisoner, and if on such inquiry such prisoner is found to be then insane, the fact shall be certified in writing by such practitioners to the Colonial Secretary, and on receipt of such certificate the said Colonial Secretary may, by order under his hand, direct that such prisoner be removed to and kept in an hospital for the criminal insane or other proper place for the reception of for insane prisoners, until it is duly certified by the medical officer of such hospital or place and by the Inspector-General, or by the said medical officer and two official visitors, that such person has become of sound mind, whereupon the Colonial Secretary shall issue his order that such person be removed to any prison or other place of confinement to undergo his sentence of death or to be dealt with according to law, as if no such order for his removal to an hospital for the criminal insane had been issued.

Colonial Secretary to
order removal to
hospital for insane
on expiration of
sentence, insanity
still existing.
42 Vic. No. 7, s. 61.

70. When by reason of the expiration of his term of imprisonment, or otherwise, any person confined in any hospital for the criminal insane would, if duly certified to be of sound mind, be entitled to his discharge, the Colonial Secretary may (upon the certificate of the medical officer of such hospital that the person is still insane), by writing under his hand, order his discharge and removal to some other hospital for the insane, not being an hospital for the criminal insane, or that he be otherwise subjected to the same care and treatment, and be dealt with in all respects as an insane patient, not being a criminal:

Patient when
dangerous may be
detained in hospital
for the criminal
insane.

Provided that when such insane patient is certified by such medical officer to suffer from homicidal propensities, or from insanity of such a kind as renders it advisable that he should be detained in an hospital for the criminal insane, the Colonial Secretary may order such detention after the expiration of his sentence.

Insane patient
becoming demented
may be removed
from criminal to
other hospital for
the insane.
Ibid. s. 62.

71. When any person detained in an hospital for the criminal insane whose sentence is unexpired, is certified by the medical officer and

and the Inspector-General, or by the said medical officer and two official visitors, to be demented and not dangerous, the Colonial Secretary may direct his removal therefrom to any other hospital for the insane not being a hospital for the criminal insane.

72. When any person is ordered to be kept in custody during the Governor's pleasure, any order made by the Governor in relation to the custody of such person may be renewed and varied from time to time; and the Governor may permit any person confined in any hospital for the criminal insane, not being a person under conviction and sentence, to be liberated from custody or confinement, upon such terms and conditions as he may think fit; and if any of such conditions be broken, such person may be retaken and dealt with as hereinafter enacted in case of an escape.

Governor may
liberate on
conditions.
42 Vic. No. 7, s. 63.

73. In case of the escape of any person confined in any hospital for the criminal insane, he may be retaken at any time by the superintendent of such hospital, or any officer or servant belonging thereto, or any constable, or any person assisting such superintendent, officer, servant, or constable, or any other person authorised by the Colonial Secretary or such superintendent, and shall be conveyed to and received and detained in such hospital.

Escaped insane
patient may be
recaptured.
Ibid. s. 64.

74. Any person who rescues any person ordered as aforesaid to be conveyed to any hospital for the criminal insane during his conveyance thereto or his confinement therein, and the superintendent or any officer, servant, or other person employed in any such hospital who, through wilful neglect or connivance, permits any person so confined therein to escape therefrom, or secretes or abets or connives at any such escape, shall be guilty of felony, and be liable to imprisonment with or without hard labour for any term not exceeding three years; and any such superintendent, officer, servant, or other person who carelessly allows any such person to escape shall be guilty of a misdemeanour.

Penalties for aiding
or permitting escape.
Ibid. s. 65.

75. Any person committed to take his trial for having attempted to commit suicide who is certified by two medical practitioners in the form of Schedule Two hereto to be insane shall forthwith be sent to an hospital for the insane other than an hospital for the criminal insane, and such person, when certified by the medical officer and Inspector-General, or by the medical officer and an official visitor, to be of sound mind, shall be discharged from such hospital, and shall not be put upon his trial or be liable to any charge or indictment for having attempted such act of suicide.

Persons attempting
to commit suicide
and found insane
not to be subse-
quently tried for the
offence.
Ibid. s. 66.
Second Schedule.

76. The Governor may, by notification published in the Gazette, set apart a ward or cells in any gaol or penal establishment for the detention of any prisoner who may be supposed to be insane or who from mental imbecility may be supposed to be unfit for penal discipline,

Governor to
appoint wards or
cells for observing
supposed insane
persons in gaols.
Ibid. s. 67.

discipline, in order that he may be there placed under observation until it is certified by two medical practitioners, one of whom shall be either the Inspector-General or the superintendent or medical officer of an hospital for the insane, that he is of sound mind or is insane and a fit subject for detention in an hospital for the criminal insane.

PART VI.

Inspection, transfer, and discharge of patients.

(1.) *Inspection of patients.*

Power to appoint
Inspector and
Deputy Inspector-
General.

42 Vic. No. 7, s. 68.

58 Vic. No. 5, s. 10.

77. The Governor may appoint an Inspector-General and a Deputy Inspector-General; and during the absence from the colony of the Inspector-General, or his inability to act from illness or other cause, the Deputy shall have all the powers and shall perform all the duties of the Inspector-General; and such Inspector-General and Deputy Inspector-General shall be paid travelling expenses in addition to their salary.

Inspector-General to
visit hospitals,
licensed houses, &c.

Ibid. ss. 69, 70.

56 Vic. No. 23, s. 12.

78. (1) Every hospital, whether for the insane or for the criminal insane, and every licensed house shall at least once in every six months, and every reception house, and public hospital, and any ward or cells set apart in any gaol or penal establishment under section seventy-six of this Act shall, as often as he thinks fit, be visited by the Inspector-General, and with or without any previous notice, and every such visit shall be made at such hour of the day or night, and for such length of time as he thinks fit.

Inspector-General's
book.

(2) The Inspector-General, when visiting such hospital, reception house, ward, cells, or licensed house shall, so far as practicable, inspect every part of the same, and, in the case of an hospital for the insane or criminal insane, or a licensed house, every out-house and building communicating therewith or detached therefrom, and every part of the ground or appurtenances held or occupied therewith, and see every patient then confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book hereinafter mentioned a minute of the then condition of such hospital, reception house, ward, cells, or licensed house, and of the patients therein, and such other remarks as he may deem proper; and also if such visit be the first after the granting or renewal of a license to any licensed house shall examine such license.

(3) The Colonial Secretary may, by order under his hand, direct the Inspector-General or other person at any time to visit any hospital for the insane, or for the criminal insane, reception house,

house, licensed house, gaol, house, or place wherein any insane patient, or person represented to be insane or to be under restraint as insane, is confined, or alleged to be confined, and to inspect and inquire into the state of that hospital, reception house, licensed house, gaol, house, or place, and report to him the result of that inspection and inquiry.

79. (1) The Inspector-General, on his several visitations to every such hospital, reception house, and licensed house, and to every such ward or cells as aforesaid, shall inquire as to the care, treatment, and mental and bodily health of the patients therein, and the arrangements for their maintenance and comfort:—

- (a) As to whether any patient is under restraint or in seclusion, and why ;
 - (b) As to whether and at what times and to what number of patients Divine Service is performed ;
 - (c) As to what occupations or amusements are provided for the patients ;
 - (d) As to the classification and dietary of the patients and the number of attendants and nurses ;
 - (e) As to the moneys paid for the maintenance of any insane patient ;
- with all such other inquiries as to such Inspector-General may seem fit.

(2) The Inspector-General shall examine the several books by this Act required to be kept, and sign the said books as having been produced to him, and shall inspect the order and certificates for the reception of every patient who has been received into such hospital, licensed house, reception house, or other place since the last visit of the Inspector-General or official visitor thereto.

80. The Inspector-General shall, once at least in every six months, and may, at all reasonable times, visit every house licensed under this Act for the reception of one insane patient only, and shall inquire as to the treatment and state of health, both mental and bodily, of such patient, and as to the moneys paid to the superintendent or licensee on account of such patient, and report thereon to the Colonial Secretary.

81. The Inspector-General shall, early in every year, make a report in writing to the Colonial Secretary of the state and condition of the several hospitals, licensed houses, reception houses, and other places, visited by him during the preceding year, and of the care of the patients therein, and of such other particulars as he shall think deserving of notice, and a true copy of such report shall forthwith be laid before Parliament if then in session, or if not then in session, within twenty-one days after the commencement of the next session of Parliament.

82. The Inspector-General shall have no interest, directly or indirectly, in any licensed house for the insane, and shall not sign any certificate for the admission of any patient into any hospital or licensed

Inquiries be made by Inspector-General
42 Vic. No. 7, s. 71.

Inspector-General to visit houses licensed for a single patient and to report.
Ibid. s. 72.

Inspector-General to make an annual report to Colonial Secretary.
Ibid. s. 73.

Inspector-General to have no interest in licensed house nor sign certificates except in the case of the criminal insane.
Ibid. s. 74.

licensed house, except for the admission of persons of unsound mind undergoing sentence in some gaol or penal establishment into any hospital for the criminal insane.

Plans, &c., for hospital to be submitted to Inspector-General.
42 Vic, No. 7, s. 75.

83. All plans for building, or enlarging, or improving any hospital for the insane or the criminal insane, reception house, public hospital, or ward, or cells for the insane in any gaol, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no plan shall be carried into effect without such report as aforesaid.

All plans of houses proposed to be licensed and of additions and alterations to those already licensed to be submitted to Inspector-General.
Ibid. s. 76.

84. All plans of houses for which a license for the reception of insane patients is sought to be obtained under this Act, and for additions to or alterations to, in, or about those already licensed, shall be submitted to the Inspector-General, who shall report thereon in writing to the Colonial Secretary, and no license shall be granted for the reception of insane patients, and no addition or alteration to, in, or about such house already licensed shall be undertaken without such report as aforesaid.

Plan of hospital or house and Inspector-General's book to be kept.
Ibid. s. 77.

85. There shall be hung up in some conspicuous part of every hospital, whether for the insane or for the criminal insane, reception house, or licensed house, a copy of the plan of such hospital, reception house, or licensed house, and there shall be kept in every such hospital, reception house, and licensed house a copy of this Act bound up in a book to be called the Inspector-General's book, and the said Inspector-General shall, at the time of his visitations, enter therein the result of his inspection and inquiries hereinbefore directed or authorised to be made by him, with such observations (if any) as he thinks proper.

Governor to appoint official visitors.
Ibid. s. 78.

86. (1) The Governor may appoint for every hospital for the insane or the criminal insane, licensed house, reception-house, or other place where insane patients are detained, two or more official visitors, one of whom shall be a medical practitioner and one a police magistrate or a barrister-at-law, any two or more of whom, one being a medical practitioner, shall visit the place to which they are appointed visitors once at least every month with or without any previous notice, and at such hours of the day or night, and for such length of time as they think fit, and also at such other times as the Colonial Secretary may direct.

(2) Such official visitors, when visiting such hospital, licensed house, reception house or other place shall, so far as practicable, inspect every part of the same, and every out-house and building communicating therewith or detached therefrom, and every part of the grounds or appurtenances held or occupied therewith, and see every patient confined therein, and make such inquiries, examinations, and inspections as are set forth in section seventy-nine of this Act, and enter in the Inspector-General's book a minute of the then condition of the said hospital, licensed house, reception house, or other place, and of the

the patients confined therein, and such other remarks as they may deem proper, and shall, after every visit, transmit to the Colonial Secretary a statement of the number of patients admitted and discharged since the date of the last visitation together with a copy of the entry made by them in the Inspector-General's book, and any other information they may consider necessary.

(3) Any or all of the official visitors may be appointed to two or more hospitals for the insane, or the criminal insane, licensed houses, reception houses, or other places where insane patients are detained.

87. No person shall be or act as an official visitor of any hospital, licensed house, reception house, or other place where insane patients are detained who is directly or indirectly interested therein, and no such visitor shall sign any certificate for the admission of any person into any hospital, reception house, licensed house, or other place for the reception of insane patients, or shall professionally attend on any patient in any licensed house of which he is an official visitor.

Official visitor to have no interest in hospital or licensed house, nor sign certificates for admission, nor attend patients.
42 Vic. No. 7, s. 79.

(2.) *Transfer of patients.*

88. (1) The Colonial Secretary may direct by an order in writing the removal of any patient from any hospital for the insane or licensed house to any other such hospital or licensed house, and every such order shall be in duplicate, and one copy shall be delivered to the superintendent of the hospital or licensed house from which the patient is ordered to be removed, and the other shall be delivered to the superintendent of the hospital or licensed house into which the patient is ordered to be removed; and such order for removal shall be a sufficient authority for the removal of such patient and also for his reception into the hospital or licensed house into which he is ordered to be removed and for his detention therein or thereby.

Colonial Secretary may order transfer of patients.
Ibid. s. 80.

(2) A copy of the order statement or other proper authority with which such patient was received into the hospital or licensed house from which he is removed, together with an abstract of his treatment and progress certified by the superintendent of such hospital or licensed house (or in the case of a house licensed under section forty-nine of this Act of the licensee thereof) shall be delivered with one copy of the said order of removal to the superintendent of the hospital or licensed house to which such patient is removed.

89. (1) If it is made to appear to the Court that any insane person or patient has relations or friends in any place beyond New South Wales who are willing to undertake the care and charge of such insane person or patient, and that it would be for his benefit if he were to be removed to such place, the Court may order such insane person or patient to be removed from New South Wales and make touching

Insane persons or patients may be taken out of New South Wales by order of the Court.
Ibid. s. 81.

such further or other order authorising or directing his removal and touching his safe custody and maintenance as to such Court seems fit, and may order that security be given for the safe custody and maintenance of such insane person or patient in any such place beyond New South Wales.

(2) No order shall be made for the removal of any such insane person or patient until after fourteen days' notice of the intention to apply for such an order has been given to the superintendent of the hospital or licensed house in which such insane person or patient is confined, or to the person in whose care or custody such insane person or patient is, unless such superintendent or person is himself the person applying for such an order.

Superintendent with consent of the Inspector-General may send a patient to any place for his health, or permit his absence upon trial.
42 Vic. No. 7, s. 82.

90. (1) The superintendent of any hospital for the insane or licensed house may, with the consent in writing of the Inspector-General, send or take under proper control any patient to any specified place for any definite time for the benefit of his health, and also permit any patient to be absent from any such hospital or licensed house upon trial for such period as may be thought fit:

Provided always that before giving any such consent the Inspector-General may require the approval in writing of the person who signed the request or of the committee who signed the order for the reception of such patient or of the person by whom the last payment on account of such patient has been made.

(2) In case any person so allowed to be absent for the benefit of his health or on trial for any period does not return at the expiration thereof, and a medical certificate as to his state of mind certifying that his detention as an insane patient is no longer necessary is not sent to the superintendent or licensee of such hospital or licensed house, such person may at any time after the expiration of the same period be retaken as in the case of an escape.

Boarding-out of harmless patients.
58 Vic. No. 5, s. 7 (1).

91. Where the superintendent of an hospital for the insane certifies that the patient named in the certificate is harmless and is free from any symptoms which would indicate any tendency of a character dangerous either to the patient himself or to others, the Inspector-General may, by order endorsed by him upon the certificate, commit such patient to the care of a person to be named in the order, to reside and board with him in accordance with and subject to regulations to be made under this Act.

Order for conveyance of patient.
45 Vic. No. 16, s. 6.

92. The person in charge of an insane patient during conveyance to any hospital for the insane, or licensed house, or to a place in an adjacent colony under the provisions of subdivision (2) of part I of this Act, shall have an order in writing by the Justices who have examined the patient, or by the Colonial Secretary, or a request under section nine of this Act duly signed and authenticated by a Justice or minister of religion authorised to celebrate marriage, and shall produce the same when required to do so by any Justice. (3)

(3.) *Discharge of patients.*

93. When any person who signed the request or the committee who signed the order on which any patient was received into any hospital or licensed house, whether or not such patient has since been removed under any order made under this Act or otherwise to any other hospital or licensed house, directs by writing under his hand that such patient be discharged, such patient shall forthwith be discharged.

Patient to be discharged by direction of person who signed the order or request for his admission.

42 Vic. No. 7, s. 84.

94. If such person or committee as last aforesaid is dead, or is incapable by reason of insanity, absence from New South Wales, or otherwise of giving such direction for the discharge of such patient, then

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

Ibid. s. 85.

(a) the person who made the last payment on behalf of such patient; or

(b) the husband or wife of such patient;

or if there is no husband or wife, or if the husband or wife is incapable as aforesaid,

(c) the father;

or if there is no father, or the father is incapable as aforesaid, then

(d) the mother;

or if there is no mother, or the mother is incapable as aforesaid, then

(e) any one of the nearest of kin for the time being of such patient; may in writing give such direction as aforesaid for the discharge of such patient, and such patient shall be forthwith discharged accordingly.

95. No patient shall be discharged under either of the two last preceding sections if the superintendent of the hospital or the medical officer of the licensed house in which such patient is detained certifies in writing that in the opinion of such superintendent or medical officer such patient is dangerous and unfit to be at large, or unfit from bodily health to be removed, together with the grounds on which such opinion is founded, unless the Inspector-General after such certificate has been produced to him give his consent that such patient shall be discharged.

Patients not to be discharged when certified to be dangerous or unfit from bodily health without Inspector-General's consent.

Ibid. s. 86.

96. The Inspector-General or any official visitor of any hospital for the insane or licensed house may, with the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, order the discharge of any person detained therein or permitted to be absent therefrom under the provisions of section ninety hereof, whether such person is recovered or not.

Inspector-General or official visitor with advice of the superintendent may order discharge.

Ibid. s. 87.

97. Where application is made to the Inspector-General or any official visitor of any hospital for the insane or licensed house by any relative or friend of an insane patient confined therein, requiring that he may be delivered over to the care and custody of such relative or friend, such Inspector-General or official visitor, with

Insane patients may be discharged on friends or relatives undertaking that they shall be taken care of.

Ibid. s. 88.

the

the advice in writing of the superintendent of such hospital or the medical officer of such licensed house, and upon the undertaking in writing of such relative or friend that such insane patient will be properly taken care of, and will be prevented from doing injury to himself or others, may discharge such insane patient.

Allowance to be made to friends for maintenance of patients.

42 Vic. No. 7, s. 89.

Eighteenth Schedule.

98. (1) In cases where the relatives or friends of any insane patient are willing to take care of such patient, but are unable owing to indigent circumstances to maintain him, the Colonial Secretary may, on the recommendation of the Inspector-General, or of any official visitor, grant an allowance for maintenance to such relative or friend on such insane patient being discharged in the manner set forth in the last preceding section; and in all such cases the allowance for maintenance shall be paid once in every three months upon the receipt of a certificate from some medical practitioner in the form of Schedule Eighteen of this Act.

(2) If it appear to such practitioner, as aforesaid, that the insane patient so discharged is not properly cared for by his friends, or that his mental state is such as to render it advisable that he should be no longer entrusted to their care, he shall report the same to the Inspector-General, who may thereupon direct that such insane patient be returned to the hospital from whence he was discharged without any further certificate or statement, and he shall be received therein accordingly.

Judges may order persons confined as insane to be brought before them for examination.

Ibid. s. 90.

And if found to be of sound mind may discharge them from confinement.

Inspector-General or official visitors may recommend the discharge of any patient subject to certain conditions.

Ibid. s. 91.

99. If a Judge receive information upon oath, or have reason or cause to suspect that any person of sound mind is confined in any hospital for the insane or licensed house, such Judge may order the superintendent of such hospital or licensed house to bring such confined person before him for examination at a time to be specified in such order, and if upon the examination of such confined person, and of such superintendent, and of any medical or other witnesses, it is made to appear to the satisfaction of such Judge that such confined person is of sound mind, such Judge may direct that such confined person be immediately discharged from the custody of the superintendent of such hospital or licensed house, unless he is detained therein for some other cause by due process of law.

100. If the Inspector-General, official visitors, or superintendent of any hospital for the insane or licensed house certify to the Colonial Secretary that any patient is detained in such hospital or licensed house without sufficient cause, the Colonial Secretary may order the discharge of such patient:

Provided that if the superintendent does not consent to such discharge, his reasons in writing shall be forwarded to the Colonial Secretary by the Inspector-General or official visitors, together with the certificate as aforesaid.

PART VII.

Proceedings for declaring persons insane or incapable and for the appointment of committees of their estates, &c.

101. The Court shall, except on appeal as hereinafter provided, be holden by the Chief Judge or Judge in Equity, or by any other Judge sitting for the Chief Judge in Equity during his absence from Sydney or illness or at his request: Constitution of court. 22 Vic. No. 14, s. 6.

Provided that any such Judge may sit in chambers to determine all such matters as in his opinion may advantageously and with propriety be heard in chambers; and such Judge when so sitting shall have the same powers and jurisdiction as in open court.

102. Where it is proved to the satisfaction of the Court that a person is of unsound mind and incapable of managing his affairs, the Court may make a declaration to that effect, and may direct a reference to the Master to make inquiries concerning the property of such person, and may make all proper orders for rendering the property of such person, or the income thereof available for the payment of his debts and for the maintenance or benefit of himself and his family, and for carrying on his trade or business (if any), and may, if necessary, appoint a committee of his estate, and also when desirable a committee of his person. Application to Supreme Court in lieu of commission de lunatico inquirendo. 42 Vic. No. 7, s. 92.

103. (1) Where it is proved to the satisfaction of the Court that any person is, through mental infirmity, arising from disease or age, incapable of managing his affairs, the Court may make all proper orders for rendering the property and income of the said person available for the payment of his debts and for the maintenance and benefit of himself and his family; and may make orders for the care and management of his property in all respects as if he were an insane person; and may, if necessary, appoint any person, either with or without security, to undertake the care and management of his property under the order and direction of the Court. Persons incapable of managing their affairs. 58 Vic. No. 5, s. 14 (1).

(2) The person so appointed shall, subject to the said orders and directions and to the rules of Court, have the same powers and be subject to the same obligations and control as a committee of the estate of an insane person, and the powers and provisions contained in this Act relating to the management and administration of the estates of insane persons shall apply to the estates of incapable persons.

104. Whenever it is proved to the satisfaction of the Court that any insane person has recovered his sanity and is capable of managing his affairs, the Court may make a declaration to that effect, and may make all proper orders to give effect to such declaration, and to release the estate of such person from the control of the Court and to discharge the committee of his estate and person. Superseding orders, &c., when person has recovered. 42 Vic. No. 7, s. 93.

Mode of application. **105.** Applications under the last three preceding sections respectively shall be made, and evidence by affidavit given in support thereof in such manner as is prescribed by rules of Court :

Cross-examination on affidavit, &c. Provided that every deponent may be cross-examined upon his affidavit either at the hearing or at such time and place as the Court may direct, and at such hearing the Court may receive or require the oral evidence of witnesses and such other proofs as may be deemed necessary.

Process to be served. **106.** (1) Notice of any application under sections one hundred and two and one hundred and three, and of the evidence by affidavit to be used in support thereof, shall be given to the alleged insane or incapable person, and of any application under section one hundred and four, and of the evidence by affidavit to be used in support thereof, to the person upon whose application the insane person was found or declared to be insane, or to the committee of such insane person, in such manner and within such time as is prescribed by rules of Court.

Ibid. s. 94. (2) Where personal service cannot be effected or is inexpedient, then substituted service may be effected in such manner as may be prescribed by rules of Court, or as may be ordered by the Court.

Court may order inquiry before a jury. **107.** The Court in any case, instead of determining whether or not the person whose sanity is the subject of inquiry is of unsound mind and incapable of managing his affairs, may order that question to be determined by a jury ; and in such order shall direct whether such jury shall be a common or special jury, and thereupon the like proceedings for procuring the return of such jury shall be had and taken as provided by any law for the time being in force for the return of juries in the Supreme Court, and in every inquiry or proceeding before a jury the number of the jury shall be four, unless the Court order a jury of twelve.

Jury to be four unless the Court order twelve. **108.** When any such inquiry before a jury is ordered, the Court shall direct the question to be tried before a Judge or the Master, or a commissioner specially appointed, who shall while so acting have for the purposes of the inquiry all the powers of the Supreme Court ; and the trial of every such question and the verdict thereon shall be had and dealt with in all respects in accordance with any law for the time being in force relating to the trial of issues out of the Supreme Court.

After verdict, Court may make declaration, &c. **109.** When the verdict of the jury has been returned, unless a new trial be granted, the Court may make such declaration and orders as hereinbefore are respectively mentioned, as the case may be.

Examination of the alleged insane person. **110.** On the hearing of any application under section one hundred and two, the person whose sanity is in question shall be examined by the Court ; and on the trial of any such question as abovementioned there shall be a like examination by the jury before they

Ibid. s. 96.

56 Vic. No. 23, s. 14.

Inquiries before jury.

42 Vic. No. 7, s. 98.

Ibid. s. 99.

Examination of the alleged insane person.

Ibid. s. 100.

they consult as to their verdict, and every such examination shall take place in open court or in private, as may be deemed expedient :

Provided that, if it appears to the Court to be unnecessary or inexpedient that such person should be examined by the Court, or the jury, the Court may, in lieu of the examination aforesaid, direct the Master to personally examine the said person and report on such examination, or may dispense with any examination whatever. 56 Vic. No. 23, s. 17.

111. Where in any Act or rule of Court or instrument reference is made to a commission of Lunacy, or a writ in the nature of a writ *de lunatico inquirendo*, or to any inquisition thereon, or to a traverse or supersedeas of any inquisition or commission, the application and declaration thereon in the one hundred and second and one hundred and fourth sections respectively mentioned, as the case may be, shall be taken to be intended by or comprehended in such reference. The word commission shall apply to petition and declaration. 42 Vic. No. 7, s. 101.

112. When the Court is satisfied that any person has been found of unsound mind and incapable of managing himself and his affairs by any commission *de lunatico inquirendo*, or other legal inquiry in the United Kingdom, or in any colony or dependency thereof, the Court may direct a copy of the inquisition or finding on such commission or inquiry, duly certified by the proper officer of the Court into which such inquisition or finding shall have been returned, to be filed of record in the Court; and may thereupon appoint a committee of such person's estate or person, or both, and may give such other orders in respect of the management of his estate or person as it may deem expedient; and such committee shall have the same duties, powers, and liabilities as if he were the committee of an insane person under this Act. Persons found insane in places beyond the colony. Ibid. s. 102.

113. The Court may make such order as to the costs, charges, and expenses of and incidental to any proceeding authorised by this Act as the Court thinks proper, and every such order shall have the same effect as orders for the payment of money made by the Supreme Court in its equitable jurisdiction. Court may order costs. Ibid. s. 103.

114. There shall be an appeal to the Full Court from every order made under this Act before or by a single Judge in such manner as may be prescribed by rules of Court. Appeal. Ibid. s. 104.

PART VIII.

Management of the estates of insane persons and patients.

(1.) General powers and duties of Master in Lunacy.

115. There shall be a Master in Lunacy, and the Master in Equity for the time being shall be also the Master in Lunacy, and the Governor may appoint a Deputy Master; and the Deputy Master may exercise all the powers conferred and shall perform all the duties imposed Master in Lunacy. Ibid. s. 105. 58 Vic. No. 5, s. 9.

imposed upon the Master by any Act or by any rule or order of the Court; during the illness or absence of the Master, the Court or the Chief Judge or Judge in Equity or the Colonial Secretary may authorise the Chief Clerk in Lunacy to perform the duties of the Master:

Provided that if the Chief Clerk be not already under sufficient security, he shall give such security as the Court or such Judge or the Colonial Secretary in each case may direct.

In administering the estates of certain persons the Master to have jurisdiction of the Court.

42 Vic. No. 7, s. 105.

58 Vic. No. 5, s. 8.

116. Subject to rules of Court, the jurisdiction and powers of the Court in respect of the administration and management of the estates of all insane and incapable persons may be exercised by the Master; and every order made by the Master under the authority hereby conferred on him shall take effect, unless rescinded or varied by the Court; and the Master shall have and execute all the powers and duties hereby or under the authority hereof vested in and imposed upon him; and subject to and in accordance with the regulations of the Governor and the rules of Court and to any special order of the Court, the Master shall undertake the general care, protection, and management, or supervision of the management, of the estates of all insane persons and patients; and he shall supervise and enforce the performance of the obligations and duties of all committees of insane persons, and shall take care of, collect, and administer, under the provisions of this Act, the property and estates of all insane patients.

Expenses incurred to be paid out of estate.

42 Vic. No. 7, s. 108.

117. All expenses incurred by or on behalf of the Government, in the care, protection, and management, or in the supervision of the management, under this Act, of the estate of any insane person or patient, may be charged by the Master against and shall be paid out of and recoverable from such estate.

Expenses and accounts of Master.

Ibid. s. 140.

56 Vic. No. 23, s. 18.

118. (1) The Master shall give such security for the due performance of his duties as the Governor may require.

(2) All expenses incurred with the authority of the Court or of the Colonial Secretary by the Master in carrying this Act into execution, and whether chargeable to the estate of any insane person or patient or not, shall be defrayed and paid out of such public moneys as may be appropriated by Parliament for that purpose.

(3) All expenses so chargeable as aforesaid may be repaid by the Master out of any money of the insane person or patient that comes to his hands, or may be recovered by him on summary application to the Court, whether such patient has been discharged or not, or whether such insane person or patient is dead, or whether a superseding order has been made under this Act or not.

(4) The general accounts of the Master shall be reviewed and audited in the manner provided and by virtue and in exercise of the powers conferred by any law for the time being in force relating to the audit of the public accounts.

119. There shall be paid to the Master a percentage at a rate not exceeding five pounds per centum per annum on the clear annual income of every insane or incapable person and insane patient; and the said percentage and fees shall be charged upon and payable out of the estates of such insane or incapable persons and patients as aforesaid, although before payment the insane or incapable person dies or a superseding order is made under this Act, or the insane patient dies or is discharged from the hospital or other place in which he is detained.

Percentage and fees.
56 Vic. No. 23, ss.
19, 20 (II).
58 Vic. No. 5, s. 14 (II).

120. The Master may in the execution of his powers, duties, and authorities, and also in the prosecution of all inquiries and matters which may be referred to him under this Act, summon persons before him and administer oaths and take evidence, either orally or by affidavit or partly orally and partly by affidavit, and take recognizances and require the production of books, papers, accounts, and documents; and every person so summoned shall be bound to attend as required by the summons and give evidence before the Master in like manner as persons summoned before him in his equity jurisdiction are bound to attend and to give evidence; and the Court may by any order (general or particular) refer to the Master any inquiries under the provisions of this Act relating to the person and estate of any insane person or patient.

Master to have all
necessary powers
of inquiry, taking
evidence, &c.
42 Vic. No. 7, s. 109.

121. Every person giving evidence by affidavit shall be liable to oral cross-examination by or before the Master upon his affidavit, and after cross-examination may be re-examined orally by or on behalf of the person filing the affidavit; and every person giving evidence by affidavit shall be bound to attend before the Master to be so cross-examined and re-examined upon receiving due and proper notice and payment or tender of his reasonable expenses in like manner as if he had been duly served with a writ of subpoena *ad testificandum* before the Master; and the expenses attending on such cross-examination and re-examination shall be paid in such manner and by such person as the Master directs.

Witnesses may be
cross-examined
orally.
Ibid. s. 110.

How expenses to
be paid.

122. The Master may cause to be issued such advertisements as may to him seem expedient with reference to the subject matter of a proposed commission or inquiry or with a view to the efficient discharge of his duties as Master under this Act with regard to the estate and property of insane persons or patients.

Master may issue
advertisements.
Ibid. s. 111.

123. The Master shall approve on behalf of Her Majesty of the security to be given by the committee of the estate of any insane person under order of the Court, and it shall be the duty of the Master to see that the conditions of all bonds and recognizances heretofore or hereafter to be given or entered into by the committee of the estate or other persons in the matter of the estate shall be faithfully and regularly observed and performed, and immediately to report to a Judge any

Master to approve
of and to enforce
security to be given
by committee of
estate.
Ibid. s. 112.

any breach or non-performance of any of such conditions; and thereupon such Judge may cause such bond or recognizance to be forfeited or estreated, and such forfeiture or estreat shall be enforced and effected in the manner provided by any law now or hereafter to be in force relating to the estreat of recognizances entered into to Her Majesty.

(2.) *Powers and duties of Master in respect to estates of insane patients.*

Power of Master in respect of estates of insane patients.
42 Vic. No. 7, s. 141.

124. The Master shall have in respect of the property and estate of any insane patient, in addition to the general powers conferred upon him in subdivision (1) of this part of this Act, all the like powers and authorities, subject to the like limitations, as are hereinafter, in subdivision (3) of this part of this Act, given to the committee of the estate of an insane person, and also the powers hereinafter mentioned.

Power to apply property of persons acquitted on the ground of insanity for their benefit.
Ibid. s. 107.

125. Where any person has on the trial of any information been acquitted on the ground of insanity, or has upon arraignment upon a criminal charge been found to be insane, the Sheriff shall report the fact to the Master, who shall thereupon make inquiry respecting the property of such person, and the Court may, on being satisfied of the continued insanity of such person and of his being still in confinement, make any orders with respect to the property of such person and the application thereof for the payment of his debts or for his maintenance or benefit or that of his family or for carrying on his trade or business.

Master's powers as to property of patients.
56 Vic. No. 23, s. 21.

126. The Master shall have the management and care of the property of every insane patient, and, in addition to other powers and duties necessary and incident to such management and care, may exercise the following powers and perform the following duties with respect to the estate of every insane patient, that is to say, he may:—

- (a) Receive moneys, rents, incomes, and profits of real and personal property, and distrain for rent.
- (b) Demise land for a term not exceeding five years, at such rent and on such conditions as he may think fit.
- (c) Sell, realise, and mortgage real and personal property where the net value of the patient's estate, exclusive of debts and claims allowed by the Master, does not exceed five hundred pounds.
- (d) Settle, adjust, and compromise a demand not exceeding five hundred pounds made by or against the estate.
- (e) Carry on a business which the patient had carried on, so far as may appear desirable for the purpose of more advantageously disposing of or winding-up the business, or preserving the same until the recovery of the patient.

(f)

- (f) Agree to an alteration of the conditions of a partnership into which the patient had entered, for the purpose of more advantageously disposing of his interest therein or terminating his liability.
- (g) Complete a contract for the performance of which the patient was liable, or enter into an agreement terminating that liability.
- (h) Sequester the estate of a patient under the provisions of the bankruptcy laws.
- (i) Bring and defend actions, suits, and other proceedings on behalf of a patient.
- (j) Bring lands under the provisions of the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same :

127. (1) The Master may apply to the Court in such manner as is or may from time to time be prescribed by rules of Court, for directions with respect to the exercise of any of the powers over the estate of an insane patient which the Court may exercise, or order a committee to exercise, over the estate of an insane person under subdivision (3) of this part of this Act.

Master may apply to the Court as to the exercise of certain powers.

56 Vic. No. 23, s. 22.

(2) The Court may, upon such application as aforesaid, or upon the application of the patient or any relative, friend, or creditor of the patient, direct that such inquiries be made and notices given as may be deemed advisable, and may make such order in the premises as may be thought proper.

128. (1) For the purposes of this Act the Master may do such acts and exercise such powers with respect to an estate committed to his management and care as the patient himself could have done if sane, and may, in the name and on behalf of the patient, execute and sign deeds and instruments (including instruments under the "Real Property Act," or any Act passed, or to be passed, amending or consolidating the same), transfers of shares, receipts, releases, and other documents, which shall be as effectual as if executed and signed by the patient himself while sane, and shall be acted upon accordingly by the Registrar-General and all other persons without any obligation to inquire whether the person upon whose behalf the Master purports to act be a patient or not.

Master may execute instruments on behalf of patient. Title of purchaser from the Master.

Ibid. s. 23.

(2) Persons dealing with the Master in respect of any estate over which he has assumed control shall be as fully protected as if the owner of the estate were a patient at the time of the dealing, although he is not, in fact, then a patient; and a purchaser or mortgagee from the Master of any real or personal property of a patient shall not be bound to inquire as to the Master's powers so to deal with that property, or as to the application of the purchase money.

Summary proceedings for protection of property of insane patients.

42 Vic. No. 7, s. 142.

129. (1) If any real or personal property of an insane patient be wrongfully held, detained, converted, or injured, or if any sum of money be due and owing to such patient by any person, the Master may as such Master claim and recover possession of such property or damages for the conversion or injury thereof, or payment of the said sum by summary proceeding on complaint before a Judge who is hereby authorised and required on proof to his satisfaction of the said cause of complaint to make an order requiring the defendant to give up possession of such property, or to pay reasonable damages to be fixed by the said order for the conversion or injury thereof, or to pay the sum so due as aforesaid, and in default of compliance by the defendant with the said order, to order in and by the same or any subsequent order that the defendant be committed to prison for any period not exceeding six months.

(2) Such Judge may in any complaint under this section make such order as to costs as he thinks fit, and every order under this section shall have the same effect, and may be enforced in like manner as any judgment, decree, or order of the Supreme Court in its jurisdiction at law or in equity.

Payments to consolidated revenue.

56 Vic. No. 23, s. 24.

130. (1) The Master shall pay into the consolidated revenue for the use and benefit thereof, and at such times and in such manner as the Governor may from time to time appoint, all money paid to him for the maintenance of any patient, and all percentages and fees.

Payments to credit of trust fund.

(2) The Master shall at such times, and in such manner as aforesaid, pay all other money coming to his hands into the Treasury to the credit of a trust fund, and may withdraw the same or any part thereof and apply it for the purposes in the next section mentioned, or pay it to the consolidated revenue for the purposes of maintenance, clothing, medicine and care in that section mentioned.

(3) No money so deposited shall be withdrawn or paid from the Treasury otherwise than by the authority of the Court or by the Master for the purposes aforesaid.

Separate accounts.

(4) A separate account shall be kept by the Master of payments to the credit of the trust fund, and of payments out in respect of the estate of each patient.

Disposition of money in the hands of the Master.

Ibid. s. 25.

131. The Master may apply money coming to his hands in respect of the estate of a patient, and standing to the credit of the trust fund towards all or any of the following purposes:—

- (a) The payment of the debts of the patient, and the repayment of expenses chargeable to his estate;
- (b) His maintenance, clothing, medicine, and care, past and future, and in the event of his death, his funeral expenses;
- (c) The maintenance of his wife or any child, parent, or other person dependent upon the patient, or for whose maintenance the patient provided when sane;

(d)

- (d) The payment of all proper costs, charges, and expenses incurred in or about the care, protection, recovery, sale, mortgage, leasing, disposal, and management of his estate ;
- (e) The preservation and improvement of the patient's estate ;
- (f) The investment, in manner hereinafter provided, of money not presently required for the above purposes ;
- (g) The payment to a patient or any person under sections one hundred and thirty-four and one hundred and thirty-six of this Act :

Provided that the Master may report to and apply for the advice and directions of the Court upon any of the matters aforesaid ; and the Court may, upon such application as aforesaid, or upon the application of the patient, or any relative, friend, or creditor of the patient, direct such inquiries to be made, and notices given as may be deemed advisable, and may make such orders in the premises as may be thought proper.

132. The Master may invest any money unapplied as aforesaid in Government debentures, by paying the same into the Treasury under such conditions as to interest and otherwise as may be prescribed by rules of Court, or by depositing the same at interest in any incorporated bank carrying on the business of banking in Sydney, which has been approved by the Court.

Powers of Master as to investment.
56 Vic. No. 23, s. 26.

133. The Master may, with the leave of the Court, to be obtained in such manner as is or may from time to time be prescribed by rules of Court, invest any money unapplied as aforesaid upon mortgage of real estate or other security, or in the purchase of land, if such purchase appear to the Court to be desirable for the purpose of protecting the estate of the patient from injury or deterioration in value, or of increasing the value or facilitating the sale of other lands of the estate ; and the Court may, on the hearing of the application, deal with the same *ex parte*, or require notice to be served on any person.

Investment on mortgage.
Ibid. s. 27.

134. (1) If any patient is permitted to be absent from an hospital for the insane or licensed house upon trial or otherwise under the provisions of this Act, the Master may, in his discretion, pay over to the patient, or to any person on his behalf who gives satisfactory security to the Master for the proper management and disposal thereof, the whole or any part of the money standing to the credit of the patient in the trust fund, and may hand over to him, or to the person aforesaid, all or any deposit-receipts, debentures, stock, securities, title deeds, documents, and chattels forming part of his estate.

Payment over of estate before discharge in certain cases.
Ibid. s. 28.

(2) The receipt of the patient or person aforesaid shall be an absolute discharge to the Master, notwithstanding any informality in or about the granting of such permission as aforesaid.

135. Where a patient has, before his discharge, made or executed any transfer, sale, alienation, charge, or lease of any property, real or personal, the Master may, before his discharge, set aside the same.

Sale, &c., by patient before his discharge may be set aside.
Ibid. s. 29.

real or personal, the Court may, on application being made by the Master in such manner as is or may from time to time be prescribed by rules of Court, and on notice being given to such persons as the Court may direct, set aside the said transfer, sale, alienation, charge, or lease, and may make such order in the premises as may be just; and for the purposes of the application the patient shall be prima facie deemed to have been insane at the time when he made or executed the transfer, sale, alienation, charge, or lease.

Payments to discharge patients and to personal representatives of deceased patients.

56 Vic. No. 23, s. 30.

136. (1) After the discharge or death of a patient, the Master may pay over to him in the case of his discharge, or to his legal personal representative in the case of his death, all money standing to the credit of that patient in the trust fund, and may hand over to him or to his legal personal representative (as the case may be) all deposit receipts, debentures, stock, securities, title deeds, and chattels forming part of his estate.

(2) The receipt of the said patient or his legal personal representative shall be an absolute release to the Master, notwithstanding any informality in the discharge of the patient, or in the mode of obtaining the same.

(3) The Master may, in the exercise of his discretion, require a discharged patient, claiming money or property as aforesaid, to obtain the order of the Court.

Payment of sum not exceeding £100 to representatives or legatees.

(4) Where advertisements for creditors to come in and prove their debts have been duly published by the Master in the course of managing the property of a patient, and no debt has been proved within the time fixed for that purpose, or no debt remains unsatisfied, the Master may, in his discretion, after the death of the patient, pay any sum not exceeding one hundred pounds out of money standing to the credit of the patient in the trust fund, or may hand over any deposit-receipts, debentures, stock, securities, title-deeds, and chattels not exceeding that value and forming part of the estate of the patient to any person claiming as entitled in the distribution of his estate, or as a legatee under his will, notwithstanding letters of administration have not been obtained or the will proved, and notwithstanding legal proof is not given of the right or title of the person claiming as aforesaid.

Provisions as to personal effects of patient in hands of Master not claimed for two years, and as to moneys standing to credit of patient for a period of six years after his death

Ibid. s. 32.

137. (1) All personal effects in the hands of the Master belonging to a patient, and not claimed within two years from the date of the discharge of that patient, may be sold by direction of the Master, and the proceeds of the sale shall be paid by him into the consolidated revenue.

(2) All moneys standing to the credit of a patient in the trust fund at the end of six years from the death of such patient shall be carried to and form part of the consolidated revenue.

(3)

(3) Nothing herein contained shall affect the right of a person under the disability of infancy, coverture, insanity, or absence beyond the seas to recover the said moneys or the proceeds of the said sale at any time within six years from the removal of that disability.

138. (1) Notwithstanding the discharge or death of a patient, the Master may continue to perform the duties and exercise the powers conferred upon him with respect to the estate of that patient until he receives notice of such discharge or death as aforesaid.

Master may act until he receives notice of death or discharge of patient.

56 Vic. No. 23, s. 33.

(2) On the discharge or death of a patient, he or his legal personal representatives (as the case may be) shall be bound by and may take advantage of an act lawfully done by the Master on behalf of the patient, as if the said act had been done by the patient himself while sane.

139. The Master may agree with any relative, guardian, or friend of any patient detained in any hospital for the insane or licensed house for his maintenance while detained therein, and such relative, guardian, or friend shall be entitled to be reimbursed all necessary sums expended in such maintenance and interest thereon out of any real or personal property of such patient.

Relative, &c., may agree for maintenance of insane patient.

42 Vic. No. 7, s. 145.

140. (1) If the health officer, or the immigration officer, or the Inspector-General of Police, or the Inspector-General certifies to the Master within sixty days after the arrival of any ship at any port in New South Wales that a passenger or seaman arriving by that ship is insane, imbecile, or idiotic, and has become, or is likely to become, a charge upon the public as an inmate of a reception house or hospital for the insane, it shall be lawful for the Master thereupon to require the owner, charterer, agent, or master of that ship to execute, with two sufficient sureties, jointly and severally, a bond to Her Majesty in such sum as the Master may determine, not exceeding five hundred pounds, conditioned to pay to the Master the maintenance of that passenger or seaman in such reception house or hospital at such rate and for such term as may be determined by the Master; or, at the option of the owner, charterer, agent, or master of the ship, subject to the approval of the Master, to return such passenger or seaman to the place whence he was shipped.

Owner, charterer, agent, or master of ship liable for maintenance of any passenger or seaman being insane and a charge upon the public.

56 Vic. No. 23, s. 4.

(2) The sureties shall justify before or to the satisfaction of the Master, and shall, by their oaths or affirmations, satisfy him that they are respectively resident in New South Wales, and worth treble the amount of the penalty of the bond over and above all liabilities.

(3) No bond shall be required when the passenger or seaman is, at the date of the arrival of the ship, domiciled in New South Wales; but the onus of proving such domicile as aforesaid shall be upon the said owner, charterer, agent, or master of the ship.

Penalty if owner, charterer, agent, or master neglects or refuses to execute bond.

56 Vic. No. 23, s. 5.

Justices may make an order upon relations of patient for his support.

42 Vic. No. 7, s. 147.

58 Vic. No. 5, s. 11.

141. If the said owner, charterer, agent, or master of the ship neglects or refuses to execute the bond as aforesaid within seven days after being so required, he shall be liable to a penalty not exceeding five hundred pounds, to be recovered summarily before a police or stipendiary magistrate; and the said ship shall not be cleared out until the bond is executed as aforesaid.

142. (1) If it appears to two Justices, on application by or on behalf of the Master, that any patient has not an estate or any sufficient estate applicable to the maintenance of such patient, and that any person related to such patient, in the manner next hereinafter specified, is of ability to maintain or contribute to the maintenance of such patient, such Justices may make an application in writing—

(a) To the father of such patient; or, if the father be dead,

(b) To the mother of such patient; or

(c) To the husband or wife of such patient, as the case may be; or

(d) To one or more of the children of such patient, being of the age of twenty-one years, or upwards;

for the payment to the Master of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices shall direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(2) If the sum referred to in such application is not paid pursuant thereto, the Justices shall, on complaint made by or on behalf of the Master, issue a summons to be served on the person so applied to and failing to pay as aforesaid, to answer such complaint, and upon return of such summons the Justices may, upon being satisfied as to the matters aforesaid, make an order on such person for the payment of a reasonable sum weekly, or monthly, or otherwise in such manner as such Justices direct, for or towards the maintenance, clothing, medicine, and care of such patient.

(3) No wife of an insane patient shall be liable under the provisions of this section except in respect of her separate estate.

(4) Payments made pursuant to any such application or order shall be sufficient discharges for such payments.

(5) Orders made under the provisions of this section shall be enforced, appealed from, quashed, confirmed, or varied, in the same manner in all respects as orders made under the "Deserted Wives and Children Act of 1840," or any Act passed or to be passed amending or consolidating the same.

Application for maintenance to be supported by affidavit.

58 Vic. No. 5, s. 12.

143. (1) Upon application being made to Justices under the last preceding section of this Act, there shall be lodged with the Justices the affidavit or statutory declaration hereinafter mentioned, together with a true copy of the same.

(2)

(2) The affidavit or declaration shall be made by the Master or the Chief Clerk in Lunacy, on his behalf, setting forth among other things the following facts to the best of his knowledge, information, and belief:—

- (a) The degree of relationship of the person sought to be charged to the patient;
- (b) That such person is of ability to pay for or towards the maintenance of the patient;
- (c) The particulars of the patient's property (if any) and that the same is not sufficient for his maintenance, clothing, medicine, and care.

144. Upon complaint being made under section one hundred and forty-two of this Act, the copy of the affidavit or declaration lodged with the Justices as abovementioned shall be served with the summons; and the affidavit or declaration, or the copy served as aforesaid shall, at the hearing of the complaint, be evidence of the matters therein stated.

Proceedings on
complaint made.
58 Vic. No. 5, s. 13.

145. The Justices may on complaint made by or on behalf of the Master under the provisions of section one hundred and forty-two of this Act order payment of a reasonable sum for or towards the past maintenance of a patient, and for or in respect of money expended on his clothing, medicine, and care; and such order may be made notwithstanding the patient has been discharged or is dead.

Justices may make
orders for payment
of arrears of
maintenance.
56 Vic. No. 23, s. 35.

146. If the amount mentioned in an order made by Justices under the provisions of section one hundred and forty-two, or of the last preceding section of this Act, remains unpaid for six months from the date thereof, the Master may apply, on notice to the person named in such order as aforesaid, to the Court for an order directing payment of the amount due; and upon the hearing of that application the Court may make such order in the premises as may seem just for payment of the amount found to be due as aforesaid, together with the costs of the application:

Procedure if amount
mentioned in order
remains unpaid for
six months.
Ibid. s. 36.

Provided that nothing herein contained shall affect any other remedies which the Master may have for enforcing the order of the Justices.

147. Where it appears to the Master that payments agreed to be made under this Act for the maintenance of or otherwise on behalf of an insane person or patient have fallen into arrears through circumstances beyond the control of the person agreeing as aforesaid, the master may in his discretion:—

Maintenance.
Discretion of Master
to forego arrears or
to accept a smaller
sum in satisfaction.
Ibid. s. 34.

- (a) forego altogether the payment of such arrears; or
- (b) accept a smaller sum in satisfaction thereof; or
- (c) make such other agreement as he may think just and reasonable.

The Court may direct the Master to report as to the insanity of any patient, &c.
42 Vic. No. 7, s. 146.

148. The Court may direct the Master to personally examine any insane patient, and take evidence and call for information as to the insanity of such patient, and report thereon to the Court, and the Court may make orders for—

- (a) the appointment of a guardian or otherwise for the protection, care, and management of the person or of the estate, or of the person and estate, of any patient who by any such report is found to be insane; such guardian, according to the nature of his appointment, to have the same powers and authorities, and be subject to the same control and liabilities, as a committee of the person and estate of an insane person appointed under this Act; and also
- (b) the appointment of a receiver or otherwise for the protection, care, and management of the estate of such insane patient; such receiver to have the same powers and authorities and be subject to the same control and liabilities as a receiver of the estate of an insane person appointed under this Act; and also
- (c) the application of the income of such insane patient or a sufficient part thereof for his maintenance and support, and in payment of the costs, charges, and expenses attending the protection, care, and management of the person and estate of such insane patient, and of or in connection with the said examination by the Master and the obtaining of such orders by the Court; and as to
- (d) the investment or other application for the purpose of accumulation or otherwise of the surplus (if any) of such income as last mentioned for the use of such patient, his wife, or children as to the Court may seem fit.

(3.) *Management of the estates of insane persons.*

Power to raise money for certain purposes.
53 and 54 Vic., c. 5, s. 117.
42 Vic. No. 7, ss. 106, 151.

149. (1) The Court may order that any property of an insane person, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the Court thinks most expedient for the purpose of raising or securing or repaying with or without interest money which is to be or which has been applied to all or any of the purposes following:—

- (a) Payment of the insane person's debts or engagements;
- (b) Discharge of any incumbrance on his property;
- (c) Payment of any debt or expenditure incurred for the insane person's maintenance or otherwise for his benefit;
- (d) Payment of or provision for the expenses of his future maintenance.
- (e) Payment of the costs of any proceeding under this Act, or of any sale or other disposition made under this Act.

(2)

(2) In case of a charge or mortgage being made under this Act for the expenses of future maintenance the Court may direct the same to be payable, either contingently, if the interest charged is a contingent or future one, or upon the happening of the event if the interest is depending on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as the Court thinks expedient.

150. The Court may by order authorise and direct the committee of the estate of an insane person to do all or any of the following things:—

- Powers exercisable by committee under order of Court.
- 53 and 54 Vic., c. 5, s. 120.
- 42 Vic. No. 7, ss. 10C, 151, 160.
- Ibid.* s. 160, 161.
- Ibid.* s. 106.
- Ibid.* s. 164.
- Ibid.* s. 148.
- Ibid.* s. 166.
- Ibid.* s. 165.
- Ibid.* s. 158.
- Ibid.* s. 163.
- Ibid.* s. 168.
- (a) Sell any property belonging to the insane person ;
- (b) Make exchange or partition of any property belonging to the insane person, or in which he is interested, and give or receive any money for equality of exchange or partition ;
- (c) Carry on any trade or business of the insane person ;
- (d) Grant leases of any property of the insane person for building, agricultural, or other purposes ;
- (e) Surrender any lease and accept a new lease ;
- (f) Accept a surrender of any lease and grant a new lease ;
- (g) Execute any power of leasing vested in an insane person having a limited estate only in the property over which the power extends ;
- (h) Perform any contract relating to the property of the insane person entered into by the insane person before he became an insane person ;
- (i) Surrender, assign, or otherwise dispose of, with or without consideration, any onerous property belonging to the insane person ;
- (j) Exercise any power or give any consent required for the exercise of any power where the power is vested in the insane person for his own benefit, or the power of consent is in the nature of a beneficial interest in the insane person ;
- (k) Sequester the estate of the insane person under the provisions of the bankruptcy laws ;
- (l) Bring lands under the provisions of the "Real Property Act" or any Act passed or to be passed amending or consolidating the same ;
- (m) Bring and defend actions, suits, and other proceedings on behalf of the insane person.

151. Any property taken in exchange and any renewed lease accepted on behalf of an insane person under the powers of this Act, shall be to the same uses and be subject to the same trusts, charges, incumbrances, dispositions, devises, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to.

Property exchanged and renewed lease to be to same uses as before.

53 and 54 Vic., c. 5, s. 121.

42 Vic., No. 7, ss. 150, 160.

Extent of leasing power.

53 and 54 Vic., c. 5, s. 122.

42 Vic. No. 7, s. 164.

152. (1) The power to authorise leases of an insane person's property under this Act shall extend to property of which the insane person is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the insane person, and all persons entitled in remainder and reversion expectant upon the estate tail of the insane person including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the insane person shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the insane person or his committee would have had.

42 Vic. No. 7, ss. 148, 164, 166.

(2) Leases authorised to be granted and accepted by or on behalf of an insane person under this Act may be for such number of lives or such term of years at such rent and subject to such reservations, covenants, and conditions as the Court may order.

Ibid. s. 149.

(3) Fines or other payments on the renewal of leases may be paid out of the estate of the insane person, or charged with interest on the leasehold property, as the Court may order.

Insane person's interest in property not to be altered.

53 and 54 Vic., c. 5, s. 123.

42 Vic. No. 7, s. 155.

153. (1) The insane or incapable person, his heirs, next of kin, devisees, legatees, executors, administrators, and assigns shall have the same interest in any moneys arising from any sale, mortgage, charge, or other disposition of land under the powers of this Act, which may not have been applied under such powers as he or they would have had in the property the subject of the sale, mortgage, charge, or disposition, if no sale, mortgage, charge, or disposition had been made, and the surplus moneys shall be of the same nature as the property sold, mortgaged, charged, or disposed of.

42 Vic. No. 7, ss. 160, 167.

(2) Moneys received for equality of partition and exchange, and all fines, premiums, and sums of money received upon the grant or renewal of a lease where the property, the subject of the partition, exchange, or lease was real estate of the insane or incapable person shall, subject to the application thereof for any purposes authorised by this Act, be considered as real estate, except in the case of fines, premiums and sums of money received upon the grant or renewal of leases of which the insane person was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the insane person.

Ibid. ss. 106, 155, 160.

(3) In order to give effect to the foregoing provisions of this Act the Court may make such orders and direct such conveyances, deeds, and things to be executed and done as it thinks fit.

Expenses of improvements may be charged on estate.

53 and 54 Vic., c. 5, s. 118.

42 Vic. No. 7, s. 154.

154. (1) The Court may order that the whole or any part of any moneys expended or to be expended under its order for the permanent improvement, security, or advantage of the property of the insane person, or of any part thereof, shall with interest be a charge upon the improved property or any other property of the insane person, but so that no right of sale or foreclosure during the lifetime of the insane person

person be conferred by the charge, and the interest shall be kept down during his lifetime out of the income of his general estate as far as the same is sufficient to bear it.

(2) The charge may be made either to some person advancing the money, or, if the money is paid out of the insane person's general estate, to some person as a trustee for him as part of his personal estate.

155. Where the net amount or net estimated value of the property of any insane person does not exceed the sum of five hundred pounds, the Court may order the amount of the property or the produce thereof when realized to be paid or transferred to some fit person, to be applied in or towards the maintenance of the insane person, either at his discretion, or in such manner, and subject to such control as the Court may direct, and for the purpose of giving effect to any such order the Court may order any real estate or other property whatsoever of the insane person to be sold, and a valid conveyance or transfer thereof to be executed or made by such person as it shall direct.

Where property very small the Court may apply same directly for insane person's maintenance.

42 Vic. No. 7, s. 156.

156. (1) Where it appears to the Court that there is reason to believe that the unsoundness of mind of any insane person is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision should be made for the maintenance of such insane person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income, or of ready money belonging to the insane person, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the Court may allow thereout such amount as it may think proper for the temporary maintenance of the insane person and the members of his immediate family who are dependent upon him for maintenance, and may order the payment of any such sum of money as aforesaid, or any part thereof, to some fit person, and may direct the same to be paid to such person accordingly, and when received to be applied, and the same shall accordingly be applied in or towards such temporary maintenance as aforesaid.

Where insanity temporary the Court may apply cash arising from income for temporary maintenance.

53 and 54 Vic., c. 5, s. 127.

42 Vic. No. 7, s. 157.

(2) The receipt in writing of the person named in the order to whom payment is to be made for any moneys payable to him by virtue thereof shall effectually discharge the banker, agent, or other person paying the same from the moneys therein respectively expressed to be received.

(3) The person so receiving any moneys by virtue of this present provision shall pass an account thereof before the Master when required.

157. Where a person, being a member of a copartnership firm, becomes insane, the Court may, by order, dissolve the partnership.

The Court may dissolve partnership.

Ibid. s. 119.

158. *Ibid.* s. 159.

Power to carry orders into effect.
53 and 54 Vic., c. 5, s. 124.
42 Vic. No. 7, ss. 152, 154, 159.

Conveyance of interest of married woman.
56 Vic. No. 23, s. 16.

Committee may exercise power vested in insane person in character of guardian, &c.
53 and 54 Vic., c. 5, s. 128.
42 Vic. No. 7, s. 168.

Appointment of new trustees under power to have effect of appointments by Court and like orders may be made as under any law relating to trusts.

Ibid. s. 129.
Ibid. s. 163.

Temporary provision for maintenance of insane person.
53 and 54 Vic., c. 5, s. 130.

158. (1) The committee of the estate, or such person as the Court approves, shall, in the name and on behalf of the insane person, execute, make, and do all such conveyances, deeds, transfers, and things for giving effect to any order under this Act as the Court directs; and every such conveyance, deed, transfer, and thing shall be valid and effectual, and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject.

(2) Where by the order of the Court any real estate is ordered to be sold, mortgaged, or charged, an effectual conveyance, mortgage, or charge may be made of any interest of a married woman in such estate, being an insane person, without any acknowledgment by her.

159. Where a power is vested in an insane person in the character of a trustee or guardian, or the consent of an insane person to the exercise of a power is necessary in the like character or as a check upon the undue exercise of the power—and it appears to the Court to be expedient that the power should be exercised or the consent given (as the case may be), the committee of the estate, in the name and on behalf of the insane person, under an order of the Court made upon the application of any person interested in the exercise of the power, may exercise the power or give the consent (as the case may be) in such manner as the order may direct.

160. Where under this Act the committee of the estate, under order of the Court, exercises in the name and on behalf of the insane person a power of appointing new trustees vested in him, the persons who shall after and in consequence of the exercise of the power be the trustees shall have all the same rights and powers as they would have had if the order had also been made by the Supreme Court under any law for the time being in force relating to trusts; and the Court may in such case where it seems to be expedient make any such order respecting the property subject to the trust as might have been made in the same case under the provisions of any such law as aforesaid on the appointment thereunder of new trustees.

161. In any case where, pending the appointment of committees, it appears to the Master desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the insane person, or any member of his family, out of any cash or available securities belonging to him in the hands of his bankers, or of any other person, the Master may, by certificate, authorise such banker or other person to pay to the person to be named in such certificate such sum as he certifies to be proper; and may, by such certificate, give any directions as to the proper application thereof for the insane person's benefit by that person, who shall be accountable for the same, as the Master directs.

162. Where any stock is standing in the name of or is vested in an insane person beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of an insane person in trust for the insane person or as part of his property, and the committee dies intestate or himself becomes insane or is out of the jurisdiction, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock and to receive and pay over the dividends thereof to a new committee or as he directs for the space of fourteen days after a request in writing for that purpose made by a new committee, then the Court may order some fit person to transfer the stock to or into the name of a new committee or otherwise, and also to receive and pay over the dividends thereof, or such sums of money, and in such manner as the Court directs.

Stock belonging to insane person may be ordered to be transferred.

53 and 54 Vic., c. 5, s. 133.

42 Vic. No. 7, s. 170.

163. Where any stock is standing in the name of, or vested in, a person residing out of New South Wales, the Court, upon proof to its satisfaction that such person has been declared idiot, lunatic, or of unsound mind, and that his personal estate has been vested in a curator or other person appointed for the management thereof, according to the laws of the place where he is residing, may order some fit person to make such transfer of the stock to or into the name of the curator or other person appointed as aforesaid or otherwise, and also to receive and pay over the dividends thereof as the Court thinks fit.

Stock in name of insane person residing out of New South Wales may be ordered to be transferred.

Ibid. s. 134.

Ibid. s. 171.

164. Where an order is made under this Act for the transfer of stock, the person to be named in the order for making the transfer shall be some proper officer of the company or society in whose books the transfer is to be made.

Who shall be appointed to make transfer.

42 Vic. No. 7, s. 172.

165. The Court may order the costs and expenses of and relating to the petitions, applications, orders, directions, conveyances, and transfers to be presented or made in pursuance of this part of this Act to be paid and raised out of or from the property, or the rents, income, or profits in respect of which the same respectively shall be presented or made in such manner as it may think proper; and the Court may order such sum by way of remuneration to be paid out of the estate to the committee of any insane person as the Court may think fit.

Costs and remuneration may be paid out of estate.

Ibid. s. 173.

166. Every conveyance, lease, surrender, transfer, charge, or other disposition made or accepted or executed and every payment made under this Act shall be valid to all intents and binding upon all persons whomsoever; and this Act shall be a full indemnity and discharge to all persons for all acts and things done or permitted to be done in pursuance thereof, or of any order of the Court made or purporting to be made under this Act.

All deeds, transfers, payments, &c., made in pursuance of this Act, to be valid and binding.

Ibid. s. 174.

Act not to subject
insane's person's
property to debts.
53 and 54 Vic., c. 5,
s. 116 (5).
42 Vic. No. 7, s. 175.

167. Nothing in this Act contained shall subject any part of the property of an insane person to the debts or demands of his creditors, further or otherwise than as the same is now subject thereto by due course of law.

PART IX.

Court visitor.

Court may order
insane person to be
visited.
56 Vic. No. 23, s. 13.

168. The Court may by general rule or special order:—
- (a) direct the Inspector-General or other fit person to visit any insane person and to make a report in writing to the Court or a Judge of the state of mind and bodily health and general condition, and also of the care and treatment of the person visited;
 - (b) direct that such information as may be deemed necessary be given to the person making the visit as to the nature and extent of the fortune of the person visited, and as to the orders of the Court made in respect thereof;
 - (c) order that any fees and expenses connected with the visit be paid out of the estate of the person visited.

PART X.

Miscellaneous provisions.

Power to judges of
Supreme Court to
make general orders.
42 Vic. No. 7, s. 176.
56 Vic. No. 23, s. 20
(1).
58 Vic. No. 5, s. 14
(11).

169. (1) The Judges, or any three of them, may make general orders and rules for regulating, in all cases, the form and mode of proceeding before the Court, and before and by the Master, for carrying into effect the several objects of Parts VII and VIII of this Act, so far as the same relate to the powers or duties of the Court or of the Master, and for regulating the practice and forms in all matters of Lunacy, and the amount of percentage, and of the fees payable in proceedings relating to insane persons and patients and their estates, and the mode in which the same shall be ascertained and paid:

(2) A copy of every such rule shall be laid before both Houses of Parliament within fourteen days from the publication thereof, if Parliament be then in session, or otherwise within fourteen days after the commencement of the next ensuing session.

Governor may make
regulations.
Ibid. s. 177.
58 Vic. No. 5, s. 15.

170. The Governor may make regulations for carrying into effect the purposes and provisions of this Act in all respects other than as hereinbefore provided for, and in particular for the care and maintenance

maintenance of patients while boarded-out and the inspection of those patients and of the houses and premises where they may reside, and may impose any penalty not exceeding twenty pounds for any breach of those regulations; and all regulations when made and published in the Gazette shall have the force of law, and shall be laid before both Houses of Parliament without delay.

171. In any proceeding taken against a superintendent of an hospital for the insane or for the criminal insane, licensed house, or reception house, or other person authorised by this Act to take charge of any person as insane, or against any assistant or servant of any such superintendent or person authorised as aforesaid for taking, confining, detaining, or retaking any person as an insane person or patient, the party complained of may plead the general issue, and may under that plea give in evidence the order, request, and certificates or certificate mentioned in parts I to VI (inclusive) of this Act in his defence; and the certificate or certificates and the request, or the certificate or certificates and the order (as the case may be) shall be a justification for taking, confining, detaining, or retaking that insane person or patient.

Superintendents, &c.,
may plead the
general issue.
Certificates, &c., a
bar to proceedings.
56 Vic. No. 23, s. 10.

172. (1) No suit or action shall lie against any person for or on account of any act, matter, or thing done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, if that person has acted in good faith and with reasonable care.

No action to lie
against person who
has acted in good
faith, &c.
Ibid. s. 11.

(2) No such suit or action as aforesaid shall be commenced but within three months after the alleged cause of action, or, in the case of a suit or action by a person who has been an insane person or patient, but within three months next after the making of a superseding order, or next after the discharge of the patient.

Or where action not
commenced within
three months.

(3) Proceedings in such suit or action as aforesaid may, on summary application to the Court, be stayed upon such terms as to costs or otherwise as the Court may think fit, if the Court is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care, or that the said proceedings have been commenced after the expiration of the three months aforesaid.

Stay of proceedings.

173. Any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, hospital for criminal insane, public hospital, or gaol, who strikes, wounds, illtreats, or wilfully neglects any insane patient confined or detained therein shall for every such offence, be liable to a penalty not exceeding twenty pounds, or to imprisonment for any period not exceeding six months:

Penalties on officers
or servants illtreat-
ing the insane,
42 Vic. No. 7, s. 179.

Provided that nothing in this clause contained shall prejudice or affect the civil or criminal responsibility (if any) of the offender at common law or under any Statute.

Penalty on officers, &c., allowing patients to escape or be at large without permission.

42 Vic. No. 7, s. 180.

Reports to be made to the Master and in certain cases to the Colonial Secretary.

Ibid. s. 181.

56 Vic. No. 23, s. 31.

Superintendents of hospitals and licensed houses to show official visitors and Inspector-General the whole of house and answer inquiries.

Ibid. s. 82.

174. If any superintendent, officer, servant, or other person employed in any hospital for the insane, licensed house, reception house, public hospital, or gaol, through wilful neglect or connivance, permits any insane patient to escape from any such hospital, licensed house, reception house, or gaol, or to be at large without such order as in this Act mentioned (save in the case of temporary absence authorised under the provisions aforesaid), or secretes, or abets, or connives at the escape of any such person, he shall, for every such offence, be liable to a penalty not exceeding twenty pounds.

175. Every superintendent of an hospital for the insane shall forward to the Master, within fourteen days from the reception of any patient into any such hospital, the name of such patient, together with a true and particular account, so far as the same is known or can be ascertained, of his property, and of the names and residences of his relatives known, or supposed, to be able to maintain or contribute to the maintenance of such patient; and shall from time to time, without any unnecessary delay, forward to the Master a report in writing of the death, discharge, removal, absence on trial or for the benefit of his health, return, escape, and recapture of every patient in the said hospital; and every such superintendent and the Inspector-General, and every official visitor, shall communicate to the Master all particulars that may come to his knowledge respecting the property of any patient in any hospital for the insane, reception house, or public hospital, and if any such superintendent, Inspector-General, or official visitor has reason to believe that the property of any such patient is not duly protected, or that the income thereof is not duly applied for his maintenance, such superintendent, Inspector-General, or official visitor shall report thereon to the Colonial Secretary as well as to the Master.

176. (1) The superintendent of every such hospital, reception house, licensed house, or other place officially visited under this Act, shall show to the Inspector-General or official visitors visiting the same, every part thereof respectively, and every person detained therein, and shall give full and true answers to the best of his knowledge to all questions which the Inspector-General or official visitors shall ask in reference to the said hospital, reception house, licensed house, or other place, and the patients confined therein, and shall produce to the Inspector-General and official visitors respectively the several books by this Act required to be kept, and shall furnish all such returns as may be required by the Inspector-General or official visitors.

(2) Every such superintendent or other officer and every servant of any such superintendent or other officer who:—

- (a) conceals or attempts to conceal, or refuses or wilfully neglects to show any part of such hospital or house or other place, or any building or appurtenances belonging thereto, or any person detained or being therein from or to any such official visitors or Inspector-General as aforesaid; or
- (b)

- (b) does not give true and full answers to the best of his knowledge to all questions which the official visitors or Inspector-General ask in reference to the matters aforesaid ; or
- (c) neglects or refuses to furnish such returns as aforesaid, or to produce to the Inspector-General or official visitors—
- (i) the several books by this Act required to be kept ; and also
 - (ii) all orders and certificates relating to patients admitted since the last visitation of the Inspector-General or official visitors ; and
 - (iii) in the case of a licensed house, the license then in force for such house ; and
 - (iv) such other documents and papers relating to any of the patients at any time received into such hospital, licensed house, reception house, or other place as the Inspector-General or official visitors shall require to be produced to him or them ;

shall be guilty of a misdemeanour.

177. (1) Every letter written by a patient in any such hospital, licensed house, reception house, or other place officially visited under this Act and addressed to the Inspector-General or official visitors shall be forthwith forwarded unopened.

Letters of patients to be forwarded, or if not, to be laid before Inspector-General, &c.

42 Vic. No. 7, s. 183.

(2) Every letter written by any such patient and addressed to any person other than those abovementioned shall be forwarded to the person to whom it is addressed, unless the superintendent of such hospital, licensed house, or reception house, or in the case of a single patient the person having charge of him shall upon reading the same prohibit the forwarding of such letter by endorsement to that effect under his hand on the letter, and in such case he shall lay the letter so endorsed before the Inspector-General or official visitors, whichever shall next thereafter visit such hospital, reception house, licensed house, or such other house as aforesaid on his or their next visit, and no such letter if unsent shall be destroyed until it has been submitted to the Inspector-General.

(3) Any such superintendent or any such person in charge as aforesaid who fails to comply with any of the requirements of this section shall be liable to a penalty not exceeding ten pounds in respect of every such offence.

Penalty.

178. Every person who for the purposes of this Act—

- (a) signs or describes himself in any statement or certificate as a medical practitioner, not being such within the meaning of this Act ; or
- (b) wilfully makes or is privy to the making of an untrue entry in any of the books required by this Act to be kept ; or
- (c) wilfully makes an untrue statement in any report, or with reference to anything by this Act required to be made or done ;

Misdemeanours.
Medical practitioner
—untrue entry—
untrue statement.

Ibid. s. 184.

shall be guilty of a misdemeanour.

179.

Power to Inspector-General and official visitors to summon witnesses.

42 Vic. No. 7, s. 185.
Nineteenth Schedule.

179. (1) The Inspector-General or official visitors visiting any hospital, licensed house, reception house, or other place officially visited under this Act may require by summons according to the form in Schedule Nineteen to this Act any person to appear before him or them to testify on oath the truth touching any of the matters respecting which the Inspector-General or official visitors is or are by this Act authorised to inquire.

Penalty.

(2) Every person who does not appear pursuant to such summons (having had his reasonable expenses paid or tendered to him at the time of service of such summons), or does not assign some reasonable excuse for not so appearing, or appears and refuses to be sworn or examined shall, for every such neglect or refusal, be liable to a penalty not exceeding ten pounds.

Also to examine persons not summoned.

(3) The Inspector-General or official visitors may also examine on oath any person appearing as a witness or present at the time of any such inquiry touching any of the matters aforesaid although no such summons as aforesaid may have been served upon him.

Penalties.

42 Vic. No. 7, s. 186
58 Vic. No. 5, s. 16.

180. Penalties may, except where otherwise provided under this Act, be recovered before a stipendiary or police magistrate or any two justices of the peace in petty sessions.

SCHEDULES.

SCHEDULE ONE.

Date of Act.	Title of Act.	Extent of Repeal.
22 Vic. No. 14 ...	An Act to expedite suits, &c. ...	Section 6 so far as it deals with jurisdiction in lunacy.
42 Vic. No. 7 ...	Lunacy Act of 1878 ...	The whole.
45 Vic. No. 16 ...	Lunacy Act Amendment Act of 1881 ...	The whole.
56 Vic. No. 23 ...	Lunacy Act Further Amendment Act of 1893.	The whole.
58 Vic. No. 5 ...	Lunacy Convention Act of 1894...	The whole.

SCHEDULE

SCHEDULE TWO.

Form of medical certificates to accompany order or request for reception into an hospital or licensed house.

I, THE undersigned, being a medical practitioner, hereby certify that I, on the 42 Vic. No. 7.
day of _____, one thousand eight hundred and _____, at [here insert the particulars] Schedule Two.
of the place of examination, as the street, number of the house, or other particulars] separately from any other medical practitioner, personally examined _____, of
[insert residence, and profession or occupation, if any] and that the said
is [insane or an idiot] 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 _____ one thousand eight hundred and _____

(Signed)

Place of abode.

SCHEDULE THREE.

Order for conveyance to an hospital or licensed house.

WE, the undersigned Justices, having called to our assistance _____ and _____ *Ibid.* Schedule Three.
medical practitioners, and having examined _____, of [insert residence and occupation,
if any] who has been brought before us as being deemed to be insane, as also the said
medical practitioners, and having made such inquiry relative to the said _____ as we
have deemed necessary, and being, upon such examination [if other evidence of the
insanity add "with other proof"] satisfied that the said _____ is insane and in indigent
circumstances [or is insane and was wandering at large] [or is insane and was
discovered under circumstances that denoted a purpose of committing some offence
against the law] [or is insane, and is not under proper care and control] [or is insane
and is cruelly treated or neglected by _____, a relative or a 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, do hereby direct you _____ [the superintendent of the
hospital or licensed house] at _____ to receive into the said hospital [or licensed house]
the said _____

Given under our hands and seals this _____ day of _____ one thousand eight
hundred and ninety _____

(Signed)

J.P.

J.P.

To _____ superintendent of the hospital (or licensed house) at
Subjoined is a statement respecting the said _____

NOTE.—When the case is one of emergency and a certificate is signed in the form of Schedule Seven,
[this form must be altered so as to refer to one medical practitioner.

SCHEDULE FOUR.

Ibid. Schedule Four. I THE undersigned hereby request you to receive a person certified to be insane into the hospital [or licensed house] of which you are the superintendent. Subjoined is a statement respecting the said

Name of person signing the request—

Occupation [if any] of that person—

Place of his abode—

Degree of relationship [if any] or other circumstances of connection of the person signing the request with the person so certified to be insane—

Dated this day of one thousand eight hundred and

(Signed)

To superintendent of the hospital [or licensed house] of at

SCHEDULE FIVE.

STATEMENT.

Ibid. Schedule Five. *If any particulars in this statement be not known the fact is to be so stated.*

Name in full?

Age?

Married, single, or widowed?

Number of children?

Age of youngest child?

Previous occupation?

Native place?

Late residence?

Religious persuasion?

Supposed cause of insanity?

How long has the attack lasted?

Has been insane before?

State the number of attacks?

Age [if known] at first attack?

Has any insane relations?

Has ever been an inmate of any institution for the insane?

Is subject to fits?

Is suicidal?

Is dangerous to others?

Name and address of nearest relations or friends?

Special circumstances [if any] preventing the patient being examined before admission separately by two medical practitioners.

(Signed)

(Address)

When the person signing the statement is not the person who signs the order or request for the admission of the insane person 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 circumstances of connection with the patient?

SCHEDULE SIX.

Order to convey an insane patient to adjacent colony.

WE, the undersigned Justices, having called to our assistance and , 58 Vic. No. 5. medical practitioners, and having examined of [*insert residence and occupation*, Schedule. *if any*], who has been brought before us as being deemed to be insane, as also the said medical practitioners; and having made such inquiry relative to the said as we have deemed necessary, and being upon such examination [*if other evidence of the insanity, add "with other proof"*] satisfied that the said is insane and in indigent circumstances, *or* is insane and was wandering at large, *or* is insane and was discovered under circumstances that denoted a purpose of committing some offence against the law, *or* is insane and is not under proper care and control, *or* is insane and is cruelly treated or neglected by , a relative or a 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 that it is for his benefit that he should be sent for care, treatment, and maintenance to the colony of [*here insert name of colony*], do hereby direct you [*person to convey insane patient to adjacent colony*] to convey him to [*place in adjacent colony agreed upon*] and there to set him at large, and thereupon to identify him to [*name of a police officer of the adjacent colony*] so that the said may apprehend him in due course pursuant to the lunacy statutes of the said colony to be dealt with thereunder.

Given under our hands and seals this day of one thousand eight hundred and ninety

(Signed)

J.P.
J.P.

SCHEDULE SEVEN.

Certificate of emergency.

WE, the undersigned Justices, certify that we cannot call to our assistance two medical 42 Vic. No. 7. practitioners without causing delay prejudicial to , a person certified by one Schedule Six. medical practitioner to be insane, and do direct his reception into a reception house, gaol, or public hospital for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this day of one thousand eight hundred and ninety

(Signed)

J.P.

SCHEDULE EIGHT.

I, THE undersigned Justice, do direct that , a person for whose reception into an hospital for the insane or licensed house the proper authority has been signed and remains in force, be received into a reception house, public hospital, or gaol, for immediate treatment pending his removal to an hospital for the insane or licensed house.

Dated this day of one thousand eight hundred

(Signed)

J.P.

Ibid. Schedule
Thirteen.

SCHEDULE FIFTEEN.

Form of license to keep a licensed house.

I do hereby, in pursuance of the Lunacy Act 1898, grant to
of a license to be in force for three years from the date hereof
to keep for the reception of insane persons of the male (*or* female)
sex (*or* of both sexes) the house, the particulars of which appear in the notice given
on the day of to the Colonial Secretary.

Witness my hand this day of one thousand eight hundred and

Governor.

Ibid. Schedule
Fourteen.

SCHEDULE SIXTEEN.

Statement respecting the criminal insane.

(If any particulars in this statement be not known the fact is to be so stated.)

Name in full?

Age?

Married, single, or widowed?

Number of children?

Age of youngest child?

Previous occupation?

Native place?

From whence brought?

Religious persuasion?

Supposed cause of insanity?

How long has the attack lasted?

Has been insane before?

State number of attacks?

Age if known at first attack?

Has any insane relations?

Has ever been an inmate of any institution for the insane?

Is subject to fits?

Is dangerous to others?

Crime or offence?

Verdict of jury?

Sentence?

Name and address of nearest relations and friends?

Ibid. Schedule
Fifteen.

SCHEDULE SEVENTEEN.

WHEREAS it has been duly certified under section sixty-six of the Lunacy Act, 1898, that
[A.B.], a prisoner in gaol, is insane, I hereby order the said [A.B.] to be
removed to the hospital for the criminal insane at , there to remain until he has
become of sound mind or until he be otherwise discharged by due course of law.

Dated this

Colonial Secretary.

SCHEDULE

SCHEDULE EIGHTEEN.

I [A.B.], a medical practitioner, have this day examined [C.D.], residing at _____ and hereby certify that he is still insane, and that he appears to be kindly treated by the persons under whose care he is living.

Ibid. Schedule
Sixteen.

(Signed)
(Address)

Dated this _____ day of _____ one thousand eight hundred and _____

SCHEDULE NINETEEN.

I [A.B.], the Inspector-General (*or* we official visitors of the hospital or licensed house situate at _____), appointed under and by virtue of the Lunacy Act of 1898, hereby summon and require you personally to appear before me [*or* us] at _____, on next, the _____ day of _____, at the hour of _____, in the _____ noon of the same day, and then and there to be examined and to testify the truth concerning certain matters relating to the execution of the said statute.

Ibid. Schedule
Seventeen.

Dated this _____ day of _____, one thousand eight hundred and _____
(Signature)

SCHEDULE NINTH

1884 Schedule

I, J. H. a medical practitioner, have this day examined (1) the body of a deceased person, and have found that he is still deceased, and that he appears to be finally buried by the persons under whose care he is lying.

(Signed) (Witness)

Dated this ... day of ... one thousand eight hundred and ...

SCHEDULE TENTH

1884 Schedule

I, A. B. the Inspector General for the official duties of the Registrar of Burial House, do hereby certify that the body of the deceased person named above, and which was buried on the ... day of ... in the ... of the same ... at the time of ... and to testify this truth I have signed certain ... and then and there to be examined and to testify this truth I have signed certain ... matters relating to the execution of the said statute.

(Signed) (Witness)

Dated this ... day of ... one thousand eight hundred and ...