

## No. XIX.

LUNACY.

### An Act to amend the Law for the care and treatment of the Insane. [17th January, 1868.]

Preamble.

WHEREAS it is expedient to amend the Laws for the regulation of the care and treatment of the Insane Be it therefore 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 :—

Governor may  
appoint Lunatic  
Reception House.

1. It shall be lawful for the Governor with the advice of the Executive Council by proclamation in the *Gazette* to appoint from time to time such houses and premises as he may think expedient for the reception and temporary treatment of persons committed under the first section of the Act of Council seventh Victoria number fourteen and every such house and premises so proclaimed shall be called and be a "Lunatic Reception House."

Governor may  
appoint Superin-  
tendent and assist-  
ants.

2. It shall be lawful for the Governor with the like advice to appoint a Superintendent and as many assistants as may be necessary for the proper management of every such Lunatic Reception House.

Justices may commit  
lunatic to Reception  
House.

3. It shall be lawful for the Justices before whom any person shall be brought as a dangerous lunatic or dangerous idiot under the first section of the Act of Council seventh Victoria number fourteen instead of committing such person to some Gaol House of Correction or Public Hospital to commit such person to some Lunatic Reception House in lieu thereof and every person so committed to any such Lunatic Reception House shall be detained therein and removed therefrom in the same way as any such person if committed to a Gaol House of Correction or Public Hospital may now be detained at any of such places or removed therefrom.

Lunatic Reception  
Officers to be named  
and paid by funds to  
be appropriated by  
Parliament.

4. Every Lunatic Reception House appointed and established under this Act and the Superintendent and assistants appointed for the management thereof shall be maintained and paid out of such funds as may from time to time be appropriated by Parliament to such purpose.

*Lunacy.*

5. It shall be lawful for the Governor in the exercise of the powers conferred upon him by the second and eleventh sections of the Act of Council seventh Victoria number fourteen instead of directing the removal of any person under those sections to a Lunatic Asylum to direct in the manner in those sections respectively mentioned the removal of such person to any house licensed for the reception of lunatics as hereinafter mentioned and every person removed to such licensed house shall remain therein and be discharged therefrom in the same manner as if such person had been removed to a Lunatic Asylum instead of to such licensed house Provided that nothing in this section shall apply to criminals under sentence or to persons under committal for any criminal offence or in default of finding sureties to keep the peace or in consequence of any summary conviction.

Governor may  
commit lunatic to  
Licensed Lunatic  
Asylum.

6. Every medical practitioner signing any certificate under the second third or eleventh sections of the Act of Council seventh Victoria number fourteen shall specify therein the facts upon which he shall have formed his opinion that the person to whom such certificate relates is insane or is an idiot distinguishing in such certificate facts observed by himself from facts communicated to him by others and no person shall be committed to any Lunatic Asylum or house licensed for the reception of lunatics under any certificate which purports to be founded only upon facts communicated by others.

Medical certificate  
to contain facts on  
which medical  
opinion is founded.

7. It shall be lawful for the Superintendent of any Lunatic Asylum or Lunatic Reception House to agree with any relative guardian or friend of any lunatic 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 land or stock belonging to such lunatic and such sums shall be a charge on such lands or stock and shall be recoverable by the same remedies as those by which they might be recovered in case such lunatic had he been of sound mind and intellect to charge such land or stock had charged the same with the amount of such sums and interest.

Agreement may be  
made for the main-  
tenance of lunatics.

8. It shall be lawful for the Supreme Court in its Equity Jurisdiction on the *ex parte* application by petition of the Superintendent of any Lunatic Asylum setting forth the confinement therein of any person as a lunatic and that such person is possessed of or entitled to property real or personal and praying that a reasonable portion of such property or of the income rent or profits derived therefrom may be appropriated to the purpose of maintaining such lunatic to direct an inquiry by the Master into the matters set forth in the petition and the Master shall in the conduct of such inquiry require notice to be given to all persons alleged to be possessed of or proved to the satisfaction of the Master to be interested in any property sought to be affected by the petition and shall have power to summon before him and examine on oath all such persons and all other persons who may be able to give any information touching the lunatic's estate and the result of such inquiry shall be reported without delay by the Master to the Court.

Supreme Court may  
on petition of Super-  
intendent of Lunatic  
Asylum praying that  
part of lunatic's es-  
tate may be applied  
to his maintenance  
direct inquiry by the  
Master.

9. It shall be lawful for the said Court on reading such report and on notice being given to all persons possessed of or proved to the satisfaction of the Master to be interested in any property sought to be affected to order and direct that such portion of such property or of the income rent or profits derived therefrom as it may think fit shall be paid at such times and in such manner as it may deem expedient to the Superintendent for the time being of the said Asylum and all moneys received by the Superintendent of any Lunatic Asylum under any such order shall be forthwith paid by such Superintendent into the Colonial Treasury and form part of the Consolidated Revenue Fund.

Supreme Court may  
on reading Master's  
report direct part of  
lunatic's estate to be  
applied towards his  
maintenance.

*Lunacy.*

Supreme Court may order sale and conveyance of sufficient part of lunatic's estate to defray cost of his maintenance.

10. It shall be lawful for the said Court in adjudicating upon any such petition as aforesaid to direct the sale by the Master of any property real or personal of the lunatic mentioned in the petition for the purpose of defraying the cost of obtaining such order and maintaining such lunatic and also to direct that the proceeds to arise from such sale shall be applied accordingly and a conveyance or transfer by the Master or by such other person as the Court may direct to execute such conveyance or transfer of any portion of the lunatic's real or personal estate shall be valid and binding in all respects and against all persons. Provided that no fees shall be allowed in any inquiry under this Act to counsel or attorney.

Governor may grant licenses for houses for the reception of lunatics.

11. It shall be lawful for the Governor with the advice of the Executive Council subject to the provisions hereinafter contained by writing under his hand as nearly as conveniently may be in the form in the Schedule to this Act marked A to grant to any person for such period as may be thought expedient a license to keep a house for the reception of lunatics of either sex and from time to time to renew or to revoke such license and every person so licensed shall be the superintendent of the house named in his license.

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

12. The person who shall desire to obtain a license for a house for the reception of lunatics shall give a notice to the Colonial Secretary which shall contain the true christian and surnames 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 shall not have 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 and 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 license 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 included in one license.

13. Any one license to be granted for the reception of lunatics 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 additions and alterations to be given to the Colonial Secretary.

14. 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 such addition or alteration to be drawn upon the scale aforesaid and to be accompanied by such description as aforesaid shall have been given by the person to whom the license shall have been granted to the Colonial Secretary and the consent in writing of such Colonial Secretary shall have been previously given.

Untrue statement a misdemeanor.

15. If any person shall wilfully give an untrue or incorrect notice plan statement or description of any of the things hereinbefore required to be included in any notice plan or statement he shall be guilty of a misdemeanor.

*Lunacy.*

16. In every case in which any person shall apply for the renewal of a license such person 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 each or either sex then detained in such house and any person who shall hereafter obtain the renewal of a license without making such statement shall for every such offence forfeit the sum of ten pounds and every person who shall make any such statement untruly shall be guilty of a misdemeanor and the person so applying and the Colonial Secretary shall take such precaution as may be necessary for preventing the name of every such patient from becoming publicly known unless there shall be some good reason why the name of any such patient should be made public.

Every person applying for the renewal of a license to furnish a statement of the number and class of patients then detained.

17. The Superintendent of every licensed house shall within one week after the dismissal for misconduct of any nurse or attendant employed in such house transmit to the Colonial Secretary by the post information in writing under his hand of such dismissal and of the cause thereof and every Superintendent neglecting to transmit such information within the period aforesaid shall for every such offence forfeit any sum not exceeding ten pounds.

Notice of dismissal for misconduct of attendants to be sent to Colonial Secretary.

18. If any person to whom a license shall have been granted under this Act shall by sickness or for other sufficient reason become incapable of keeping the licensed house or shall die before the expiration of the license it shall be lawful for the Colonial Secretary if he shall think fit by writing indorsed on such license under his hand to transfer the said license with all the privileges and obligations annexed thereto for the term then unexpired to such person as the Colonial Secretary shall approve.

Provision in case of the incapacity of the person licensed.

19. If any licensed house shall be pulled down or occupied under the provisions of any Act of Parliament or shall by fire tempest or other accident be rendered unfit for the accommodation of lunatics or if the person keeping such house shall desire to transfer the patients to another house it shall be lawful for the Colonial Secretary to grant to the person whose house shall have been so pulled down occupied or so rendered unfit or who shall so desire to transfer his patients a license to keep such other house for the reception of lunatics for such time as the Colonial Secretary shall think fit Provided always that the same notice accompanied by the same plan statement and description shall be given as to such intended new house as is hereby required when application shall be first made for a license for any house and shall be accompanied by a statement in writing of the cause of such change of house.

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.

20. It shall not be lawful for any person except he be a person who derives no profit from the charge or a committee appointed by the Supreme Court or a Judge thereof to receive any lunatic into any house unless such house shall be a Lunatic Asylum or a house for the time being duly licensed under this Act and any person who shall contrary to the provisions of this section receive any lunatic into any house other than a house for the time being duly licensed as aforesaid or a Lunatic Asylum shall be guilty of a misdemeanor Provided that this section shall not apply to committals under the first section of the Act of Council seventh Victoria number fourteen.

No house to be kept for the reception of lunatics without a license.

21. In the case of the revocation of a license notice thereof in writing shall seven clear days previously thereto be given to the person whose license shall be revoked or shall be left at the licensed house.

Power of revocation and of prohibition of renewal of licenses.

22. Every Superintendent of a licensed house who shall receive any patient into the same shall within two days after the reception of such patient make and sign an entry with respect to such patient in a book to be kept for that purpose to be called the "Book of

Every person receiving a lunatic into a licensed house to make an entry thereof in a certain form.

*Lunacy.*

Admissions" according to the form and containing the particulars required in the Schedule to this Act marked B so far as he shall be able to ascertain the same 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 shall happen and every person who shall so receive any such patient and shall not make such entries within or at the times aforesaid shall forfeit a sum not exceeding two pounds and every person who shall knowingly and willingly in any such entry untruly set forth any of the particulars shall be guilty of a misdemeanor.

Form of patient's disorder to be entered in the Book of Admissions by the Superintendent.

23. 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 Book of Admissions by the Superintendent of such house and every such Superintendent who shall omit to make and sign any such entry within the time aforesaid shall for every such offence forfeit a sum not exceeding two pounds.

A book to be kept to be called the "Medical Visitation Book" in which a weekly entry is to be made shewing the condition of the house and of the patients.

24. 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 Visitation Book" a report shewing the date of such report and also the number and sex of all the patients then in such house the christian and surname of every patient who shall then be or shall have been under restraint or in seclusion or under medical treatment and for what (if any) bodily disorder since the date of the last preceding report the condition of the house and every death injury and act of violence which shall have happened to or affected any patient since the then last preceding report according to the form in the Schedule to this Act marked C and every such Superintendent who shall omit to enter or sign such report as aforesaid shall for every such omission forfeit and pay the sum of twenty pounds and every such Superintendent who shall in any such report as aforesaid wilfully enter anything untruly shall be guilty of a misdemeanor.

A "Medical Case Book" to be kept.

25. There shall be kept in every licensed house a book to be called the "Medical Case Book" in which the Superintendent shall from time to time 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 it shall be lawful for the Governor with the advice of the Executive Council from time to time by an order under his hand to direct the form in which such medical case book shall be kept by such Superintendent and immediately after a copy of such order shall have been transmitted to such Superintendent he shall thereupon keep such medical case book in the form which shall be directed by such order and it shall be lawful for the Colonial Secretary (whenever he shall see fit) to require such Superintendent to transmit to him a correct copy of the entries or entry in any medical case book kept under the provisions of this Act relative to the case of any lunatic who shall be or may have been confined in any such licensed house and every such Superintendent who shall neglect to keep the said medical case book or to keep the same according to the form directed as above mentioned or to transmit a copy of the said entry or entries pursuant to such order or orders as aforesaid shall for every such neglect forfeit any sum not exceeding ten pounds.

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

26. Whenever any patient shall escape 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 christian and surname of the patient who shall have so escaped and his then state of mind and also the circumstances connected with such escape and if such patient shall be brought back to such house such Superintendent shall within two clear

*Lunacy.*

clear days next after such person shall be so brought back 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 forfeit a sum not exceeding ten pounds.

27. Whenever any patient shall be removed or discharged from any licensed house or shall die therein the Superintendent of such house shall within two clear days next after such removal discharge or death make and sign an entry thereof in a book to be kept for that purpose according to the form and stating the particulars in the Schedule to this Act marked D and shall also in the case of a death within the two days after such death transmit to the Colonial Secretary a written notice of the death of such patient and of the cause thereof and the name or names of any person or persons who was or were present at the death according to the form and containing the particulars in the Schedule to this Act marked E and in the case of the removal or discharge of such patient of such removal or discharge according to the form in the Schedule to this Act marked F and shall also in the case of such death transmit a copy of such notice to the Coroner of the district within which the patient shall have died and every Superintendent of any such house who shall neglect to make and sign such entry or transmit such notice or notices or shall therein set forth anything untrue shall be guilty of a misdemeanor.

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

28. If after a lapse of two months from the expiration of any license for the use of any house for the reception of lunatics which shall not have been renewed or if after the revocation of any such license there be in any such house any lunatic every person keeping such house or having the care and charge of such lunatic shall be guilty of a misdemeanor.

Detention of lunatics after expiration or revocation of license a misdemeanor.

29. Every house licensed for the reception of lunatics shall be once in each month visited and examined by some one of the persons appointed to visit Lunatic Asylums and there shall be paid by the Superintendent of such licensed house to such visitor the sum of two guineas for each such visit. Provided that it shall be lawful for any one or more of such visitors to visit and examine any such licensed house at any time but no fee shall be paid for any visitation beyond one each month.

Visitors to inspect licensed houses for lunatics once a month.

30. It shall be lawful for the Colonial Secretary by writing under his hand to order and direct the removal of any lunatic other than a criminal lunatic from any asylum or licensed house to any other asylum or licensed house and every such order shall be made in duplicate and one duplicate shall be delivered and left with the Superintendent of the asylum or licensed house from which the patient shall be removed and the other shall be delivered to and left with the Superintendent of the asylum or licensed house to which the patient shall be removed and such order shall be a sufficient authority for the removal of such patient and also for his reception into the asylum or licensed house to which he shall be ordered to be removed and his detention therein.

Colonial Secretary may order the removal of lunatics.

31. Every Superintendent of a Lunatic Asylum and every Superintendent of a licensed house and every other person hereby authorized to receive or take charge of a lunatic upon an order and who shall receive or has received a proper order for the reception or taking charge of any person as a lunatic and the assistants and servants of such Superintendent or other person shall have power and authority to take charge of receive and detain such patient until he shall die or be removed or discharged by due authority and in case of the

Proprietors Superintendents and other authorized persons may plead the order and certificates for receiving any lunatic in bar of all proceedings at law.

*Lunacy.*

the escape at any time or times of such patient to retake him at any time within fourteen days after such escape and again to detain him as aforesaid and in every writ information action and other proceeding which shall be preferred or brought against any such Superintendent or other person authorized as aforesaid or against any assistant or servant of any such Superintendent or authorized person for taking confining detaining or retaking any person as a lunatic the party complained of may plead such order in defence to any such writ indictment information action or other proceeding as aforesaid and such order shall as respects such party be a justification for taking confining detaining or retaking such lunatic or alleged lunatic. Provided that no action shall lie against any person for or on account of any act matter or thing whatsoever done to or to be done or commanded to be done by him in carrying the provisions of this Act into effect unless such action be commenced within three months after the cause of action or complaint shall have arisen.

Penalty on officers or servants ill-treating lunatics.

32. Any Superintendent officer nurse attendant servant or other person employed in any asylum hospital gaol licensed house or lunatic reception house who shall strike wound ill-treat or wilfully neglect any lunatic confined therein shall be guilty of a misdemeanor and shall be subject to be prosecuted for every such offence or to forfeit for every such offence on a summary conviction thereof before two Justices any sum not exceeding twenty pounds nor less than two pounds.

Interpretation clause.

33. In the construction of this Act 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:—

The word “stock” shall be construed to comprehend any fund annuity or security transferable in books kept by any company or society or any money payable for the discharge or redemption thereof or any share or interest therein

The word “lunatic” shall be construed to mean any lunatic idiot or person of unsound mind

The words “Lunatic Asylum” shall be construed to mean any public Lunatic Asylum

The words “Licensed House” shall be construed to mean any house licensed under this Act for the reception of lunatics.

Penalties may be sued for summarily.

34. All pecuniary penalties imposed by this Act may be sued for and recovered in a summary way before any two Justices of the Peace and on conviction in default of immediate payment of any such penalty the same may be recovered by distress and sale of the offender's goods and in the event of sufficient goods not being found to satisfy such distress such offender may be imprisoned for any period not exceeding three months. Provided that the convicting Justices may if they think fit without issuing any distress warrant order such imprisonment immediately on conviction if the penalty should not be then paid.

Short title.

35. This Act may be cited as the “Lunacy Act 1867.”

## SCHEDULES.

### SCHEDULE A.

#### FORM OF LICENSE TO KEEP A LICENSED LUNATIC HOUSE.

I do hereby in pursuance of “*The Lunacy Act 1867*” grant to A.B. of [residence and occupation] a license for \_\_\_\_\_ years to keep for the reception of lunatics 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 B.

*Lunacy.*

## SCHEDULE B.

## FORM OF REGISTER OF PATIENTS AND OF BOOK OF ADMISSION.

Date of last previous admission (if any).	Number in order of admission.	Date of admission.	Christian and Surname at length.	Sex.		Age.	Condition as to Marriage.			Condition of Life and previous occupation.	Previous place of abode.	By whose authority sent.	Dates of Medical Certificates and by whom signed.	Form of Mental Disorder.	Supposed cause of Insanity.	Bodily condition and name of disease (if any).	Epileptics.	Congenital Idiots.	Duration of existing attack.			Number of previous attacks.	Age on first attack.	Date of discharge removal or death.	Recovered.	Relieved.	Not improved.	Died.	Observations.
				Male.	Female.		Married.	Single.	Widowed.										Years.	Months.	Weeks.								
	1																												
	2	1865 Jan. 3	William Johnson	1		23		1		Carpenter				Melancholia						4		2	17	1856 Sept. 1					
	3																												
	4																												
	5	1866 June 9	William Johnson	1		25		1														3		1867 Dec. 2					
	6																												
	7																												
	8	1867 May 6	William Johnson	1		29		1														4		1872 June 8					





*Lunacy.*

**SCHEDULE D.**

## REGISTER OF DISCHARGES, REMOVALS, AND DEATHS.

[illegible]

*Oyster-beds.*

**SCHEDULE E.**

### FORM OF NOTICE OF DEATH.

I the undersigned hereby give you notice that A.B. a patient admitted into this licensed house on the \_\_\_\_\_ day of \_\_\_\_\_ died therein in the presence of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ and I the undersigned Superintendent certify that the apparent cause of such death [as ascertained by *post mortem* examination (*if so*)] was \_\_\_\_\_

(Signed)

Dated the \_\_\_\_\_ Superintendent of the licensed house situate at \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_

**SCHEDULE F.**

### FORM OF NOTICE OF DISCHARGE OR REMOVAL.

I hereby give you notice that A.B. a patient admitted into this licensed house on the \_\_\_\_\_ day of \_\_\_\_\_ was discharged therefrom recovered [or relieved or not improved] (or was removed to [mentioning the place to which removed] relieved [or not improved] by the authority of \_\_\_\_\_ or escaped therefrom or having escaped therefrom on the \_\_\_\_\_ day of \_\_\_\_\_ was recaptured) on the \_\_\_\_\_ day of \_\_\_\_\_

(Signed)

Dated the \_\_\_\_\_ Superintendent of the licensed house situate at \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_