



1847.

No. 2.

*ORDINANCE enacted by the Governor of South Australia, with the advice
and consent of the Legislative Council thereof.*

*Further to provide for the Care and Maintenance of Persons of
Unsound Mind.*

[20th February, 1847.]

WHEREAS it is expedient to amend and extend the provisions of the undermentioned Ordinance— Preamble.

BE IT THEREFORE ENACTED, by the Governor of South Australia, with the advice and consent of the Legislative Council thereof, That from and after the passing hereof, so much of an Ordinance passed on the Fifteenth day of August, one thousand eight hundred and forty-four, intituled "An Ordinance to make provision for the Safe Custody of, and Prevention of Offences by, Persons dangerously insane, and for the Care and Maintenance of Persons of Unsound Mind," as provides that in addition to the five Visitors to be appointed in manner therein mentioned, two others shall be annually appointed by the Legislative Council of South Australia, shall be and the same is hereby repealed; and that such part of the said Ordinance as is not hereby repealed shall be construed herewith as one Act.

No. 10, 1844. in
part repealed.

II. AND

Visitors to be appointed by the Governor only.

II. AND BE IT ENACTED, that all Visitors of Lunatic Asylums, under the provisions of the recited Ordinance, shall be nominated and appointed by the Governor; and that the number of Visitors so to be appointed shall not exceed five for each such Lunatic Asylum.

Every appointment of Asylums, Superintendents, and Visitors to be notified in the Gazette.

III. AND BE IT ENACTED, that every appointment of any Public Colonial Lunatic Asylum, and of any Superintendent or person having the charge thereof, and of any Visitors which shall be made in pursuance of the said recited Ordinance or this Ordinance, shall as soon as convenient be notified in the South Australian Government Gazette.

Poor Persons to be first accommodated in asylums, & other insane persons according to the accommodation.

IV. AND BE IT ENACTED, that every Public Colonial Lunatic Asylum shall in the first place be appropriated to the reception of poor insane persons whose estate and friends are unable to bear the expense of their maintenance, and of persons ordered to be removed thereto from any public gaol or prison under the provisions of the recited Ordinance, and of dangerous lunatics ordered to be confined therein under the provisions of the same Ordinance; and in the next place, so far as the means of accommodation therein will extend, to the reception of other insane persons, in respect of whom some relative, guardian, friend, or committee may agree with the Superintendent of the asylum for his maintenance whilst detained therein, as mentioned in the recited Ordinance, the amount of which maintenance shall and may be recovered by such Superintendent suing in his own name, from the person so agreeing with him.

Superintendent may recover in respect of the maintenance of such persons.

Insane persons may be received into a Lunatic Asylum on an order and medical certificate.

V. AND BE IT ENACTED, that (except in so far as otherwise expressly provided) no person not being a pauper or destitute person shall be received into any Public Colonial Lunatic Asylum appointed by the Governor for the reception of insane persons in the Province, without an order under the hand of the person by whose directions such insane person is sent, which order shall be according to the form in Schedule A annexed to this Ordinance, and in which shall be stated the Christian and surname, and place of abode, and the degree of relationship or other circumstance of connection between such person and the insane person, and the true name, age, place of residence, former occupation, and the asylum or other place (if any) in which the insane person shall have been previously confined, and whether such person shall have been found lunatic or of unsound mind by inquisition; nor shall any such person be received into any such asylum without such a medical certificate as hereinafter directed; and if any person shall knowingly and wilfully receive any insane person, or persons represented or alleged to be insane, to be taken care of or confined in any such lunatic asylum, without

without such order and medical certificate, every person so offending shall be deemed guilty of a misdemeanor.

VI. AND BE IT ENACTED, that every medical certificate upon which any such order shall be given for the confinement of any person (not being a pauper or destitute person) in such lunatic asylum under this Ordinance, shall be according to the form in Schedule B annexed to this Ordinance, and shall be signed by two medical practitioners not being in partnership, and each of them being legally qualified medical practitioners, who shall have separately visited and personally examined the patient to whom it relates not more than seven clear days previous to such confinement, and such certificate shall be signed and dated on the day on which he shall have been so examined, and shall state that such person is of unsound mind and proper to be confined; and every such certificate for the confinement of any person in such lunatic asylum under this Ordinance shall, if the same be not signed by two medical practitioners, state the special circumstance which shall have prevented the patient being visited by two medical practitioners; and any patient may, under such special circumstances, be admitted into any such lunatic asylum upon the certificate of one medical practitioner, provided such certificate shall be further signed by some other such medical practitioner within seven days next after the admission of such patient into any such asylum as aforesaid; and any person who shall knowingly and with intention to deceive, sign any such medical certificate, untruly setting forth any of the particulars required by this Ordinance, shall be deemed guilty of a misdemeanor: PROVIDED ALWAYS that no such medical practitioner shall sign any certificate of admission of a patient to any such lunatic asylum who is wholly or partly the proprietor or the regular professional attendant of such lunatic asylum, nor shall any medical practitioner sign any certificate for the reception of a patient into any such asylum of which his father, son, brother, or partner is wholly or in part proprietor or the regular professional attendant, on pain of being deemed guilty of a misdemeanor.

Medical Certificate
of Insanity.

Persons intentionally
signing false cer-
tificate to be guilty
of misdemeanor.

Medical Practition-
ers not to sign cer-
tificates of admission
if interested.

VII. AND BE IT ENACTED, that (except in so far as otherwise expressly provided) no pauper or destitute lunatic shall be received into any asylum for the reception of insane persons without an order according to the form in Schedule C annexed to this Ordinance, under the hand of one Justice of the Peace, and also a medical certificate according to the form in Schedule D annexed to this Ordinance, signed by one legally qualified medical practitioner, that such pauper or destitute person is insane, and a proper person to be confined, and destitute of the means of support or maintenance; and if any person shall knowingly and wilfully receive any pauper or destitute

Pauper or desti-
tute lunatics how
admissable.

destitute person represented or alleged to be insane into any lunatic asylum, without such order and medical certificate, every person so offending shall be deemed guilty of a misdemeanor.

Entry to be made within two days after the admission of every patient.

VIII. And in order that the said Visitors may know when any patient is received into any such Lunatic Asylum for the reception of insane persons, BE IT ENACTED, that the Superintendent of every such Asylum shall keep a Book of Entry of all persons received therein as insane, in the form of Schedule E hereto annexed, and shall, within the space of two clear days next after the day on which any person shall have been received into such asylum, make due entry in such book of all the particulars in the said Schedule mentioned; and every Superintendent of any such Asylum who shall knowingly and wilfully neglect so to do shall be deemed guilty of a misdemeanor.

The like entry to be made on the removal or death of a patient.

IX. AND BE IT ENACTED, that whenever any patient confined in any asylum for the reception of insane persons shall be removed therefrom, or shall die, the Superintendent of such asylum shall, within two clear days next after such removal or death in like manner make due entry thereof; and in cases of removal shall state by whom removed, and in what state of mind such person shall have been when removed, and (if within his knowledge) to what place removed; and every Superintendent of any such asylum who shall knowingly and wilfully neglect so to do shall be deemed guilty of a misdemeanor.

Statement of Pauper patients dying to be transmitted to the Colonial Secretary.

X. AND BE IT ENACTED, that in case of the death of a pauper or destitute patient in any asylum, a statement of the cause of the death of such patient shall be drawn up and signed by the medical attendant of such asylum, and a copy thereof, duly certified by the Superintendent of such asylum, shall be by him transmitted to the Colonial Secretary within two clear days of the death of such patient; and every medical attendant or Superintendent, who shall knowingly or wilfully neglect to draw up, sign, or transmit such statement as aforesaid, shall respectively on conviction thereof, forfeit and pay the sum of Ten pounds.

Plan of Asylum to be hung up, and copy of Ordinance kept; and at each visitation minutes to be made of the condition of asylum.

XI. AND BE IT ENACTED, that there shall be hung up in some conspicuous part of every such asylum a plan of such asylum, and there shall also be kept in every such asylum a copy of the recited Ordinance and this Ordinance bound up in a book, in which book the said Visitors are hereby required, at every such visitation, to make minutes in writing of the condition of such asylum, as to the care of the patients therein, and all such other particulars as they shall think deserving of their notice, together with their observations

tions thereupon; and the said Visitors shall transmit a copy of such minutes and of the Book of Entry kept in such asylum, at least once in every Quarter of a Year, to the Colonial Secretary.

XII. AND BE IT ENACTED, that if the Superintendent of any Lunatic Asylum shall fraudulently conceal or attempt to conceal any part of such asylum or premises, or any person detained therein as insane, from any such Visitors, or from any medical or other person authorised under the provisions of this Ordinance to visit and inspect any such Lunatic Asylum and the patients confined therein, every person so offending shall be deemed guilty of a misdemeanor.

Concealing persons from inspection to be deemed a misdemeanor.

XIII. AND BE IT ENACTED, that if any person shall apply to the Superintendent in order to be informed whether any particular person is confined in any such asylum, such Superintendent is hereby required to inform the person so applying whether the person so inquired after is or has been confined in such asylum, and (if required, and on payment of Threepence for every folio containing seventy-two words copying fees) to furnish a copy of the order and medical certificates upon which such person was received into such asylum.

In case of inquiry whether any particular patient is in confinement, the Superintendent shall furnish the information.

XIV. AND BE IT ENACTED, that until provision shall be made for the licensing of private Lunatic Asylums, no person (except he be a guardian or relative not deriving any property from the charge, or a committee appointed by the Supreme Court) shall, under pain of being deemed guilty of a misdemeanor, receive to board or lodge in any house not being a public Colonial Lunatic Asylum, or take the care or charge of any insane person, under restraint, without first having the like order and medical certificates as are required on the admission of an insane person (not being a pauper or destitute person) into a Public Lunatic Asylum, nor shall so receive or keep in any such house (not being a Public Colonial Lunatic Asylum) more than one such insane person under restraint.

No person to receive any insane person into any house not being an Asylum, without an order and medical certificates

XV. AND BE IT ENACTED, that if any Superintendent, officer, nurse, attendant, servant, or other person employed in any gaol, asylum, or private house wherein any lunatic is confined, shall in any way wilfully abuse or ill-treat any patient confined therein, or shall wilfully neglect any such patient, he shall be deemed guilty of a misdemeanor; and that in the event of the release of any person from confinement in any gaol, asylum, or private house, who shall consider

Wilful abuse or ill-treatment or neglect of a patient to be a misdemeanor.

consider himself to have been unjustly confined, a copy of the certificates and order upon which he has been confined shall at his request be furnished to him or to his Attorney, without any fee or reward for the same.

Superintendent with consent of two Visitors, may take or send a patient to any place for his health

XVI. AND BE IT ENACTED, that it shall be lawful for the Superintendent of any asylum, with the consent in writing of any two of the Visitors, to send or take, under proper control, any patient to any specified place for any definite time for the benefit of his health: PROVIDED ALWAYS, NEVERTHELESS, that before any such consent as aforesaid shall be given by any Visitors the approval in writing of the person who signed the order for the reception of such patient, or by whom the last payment on account of such patient was made, shall be produced to such Visitors, unless they shall, on cause being shown, dispense with the same.

Visitors may discharge a lunatic on the undertaking of a relative or friend that he shall be no longer chargeable, and shall be taken care of.

XVII. AND BE IT ENACTED, that in any case where application shall be made to the Visitors of any gaol or asylum by any relative or friend of a pauper lunatic confined therein (such lunatic not being convicted of or charged with any crime), requiring that he may be delivered over to the custody and care of such relative or friend, it shall be lawful for any three Visitors, if they shall think fit, and upon the undertaking in writing of such relative or friend to the satisfaction of such Visitors that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, to discharge such lunatic.

Governor, or the Supreme Court, or any Judge thereof, may order Visitation of patients, &c.

XVIII. PROVIDED ALWAYS AND BE IT ENACTED, that it shall and may be lawful for the Governor, or the Supreme Court, or any Judge thereof, if he or they shall think fit, at any time by an order directed to any Visitor or other officer or person, to require the said Visitor, officer, or person to visit and examine any gaol or asylum or any person confined as an insane person or who shall be under restraint in the care of any keeper, guardian, or relative, or of any other person, and to make a report to the Governor, or the said Court, or any Judge thereof, of such matters as they shall be directed to inquire into. And it shall in like manner be lawful for the Governor, Court, or Judge respectively aforesaid, to make such orders for the correction or reformation of any abuse or neglect in any such asylum, or respecting the treatment of any patient therein, as to them respectively shall seem fit: PROVIDED ALWAYS that the Governor shall have no authority under this Ordinance to order a visitation or examination of any patient under the care of a Committee appointed by the Supreme Court.

But not patients under a Committee,

XIX. PROVIDED

XIX. PROVIDED ALWAYS, AND BE IT ENACTED, that if any Judge of the Supreme Court shall receive any information upon oath, or otherwise, or shall have any reason or cause to suspect that any person of sound mind is confined in any Lunatic Asylum within the said Province, such Judge shall have full power and authority to cause the Superintendent or keeper of such Lunatic Asylum, by any warrant or order to be issued by him, directed to such Superintendent or keeper, to bring such confined person before him for examination, at a time to be specified in such warrant or order; and if upon the examination of such confined person, or of any medical or other witness who may be called to testify before such Judge as to the supposed sanity or insanity of such confined person, it shall be made to appear to the satisfaction of such Judge that such confined person is of sound mind, it shall be thereupon lawful for such Judge, upon the oath or affirmation of such witness (which oath or affirmation such Judge is hereby authorised and empowered to administer), and he is hereby required to direct such confined person to be immediately discharged from the custody of the Superintendent or keeper of such Lunatic Asylum, unless he shall be detained therein for some other cause by due process of Law.

Judges may order persons confined as lunatics to be brought before them for examination.

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

XX. And for the better enabling the Visitors executing this Ordinance to inquire into the several matters and things by this Ordinance referred to them, BE IT ENACTED, that it shall be lawful to and for any two Visitors, one of whom shall not be a medical practitioner, from time to time, as they shall see occasion, to require, by summons (according to the form in Schedule F annexed to this Ordinance), any person to appear before them to testify the truth touching any matters relating to the execution of the powers given by this Ordinance, on oath or affirmation, which oath or affirmation the said Visitors are hereby empowered to administer; and every person who shall not appear before the said Visitors pursuant to such summons, without assigning some reasonable excuse for not appearing, or appearing shall refuse to be sworn or examined, shall on conviction for every such neglect or refusal, forfeit and pay a penalty not exceeding Fifty pounds nor less than Ten pounds.

Visitors may summon witnesses, who shall be subject to penalty for neglect

XXI. AND WHEREAS it is just that persons of sufficient ability should be compelled to maintain in part or in whole, their poorer relatives who may be confined in a Lunatic Asylum, BE IT ENACTED, that all the provisions, powers, and authorities made and given by the Ordinance passed on the fourteenth day of February, One Thousand, Eight Hundred and Forty-three, intituled "An Act to Provide for the Maintenance and Relief of Destitute Wives and Children

Relatives of poor insane persons liable for their maintenance.

“Children, and other Destitute Persons, and to make the Property
 “of Husbands and other near Relatives to whose assistance they
 “have a natural claim in certain circumstances available for their
 “Support” shall be deemed and construed to extend to the case of
 poor persons confined in any Public Lunatic Asylum, whether such
 poor persons are confined as dangerous lunatics or otherwise:
 PROVIDED that where by the said Ordinance it is directed, that com-
 plaints may be made by any reputable Householder, such complaint
 may be made by the Superintendent of the Lunatic Asylum wherein
 such poor person may be confined.

Judge's sanction not
 required to applica-
 tions where no judi-
 cial proceedings.

Proviso. Not to af-
 fect existing juris-
 diction

So, if insane, when
 indicted for any
 offence.

40 Geo. III. c. 94.

Recovery of penal-
 ties.

XXII. AND BE IT ENACTED, that notwithstanding anything in the
 recited Ordinance contained, the sanction in writing by a Judge of
 the Supreme Court for the reception of an insane person into any
 Lunatic Asylum, shall not be necessary, in respect of any person who
 shall not have been found lunatic or insane, by some proceeding had
 in the said Court, or before some Judge thereof: PROVIDED ALWAYS
 that nothing herein contained shall be construed to take away
 or interfere with the jurisdiction and powers of the Supreme
 Court.

XXIII. AND BE IT ENACTED, that when any person, who shall be
 indicted for any offence, shall be insane, and upon arraignment shall
 be found by a jury, impannelled for that purpose, to be insane, so
 that he cannot be tried, or when upon the trial he shall be found to
 be insane, the Court may record such finding, and order the party
 to be kept in strict custody until her Majesty's pleasure shall be
 known; and if any person, charged with any offence, shall be
 brought before any Court to be discharged for want of prosecution,
 and such person shall appear to be insane, the Court may order a
 jury to be impannelled to try the sanity of such person; and if the
 jury find him to be insane, the Court may order such person to be
 kept in strict custody, in such place and in such manner as to them
 shall seem fit, until her Majesty's pleasure shall be made known;
 and in all cases of insanity her Majesty may give such order for
 the safe custody of such person during her pleasure in such place
 and manner as to her Majesty shall seem fit.

XXIV. AND BE IT ENACTED, that all Fines and Penalties levied or
 incurred under this Ordinance, may be recovered before two Justices
 of the Peace, and every party aggrieved shall be entitled to appeal
 in manner and form respectively provided by the laws of the
 Province for regulating summary proceedings before Justices of the
 Peace.

XXV. AND

XXV. AND BE IT ENACTED, that all Fines and Penalties levied under this Ordinance shall be paid to the Colonial Treasurer on behalf of her Majesty, her Heirs, and Successors, for the Public uses of the Province and support of the Government thereof.

Appropriation of monies.

FREDK. H. ROBE,
Lieutenant-Governor..

*Passed the Legislative Council this
twentieth day of February,
One Thousand Eight Hundred
and Forty-seven.*

W. L. O'HALLORAN,
Clerk of Council.

SCHEDULE

A.

Statement and Order to be annexed to the Medical Certificates, authorising the reception of an Insane Person.

The patient's true christian and surname }
at full length }

The patient's age

Married or single

The patient's previous occupation (if any)

The patient's previous place of abode

The Asylum or other place (if any) in }
which the patient was before confined }

Whether found lunatic by inquisition, }
and date (if any) }

Special circumstance (if any) which shall }
prevent the patient being examined by }
two medical practitioners }

Special circumstance (if any) which ex- }
ists to prevent the insertion of any of }
the above particulars. }

SIR,

Upon the authority of the above statement, and the annexed medical certificates,
I request you will receive the above-named as a patient into the Asy-
lum under your charge.—I am, Sir,

Your obedient servant,

Name.....

Occupation (if any)

Place of abode

Degree of relationship (if any) to the insane person

To Mr
Superintendent or keeper of.....

tha

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day

So

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you

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To

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D.

SCHEDULE
B.

Form of Medical Certificates.

I, the undersigned, hereby certify, that I separately visited and personally examined the person named in the annexed statement and order, on the _____ day of _____ and that the said _____ is of unsound mind, and a proper person to be confined.
(Signed) Name

Legally qualified Medical Practitioner

Place of abode.....

I, the undersigned, hereby certify, that I separately visited and personally examined the person named in the annexed statement and order, on the _____ day of _____ and that the said _____ is of unsound mind, and a proper person to be confined.
(Signed) Name

Legally qualified Medical Practitioner

Place of abode.....

SCHEDULE
C.

Form of Order by Justice of Peace in cases of Pauper or Destitute Lunatics.

SOUTH AUSTRALIA, } WHEREAS it appears to me, _____ of her Majesty's Justices of
TO WIT. }
the Peace in and for the said Province, having called to my assistance, Mr
that

is of unsound mind, and that _____ is destitute of the means of support or maintenance
you are hereby directed to cause the said _____ to
be conveyed to the Lunatic Asylum at _____ Given under
my hand and seal this _____ day of _____ one thousand eight hun-
dred and _____

To the _____

(L.S.)

SCHEDULE
D.

Form of Medical Certificate in cases of Pauper or Destitute Lunatics.

I do hereby certify, that by the directions of _____ Justice of the Peace,
in and for the Province of South Australia, I have personally examined the said _____
and that the said _____ is of unsound mind.
Dated this _____ day of _____ one thousand eight hundred and _____
(Signed) _____ } Legally qualified
Medical Practitioner.

SCHEDULE

F.

Form of Summons.

We whose names are hereunto set and seals affixed, Visitors appointed under and by
virtue of the Ordinance in that behalf

do hereby summon and require you personally to appear before 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 testify the truth touching certain
matters relating to the execution of the Ordinances providing for the Care and Main-
tenance of Persons of Unsound Mind.

Given under our hands and seals, this day of in the year
of our Lord One Thousand Eight Hundred and

(L.S.)

(L.S.)