Lunacy law : the statutes relating to private lunatics, pauper lunatics, criminal lunatics, commissions of lunacy, public and private asylums and the commissioners in lunacy / with an introductory commentary, notes to the Statutes, references to cases decided in the superior courts, and a copious index by Danby P. Fry ; edited by George F. Chambers.

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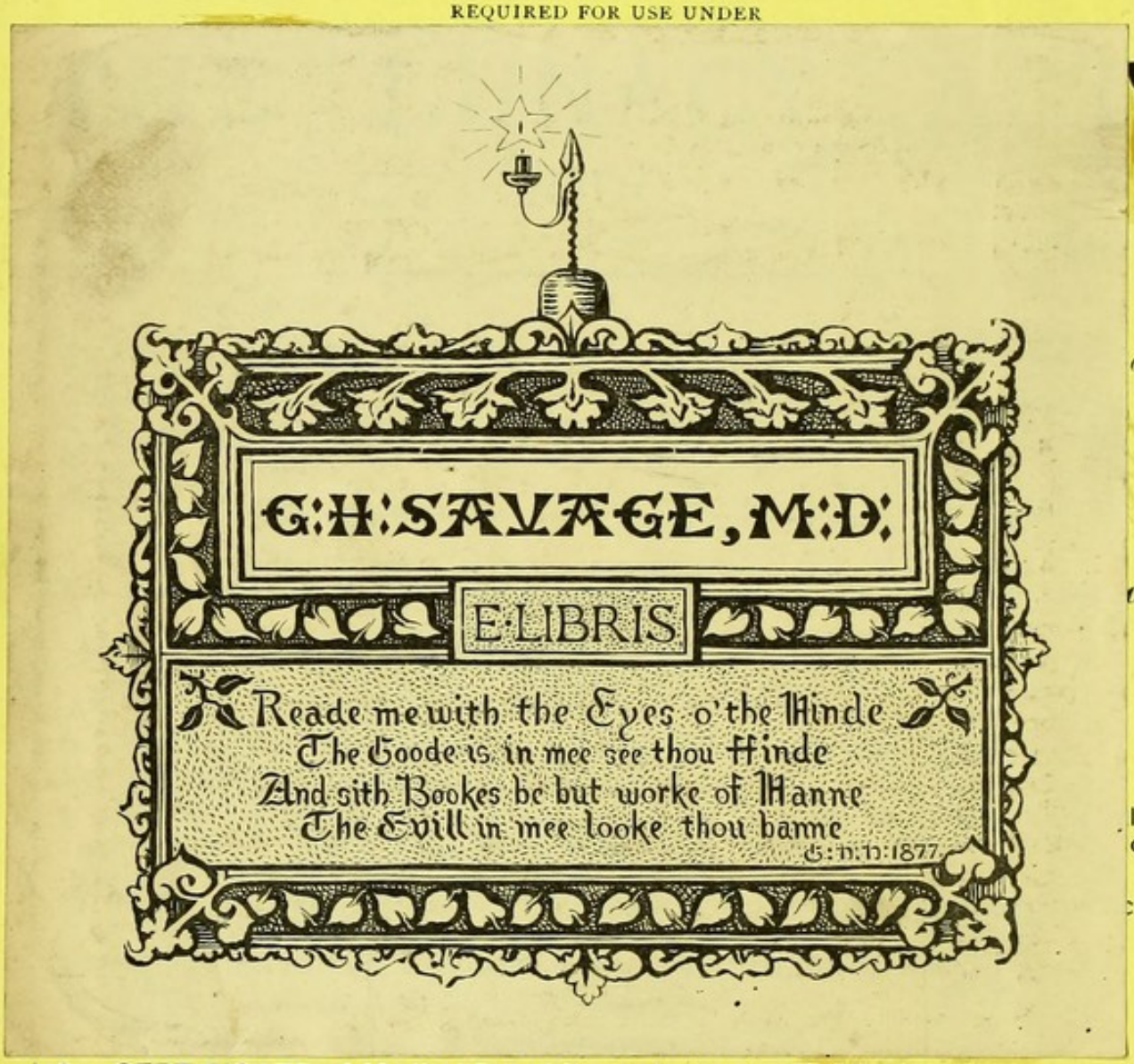
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† 9*b* ORDER of Relieving Officer, Overseer, or Constable to Master of Workhouse to Receive Lunatic pending Proceedings (Sec. 20).

† 9*c* ORDER of Justice for Reception of an alleged Lunatic into a Workhouse (Sec. 21) (1).

† 9*d* ORDER of Justice for Reception of a Lunatic into a Workhouse pending Removal to an Asylum (Sec. 21) (2).

† *Forms marked thus are required in proceedings by Poor Law Officials.*

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D4

No. of Form.

†10*a* CERTIFICATE by Medical Officer as to Pauper Lunatic in a Workhouse (Sec. 24). No. 46*c* in Union List.

†10*a** CERTIFICATE by Medical Officer as to Pauper Lunatic in a Workhouse Also in Books, 8/6.

†10*b* APPLICATION of Relieving Officer for Order of Detention for Pauper Lunatic in Workhouse (Sec. 24) (4).

†10*c* NOTICE by Workhouse Medical Officer that Pauper in Workhouse is a Lunatic, and a proper person to be sent to an Asylum (Sec. 24) (6).

†10*d* NOTICE of Relieving Officer or Overseer to Justice (Sec 24) (6).

†10*e* ORDER of Justice to bring Lunatic in Workhouse before him (Sec 24) (6).

†11*a* ORDER for Detention of Lunatic in Workhouse, with Statement of Particulars (Sec. 24).

†11*a** ORDER for Detention of Lunatic in Workhouse, with Statement of Particulars and Medical Certificates (8a & 10a) attached (Sec. 24).

†11*b* INFORMATION, Lunatic Wandering at Large (Sec. 15) (2).

†11*c* ORDER of Justice to bring Wandering Lunatic before him (Sec. 15) (2).

†11*d* JUSTICE'S Request to Medical Practitioner to Examine Wandering Lunatic (Sec. 16).

†12*a* ORDER for Reception of a Pauper Lunatic or Lunatic Wandering at Large, with Statement and Medical Certificate (8a) (Sec. 16).

13*a* CERTIFICATE that Patient continues of Unsound Mind (Sec. 38).

14*a* CONSENT to the Admission of a Boarder (Sec. 229).

†14*b* INFORMATION, Lunatic not under Proper Care (Sec. 13) (1).

†14*c* JUSTICE'S Direction to Medical Practitioner to Examine Lunatic not under Proper Care (Sec. 13) (2.)

†14*d* NOTICE of District Medical Officer to Relieving Officer or Overseer that Pauper Lunatic resident in District is a Proper Person to be sent to an Asylum (Sec. 14) (1).

†14*e* NOTICE of Relieving Officer or Overseer to Justice, as to Pauper Lunatic resident in District (Sec. 14) (2).

†14*f* ORDER of Justice for Alleged Pauper Lunatic, resident in District, to be brought before him (Sec. 14) (3).

†15*a* ORDER for Reception of a Lunatic not under Proper Care and Control, or Cruelly Treated or Neglected, to be made by a Justice Appointed under the Lunacy Act, 1890 (Sec. 13).

†15*a** CERTIFICATE as to Mechanical Means of Restraint.

16*a* CERTIFICATE of Disability of Person entitled to Payment from a Public Department (Sec. 335).

17*a* MEDICAL Certificate of Disability of Person entitled to Payment from a Public Department (Sec. 335).

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THE STATUTES RELATING TO PRIVATE LUNATICS:
PAUPER LUNATICS: CRIMINAL LUNATICS: COMMISSIONS OF LUNACY:
PUBLIC AND PRIVATE ASYLUMS: AND
THE COMMISSIONERS IN LUNACY.

WITH

AN INTRODUCTORY COMMENTARY,

Notes to the Statutes,

REFERENCES TO CASES DECIDED IN THE SUPERIOR COURTS,

AND A

COPIOUS INDEX.

PRESENTATION COPY.
With KNIGHT & CO.'S Compliments.

BY

DANBY P. FRY, Esq.

OF LINCOLN'S INN, BARRISTER-AT-LAW.

Third Edition.

EDITED BY

GEORGE F. CHAMBERS, Esq.,

OF THE INNER TEMPLE, BARRISTER-AT-LAW;

LATE AN ASSISTANT BOUNDARY COMMISSIONER FOR ENGLAND AND WALES.

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PREFACE.

In the Preface to the first edition of this work, published in 1864, its object and character were stated as follows:—

"A strong desire for the Consolidation of the Statute Law relating to Lunatics has often been expressed. Thus, in the inquiry before the Select Committee of the House of Commons in 1859 (Sess. Paper, No. 204), Mr. Bolden (Q. 2582, p. 215) stated, 'The first recommendation that I would make would be a consolidation of the laws.'"

In their *Twenty-second Report* to the Lord Chancellor (31st March, 1868), the Commissioners in Lunacy supported the suggestion with respect to a consolidation of the Lunacy Acts, observing that "to arrive at a conclusion in favour of the consolidation, it seems only necessary to count the number of the Acts, and to glance at their obvious defects in regard to arrangement of matter and style of diction; next, to consider the wide extent of their operation; and, lastly, the class of persons in this country to whom the Law of Lunacy should be plain and intelligible."—"The truth is" (they further remarked), "that, as in other legislative action in this country, so in the statutory dealings with lunacy, defects have from time to time become apparent, the aid of Parliament has been invoked, Act has followed Act in quick succession, amendment has been added to amendment, and thus has sprung up the evil of such a formidable series of legal provisions that the mere

number of enactments creates confusion—a confusion, of course, much exaggerated by the pernicious practice adopted of referring in later Statutes to earlier for explanation. This confusion again is intensified by want of arrangement in the several chapters of our Statute Book on this point; many of the Lunacy Acts are specially faulty; some are truly 'omnibus' Statutes of the worst kind; 25 & 26 Vict. c. 111, for instance, appears to be a drag-net of that sort. As to the literary faults of the Lunacy Statutes collectively, they are not, perhaps, greater than may be found in many of the contemporary productions of Parliamentary draftsmen; but it is submitted that verbosity and consequent lack of simplicity are vices of the most grave kind where relief is professed for an affliction to which all humanity is subject, and which demands early treatment. If pure consolidation in any department of English law be expedient, proper, and possible, we submit that it should be initiated where, as in the Lunacy Acts, the matter is, *ex necessitate rei*, of general public interest, where the persons bound to obey the law should be prepared to act without warning, and where the delay of an appeal to a lawyer, perhaps at some distance, for explanation of the proper course of action in the emergency, may peril the life or mental recovery of a human being. Many of the provisions of the Lunacy Acts, your Lordship will remember, are directly addressed to medical men, parish officers, constables, &c. — persons not conversant with legal phraseology, and some of them in a humble sphere of life. For that reason, if for no other, their provisions should be concise, plain, and explicit."

That which so many persons so long desired is at last an accomplished fact, and so far, at any rate as consolidation is concerned, the admirably drawn "Lunacy Act, 1890" leaves nothing to be desired.

Mr. Fry's book being so very well known, and having

been so long recognised as an authority, I have not felt at liberty to interfere more than could be helped with its general form. Perhaps, if I had been writing an independent treatise, I should have worked on a somewhat different plan.

In the Notes to the Statutes will be found references to the more important judicial decisions bearing upon them: but it has not been deemed necessary (except in a few instances) to refer to the cases that arose under the Acts which were repealed at various times prior to the passing of the "Lunacy Amendment Act, 1889."

The Table showing how the sections of the older Acts, which have been repealed by the new Act, have been dealt with in the new Act, will serve as a useful link between the old and the new Legislation, and is at once a History and an Index.

I had contemplated the desirability of framing a further analysis of the changes involved in the new Act, by way of facilitating a due comprehension of its leading features; but before I could make up my mind how best to do this, the Local Government Board issued the circular letter of April 23, 1890 (given at p. 387); and this document, like everything that issues from Sir Hugh Owen's pen, is so full, and clear and explicit, that I conceived that any effort on my part in the same direction would be a work of supererogation.

The Index has been remodelled in excellent style by my friend, Mr. J. Cranstoun, of the Oxford Circuit, under my general supervision, and I think will be found to leave nothing to be desired.

G. F. C.

1 Cloisters, Temple,
August, 1890.

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34	—	Rep., Stat. Law Rev. Act, 1878.

* The references in this column are to the Bill as introduced into the House of Commons. In some cases perhaps they may not literally tally with the Act as passed.

Section of Act.	Section of Bill of 1890.	Remarks.
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45–49	—	Rep., 16 & 17 Vict. c. 96, s. 3.
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51	—	To be dealt with by Rules.
52	316 . . .	See 25 & 26 Vict. c. 111, s. 28. To be dealt with by Rules.
53	—	To be dealt with by Rules.
54	316 . . .	Rest to be dealt with by Rules.
55	—	To be dealt with by Rules.
56	82, 322, 328 .	See R. *v.* Smith, 2 C. & P. 449; R. *v.* Pelham, 8 Q.B. 959; R. *v.* Marriott, 8 C. & P. 425; R. *v.* Trundle, 6 Cox C.C. 549; R. *v.* Porter, 33 L.J.M.C. 126.
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60	320 . . .	Rest to be dealt with by Rules.
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89	—	Rep. 16 & 17 Vict. c. 96, s. 27.
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91	—	Virt. rep. 16 & 17 Vict. c. 96, s. 27.
92	199 . . .	See 16 & 17 Vict. c. 96, s. 27; 25 & 26 Vict. c. 111, s. 14.

Section of Act.	Section of Bill of 1890.	Remarks.
93	59. . . .	See 16 & 17 Vict. c. 96, s. 18; Lun. Act, 1889, s. 31 (3).
94	—	Superseded by Lun. Reg. Act, 1853, s. 54; 16 & 17 Vict. c. 96, s. 23.
95, 96	116 (1) *b* . .	Superseded by Lun. Reg. Act, 1853, s. 53.
97, 98	—	Rep., 32 & 33 Vict. c. 91, s. 34.
99	35, 85, 330 .	Superseded in part by Lun. Act, 1889, s. 12.
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110	187 . . .	As to gaols obsolete.
111	—	Rep., 16 & 17 Vict. c. 96, s. 28.
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114	See 341	
115	209 . . .	Superseded in part Loc. Gov. Act, s. 59 (2).
116	—	Rep., 16 & 17 Vict. c. 96, s. 35.
117, 118	—	Not wanted.

13 & 14 Vict. c. 60.

3	135 (1) (3)	
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15 & 16 Vict. c. 48.

1–3	—	Rep., 16 & 17 Vict. c. 70, s. 1: 34 & 35 Vict. c. 22, s. 118.
4–7	See 116 (1) *b*.	Superseded by Lun. Reg. Act, 1853, s. 53

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6	136 (1) (2) (5)	
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Lunacy Regulation Act, 1853.

1	—	Spent, and see 116 (1) (*b*) of Bill.
2	342	
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4	2	
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6–9	111	
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22	—	Rep., 38 & 39 Vict. c. 77, s. 31.
23	—	Rep. 25 & 26 Vict. c. 86, s. 25.
24	163 (3) . .	See 32 & 33 Vict. c. 91, s. 14.
25	—	Rep., 32 & 33 Vict. c. 91, s. 34.
26	148 . . .	See Judic. Act, 1875, s. 26.
27	—	To be provided for by Rules.
28	148 (2)	
29	148 . . .	See Judic. Act, 1875, s. 26.
30, 31	—	Rep., 32 & 33 Vict. c. 91, s. 34.
32	148 (3)	
33	149	
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38	113, 114	
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44	95. . . .	See Lun. Reg. Act, 1862, s. 3.
45	96	
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47	98. . . .	See Lun. Reg. Act, 1862, s. 3.
48	99	
49	—	Rep., Stat. Law Rev. Act, 1875.
50	114	
51	334	
52	107	
53	—	Spent.

Section of Act.	Section of Bill of 1890.	Remarks.
54	100	
55–62	—	To be provided for by Rules; see Cl. 114 of the Bill. Sec. 57 superseded; 52 Vict. c. 10.
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123	119, 124 . .	The mode of application to be regulated by Rule.
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125	120 (*a*), 123 (1)	
126	120 (*a*)	
127	120 (*a*) (*f*)	
128	120 (*k*)	
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144	334	
145	109	
146	116 (5)	
147	110	
148	101	
149	102	
150	103	
151	108 (2) (4)	
152	106	Amended by Lun. Reg. Act, 1862, s. 10.
153	—	Rep., Lun. Act, 1889.

16 & 17 Vict. c. 96.

Section of Act.	Section of Bill of 1890.	Remarks.
1	—	Superseded, Lun. Act, 1889, s. 56.
2	211	
3	—	Spent.
4	—	Virt. repealed by Lun. Act, 1889, s. 2 *et seq.*
5, 6	—	Rep., Lun. Act, 1889, s. 2.
7	14, 16	
8	—	Virt. rep. Lun. Act, 1889, s. 2.
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23	58	
24–26	—	To be dealt with by Rules.
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29	204	
30	232 . . .	Superseded in part, Lun. Act, 1889, s. 58.
31	226	
32	—	Rep., Lun. Act, 1889.
33	205	
34	322 (2)	
35	—	Spent.
36	See 341	
37	—	Not wanted.
38	340	Rep. in part, 47 & 48 Vict. c. 64.
39	150 (5)	
40	—	Spent.

16 & 17 Vict. c. 97.

A considerable portion of this Act is virtually repealed or superseded by the Local Government Act, 1888, which transfers to county and borough councils the powers of the justices in relation to asylums (see sections 3, 36, 38, 86). It has not been thought necessary in the following table to repeat opposite each section affected thereby a reference to the provisions of the Local Government Act: —

1	—	Spent.
2	239	
3	242	
4	—	Virt. rep. Lun. Act, 1889, s. 64.
5	242	
6	—	Spent.
7	243, 245 . .	See Loc. Gov. Act, 1888, s. 86 (4).
8	245 . . .	Superseded as to county boroughs by Local Gov. Act, s. 32 (3) c.
9	—	Spent, having regard to Local Government Act, 1888.

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19	251	
20	169	
21	239 (2)	
22	169	
23	—	Superseded by Local Government Act, 1888, s. 86 (8).
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56	—	To be dealt with by Rules.
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63, 64	—	To be dealt with by Rules.
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66	202	
67	14, 17, 19 .	Rep. in part Lun. Act, 1889.
68	15, 17, 19, 22	Rep. in part Lun. Act, 1889.
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74	—	Superseded Lun. Act, 1889.

Section of Act.	Section of Bill of 1890.	Remarks.
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77	64–67, 70	
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80	81	
81	80	
82	59, 70	
83, 84	72	
85	74	
86	59, 70	
87	—	Rep. Lun. Act, 1889.
88	85	
89	—	To be dealt with by Rules.
90–93	—	To be dealt with by Rules.
94	299 . . .	See Lun. Act, 1889, ss. 26, 76 (2).
95	286	
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104	299 . . .	See Lun. Act, 1889, s. 26.
105	396	
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129–131	—	Superseded by Local Government Act, 1888.
132	340	
133	341	
134–136	—	Spent.

18 Vict. c. 13.		
1	122	

18 & 19 Vict. c. 105.

Section of Act.	Section of Bill of 1890.	Remarks.
1	—	Superseded Lun. Act, 1889, s. 64.
2, 3, 4	249	
5	267 (2)	
6	—	Superseded by Local Government Act, 1888.
7	—	Superseded by Local Government Act, 1888.
8	64	
9	223	
10	242 (2)	
11	259	
12, 13	258	
14	—	Rep., 25 & 26 Vict. c. 111, s. 45.
15	—	Spent.
16	—	Spent.
17	55	
18	222	
19	—	Not wanted.

19 & 20 Vict. c. 87.

See s. 169 of the Bill. Local Government Act, 1888, s. 86 (3).

23 & 24 Vict. c. 127.

29	109	

24 & 25 Vict. c. 127.

7	292	

25 & 26 Vict. c. 86.

The Lunacy Regulation Act, 1862.

1, 2	—	Not wanted.
3	98	
4	94 (1)	
5	334	
6	94 (2)	
7	104, 108 (4)	
8, 9	90 . . .	The rest to be dealt with by Rules.
10	105	
11	109	
12, 13	116 (1) *e*	
14	338	
15	116 (1) *f*	
16	117	
17	124, 333	

Section of Act.	Section of Bill of 1890.	Remarks.
18	114	
19, 20	184	
21	185	
22, 23	—	Rep., Stat. Law Rev. Act, 1875.
24	165 . . .	See 32 & 33 Vict. c. 91, s. 14.
25	—	See 32 & 33 Vict. c. 91, s. 14.
26	—	See 42 & 43 Vict. c. 78, ss. 15–21.
27	—	Rep., 32 & 33 Vict. c. 91, s. 34.
28, 29	—	Registrar is abolished.

25 & 26 Vict. c. 111.

1–3	—	Not wanted.
4	254 (4)	
5	272	
6	283 (4)	
7	269 (9)	
8	26	
9	258	
10	260	
11	261	
12, 13	280	
14	210	
15	213	
16	—	Obsolete.
17	220	
18	—	Rep. Lun. Act, 1889.
19	—	Spent.
20	—	Rep. Lun. Act, 1889.
21	202	
22	12	
23	—	Superseded Lun. Act, 1889.
24	—	Rep. Lun. Act, 1889.
25	—	See Form 12. Rest to be dealt with by Rules.
26	—	See Form 8.
27	—	Rep. Lun. Act, 1889.
28	—	To be dealt with by Rules.
29	191, 193	
30	187 (2), 191	Obsolete as to gaols.
31	60	
32	23	
33	27	
34	—	To be dealt with by Rules.
35	194, 199	
36	215 (3) . .	Rest to be dealt with by Rules.
37	54	
38	55 . . .	Rest to be dealt with by Rules.
39	323	
40	—	Rep Lun. Act, 1889.
41, 42	316 . . .	Rest to be dealt with by Rules.
43	72	
44	84 . . .	Rest to be dealt with by Rules.
45	291	
46	332	
47, 48	—	Not wanted.

26 & 27 Vict. c. 110.

Section of Act.	Section of Bill of 1890.	Remarks.
1	—	Spent.
2	26	
3	—	Not wanted.

28 & 29 Vict. c. 80.

Superseded by Local Government Act, 1888.

30 Vict. c. 6.

30 in part.	341	See definition of workhouse.

30 & 31 Vict. c. 87.

13	108	

31 & 32 Vict. c. 122.

43	26	

34 & 35 Vict. c. 14.

2	264	Superseded by Local Government Act, 1888, s. 79 (3).

38 & 39 Vict. c. 77.

7	108	
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45 & 46 Vict. c. 82.

1, 2	—	Not wanted.
3	116 (1) *e*	
4	183	

48 & 49 Vict. c. 52.

Section of Act.	Section of Bill of 1890.	Remarks.
1		Not wanted.
2	20	
3	21	
4	—	Not wanted.

51 & 52 Vict. c. 42.

32 (2)	—	Superseded by the consolidation.
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52 & 53 Vict. c. 41. 1889

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27	—	Unnecessary.
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BOOK I.

INTRODUCTION.

THERE are three classes of Lunatics (using the term "lunatic" in its widest sense, as including all persons of unsound mind, without distinguishing the various forms or degrees of insanity) concerning whom provision has been made by the Legislature—namely, Private Lunatics, Pauper Lunatics, and Criminal Lunatics; or, in other words, those who are maintained out of their own property, those who are supported at the public charge, and those who are in the custody of the law. It is proposed to treat of these three classes under separate heads, as the legal provisions applicable to them are different.

The establishment and regulation of public and private asylums can be conveniently considered under the several chapters which relate respectively to the various classes of insane persons for whom they are designed. Hence, as county and borough asylums are intended mainly for the reception of pauper patients, they will be dealt with chiefly in connection with that branch of the subject; whilst licensed houses and registered hospitals will naturally come within the division of the work which treats of private lunatics. At the same time, it will be found that, so far as public asylums may be available for private patients, and so far as hospitals and licensed houses may be available for pauper patients, each will be included, to that extent, within the limits of the appropriate chapter.

The powers and duties of the "Commissioners in Lunacy," as a Central Board of supervision, being very comprehensive, and embracing within their scope all classes of lunatics, it has been deemed advisable to devote a separate chapter to them.

This Introduction will therefore comprise the following sub-divisions:—

PART I.—PRIVATE LUNATICS.
PART II.—PAUPER LUNATICS.
PART III.—CRIMINAL LUNATICS.
PART IV.—THE COMMISSIONERS IN LUNACY.

PART I.

Private Lunatics.

Division of the subject.]—Many alterations have of late years been made in the law with regard to proceedings in lunacy, and many statutes have been passed to regulate those proceedings. As the general result, it may be stated that, as the law at present stands, "Private Lunatics," or lunatics maintained at their own or their friends' expense, may be either dealt with under commissions of lunacy, or otherwise under the authority of the Lord Chancellor; or kept as single patients in unlicensed houses, or confined in public or private asylums, under orders and medical certificates, and subject to the supervision of the Commissioners in Lunacy. The law does not require that every lunatic should be brought necessarily under its control; in fact, it takes no cognizance of private lunatics until application is made on their behalf, unless they are dangerous to others, or are not under proper care.[1] It leaves them to take care of themselves, or to be taken care of by their relatives or friends, until occasion arises for its active intervention. At the same time, it is probable that, in consequence of the great attention which has been paid to this subject for some years past, a large majority of these afflicted persons are at present brought, in some way or other, under legal supervision.

Sect. 1.—Commissions of Lunacy.

Idiots, Lunatics, and Prodigals.]—The law distinguishes between idiots and lunatics; and the distinction is thus defined by Blackstone (*Comm.*, bk. i., ch. 8):—

Idiots.]—"An *idiot*, or natural fool, is one that hath had no understanding from his nativity; and therefore is

(1) It may be added that the Chancery Division of the Supreme Court will, in certain cases, and for special purposes, take cognizance of persons alleged to be of unsound mind, and act on their behalf or with reference to their interests, though they may not have been found by inquisition to be insane.

by law presumed never likely to attain any." A man is not an idiot if he hath any glimmering of reason (F. N. B., 233), so that he can tell his parents, his age, or the like common matters. But "a man who is born deaf, dumb, and blind, is looked upon by the law as in the same state with an idiot" (Co. Litt., 42; Fleta, l. 6, c. 40), "he being supposed incapable of any understanding, as wanting all those senses which furnish the human mind with ideas."[1]

Lunatics.]—On the other hand, "a *lunatic*, or *non compos mentis*, is one who hath had understanding, but by disease, grief, or other accident, hath lost the use of his reason" ("*Idiota a casu et infirmitate.*"—Mem. Scacc. 20 Edw. I., in Maynard's *Year Book* of Edw. II., 20). "A lunatic is, indeed, properly, one that hath lucid intervals; sometimes enjoying his senses, and sometimes not, and that frequently depending upon the change of the moon." So says Blackstone; though this last proposition forms no part of the legal definition, but is merely a popular fancy, which explains the etymology of the word. "But," he adds, "under the general name of *non compos mentis*, which Sir Edward Coke" (1 *Inst.* 246) "says is the most legal name, are comprised not only lunatics, but persons under frenzies, or who lose their intellects by disease; those that grow deaf, dumb, and blind, not being born so; or such, in short, as are judged by the Court of Chancery incapable of conducting their own affairs."

Unthrifts, or Prodigals.]—Having noted the legal distinction between idiots and lunatics, and the modes of procedure with regard to them, Blackstone adds:—"In this care of idiots and lunatics the civil law agrees with ours, by assigning them tutors to protect their persons, and curators to manage their estates. But in

(1) While it may be wise and humane in the law to regard the persons so afflicted as being "in the same state with idiots," *i.e.*, requiring guardianship, it ought nevertheless to be borne in mind that they are not necessarily idiots. Such cases, however, must be very rare. In the cases of Laura Bridgman and Oliver Caswell, described by Dickens in his *American Notes for General Circulation* (vol. i., pp. 73–103), both the children displayed considerable intelligence; but they were born in the full possession of those senses, which they afterwards lost through sickness. Laura Bridgman became blind, deaf, and dumb, at two years of age, and soon afterwards lost the sense of smell, and nearly that of taste, through fever. Oliver Caswell "was in full possession of all his faculties until three years and four months old. He was then attacked with scarlet fever; in four weeks became deaf; in a few weeks more, blind; in six months, dumb." These cases, therefore, would fall within the technical definition of lunatics, rather than idiots—"those that grow deaf, dumb, and blind, not being born so;" though, in truth, it does not appear that either of the children showed any unsoundness of mind.

another instance, the Roman law goes much beyond the English. For if a man by notorious prodigality was in danger of wasting his estate, he was looked upon as *non compos*, and committed to the care of curators or tutors by the prætor.[1] And by the laws of Solon such prodigals were branded with perpetual infamy. But with us, when a man, on an inquest of idiocy, hath been returned an unthrift and not an idiot, no farther proceedings have been had [Bro. *Abr.* tit. Idiot. 4]. And the propriety of the practice itself seems to be very questionable. It was, doubtless, an excellent method of benefiting the individual, and of preserving estates in families; but it hardly seems calculated for the genius of a free nation who claim and exercise the liberty of using their own property as they please. '*Sic utere tuo, ut alienum non lædas*'[2] is the only restriction our laws have given with regard to economical prudence. And the frequent circulation and transfer of lands and other property, which cannot be effected without extravagance somewhere, are perhaps not a little conducive towards keeping our mixed constitution in its due health and vigour."

In the case of Mr. W. F. Windham, which excited at the time much interest, this question was directly raised; and the Master, in summing up to the jury, thus stated the law:—"What the jury had to decide was, whether Mr. Windham was of such sound mind as to be able to govern himself and his affairs. In the time of Lord Hardwicke it was necessary to find a man absolutely insane; but, in 1802, Lord Eldon declared that the Court of Chancery thought itself authorised to issue a commission, provided it were made out that the party was unable to act with any proper and provident management, was liable to be robbed by any one, or [and?] was labouring under that imbecility of mind which, though not strictly insanity, equally required the protection of the law. Lord Lyndhurst, in 1827, adopted the ruling of Lord Eldon, which might be taken, therefore, as an authoritative declaration of the law of England. Another doctrine laid down by Lord Eldon, and sanctioned by his successors, was, that if a jury found merely the incapacity of an alleged

(1) The following are the provisions of the Roman law upon the subject, as stated in the *Institutes* of Justinian, lib. 1, tit. 23:—

"Furiosi quoque et prodigi, licet majores viginti quinque annis sint, tamen in curatione sunt adgnatorum ex lege Duodecim-Tabularum. Sed solent Romæ præfectus urbi vel prætor, et in provinciis præsides, ex inquisitione eis curatores dare.

"4. Sed et mente captis, et surdis et mutis, et qui perpetuo morbo laborant, quia rebus suis superesse non possunt, curatores dandi sunt."

(2) Broom, *Legal Maxims*, 4th ed. 357.

lunatic to manage his affairs, and did not infer from it unsoundness of mind, upon that finding a commission could not go on, though the party might be living where he was exposed to ruin every instant. From all this it resulted that, in order to justify a verdict against Mr. Windham, the jury must be satisfied that he was incapable of governing himself and his affairs by reason of unsoundness of mind. Mere weakness of character, mere liability to impulse or susceptibility of influence, good or bad, mere imprudence, extravagance, recklessness, eccentricity, or immorality—no, not all these put together would suffice, unless they believed themselves justified, on a review of the whole evidence, in referring them to a morbid condition of intellect." — (*Times*, January 30, 1862).

Royal Prerogative.]—The distinction between an idiot (*idiota a nativitate*), and a lunatic (*idiota a casu et infirmitate*), was important in the early state of the law. The custody of the born idiot, and his lands, was formerly vested in the lord of the fee (Fleta, l. 1, c. 11, s. 10); but, says Blackstone, "by reason of the manifold abuses of this power by subjects, it was at last provided by common consent that it should be given to the King, as the general conservator of his people, in order to prevent the idiot from wasting his estate, and reducing himself and his heirs to poverty and distress (F. N. B. 232). This fiscal prerogative of the King is declared in Parliament by statute 17 Edward II., which directs in affirmance of the common law (4 Rep. 126.—*Mem. Scacc.* 20 Edw. I., prefixed to Maynard's *Year Book* of Edw. II., fol. 20, 24), that the King shall have ward of the lands of natural fools, taking the profits, without waste or destruction, and shall find them necessaries; and after the death of such idiots he shall render the estate to the heirs, in order to prevent such idiots from alienating their lands and their heirs from being disinherited."

This statute is still in force so far as regards the provisions concerning idiots and lunatics (see the Statutes, *post*), though most of its other enactments have been repealed. That it was in furtherance of the common law is pointed out by Coke (4 Rep. 123 b., Beverley's Case), who says:—"In the case of an idiot, or fool natural, for whom there is no expectation, but that he, during his life, will remain without discretion and use of reason, the law has given the custody of him, and all that he has, to the King, who (as F. N. B., 232, says) is bound of right by his laws to defend his subjects, and their goods and

chattels, land and tenements; and because every subject is in the King's protection, an idiot, who cannot defend or govern himself, nor order his lands and tenements, goods and chattels, the King of right ought to have him, and to order him, his lands, goods, and chattels; and this, it appears, was the common law; for Briton, fol. 16, who wrote *anno* 5 Edw. I., saith, that if any heir is a fool natural, by which he is not able to demand and keep his inheritance, &c., that such heirs, of whomsoever they hold, male or female, remain in the custody of the King, with all their inheritance; and thence it follows that the stat. of *Prærog. Regis*, cap. 9, made in 17 Edw. II., long time after Briton wrote, was but a declaration of the common law."

That the practice in the reign of Edward I. was in accordance with this view is clear. In Madox's *History and Antiquities of the Exchequer* (2nd ed. vol. i. p. 348, 1769) it is stated that, in the thirty-third year of King Edward I. John Berthaud accounted for the Profits of the Lands of William Berthaud, an Idiot; which were seized into the King's hands for the said William's Idiocy. "Johannes Berthaud [debet] xij marcas de firma terrarum et tenementorum Willelmi Berthaud idiotæ; quæ terræ et tenementa extenduntur ad xij*l.* iiij*s.* ix*d.* per annum, et quæ sunt in manu Regis pro eo quod idem Willelmus est idiota, et non sufficit ad regimen sui nec suorum; Tenend. per talem firmam a festo Paschæ anno xxviij, quamdiu Regi placuerit; reddendo unam videlicet medietatem ad Scaccarium S. Michaelis, et aliam medietatem ad Scaccarium Paschæ; et de residuo extentæ prædictæ inveniet dicto Willelmo rationabilem sustentationem suam; sicut continetur in Memor. anni xxviij.—*Mag. Rot.* 33 *Ed. I. Resid. Ebor. post Item Kanc.*"

It is worthy of notice that Blackstone, whose *Commentaries* were published in 1765, treats of this subject in the chapter devoted to the King's revenue, introducing it with this remark:—"I proceed, therefore, to the eighteenth and last branch of the King's revenue, which consists in the custody of idiots, from whence we shall be naturally led to consider also the custody of lunatics." It may seem to us in the present day somewhat startling to find the subject dealt with in this manner, as if idiots and lunatics were only worthy of consideration in connection with the King's financial resources; but it must be remembered that it was for the protection of the insane person's property, and its preservation for himself or his heirs, and not for the benefit

of the royal revenue, that the statute of Edward II. was passed. It had so far a benevolent intention, though it did not contemplate the more important object which has obtained so much prominence in our own times—the cure, or at least the kindly and considerate treatment, of the insane person himself. The fact, however, that Blackstone deemed it fitting to consider this topic in treating of the revenue, implies that the management of the estates of idiots, if not of lunatics, must have been at that time a source of profit to the Crown.

Procedure.]—With regard to the mode of procedure, Blackstone observes, "By the old common law there is a writ *de idiota inquirendo*, to inquire whether a man be an idiot or not (F. N. B. 232), which must be tried by a jury of twelve men; and if they find him *purus idiota*, the profits of his lands and the custody of his person may be granted by the sovereign to some subject who has interest enough to obtain them. This branch of the revenue hath long been considered as a hardship upon private families; and so long ago as in the eighth year of James I. it was under the consideration of Parliament to vest this custody in the relations of the party, and to settle an equivalent on the Crown in lieu of it; it being then proposed to share the same fate with the slavery of the feodal tenures, which has been since abolished (4 *Inst.* 203.—*Comm. Journ.*, 1610). Yet few instances can be given of the oppressive exertion of it, since it seldom happens that a jury finds a man an idiot *a nativitate*, but only *non compos mentis* from some particular time, which has an operation very different in point of law."

That difference is thus explained. To lunatics (Blackstone proceeds to observe), as well as idiots, "the King is guardian, but to a very different purpose. For the law always imagines that these accidental misfortunes may be removed, and therefore only constitutes the Crown a trustee for the unfortunate persons, to protect their property, and to account to them for all profits received, if they recover, or, after their decease, to their representatives. And, therefore, it is declared by the statute 17 Edw. II., that the King shall provide for the custody and sustentation of lunatics, and preserve their lands and the profits of them for their use when they come to their right mind; and the King shall take nothing to his own use; and if the parties die in such estate, the residue shall be distributed for their souls by the advice of the Ordinary; and, of course, by the subsequent amendments

of the law of administration, shall now go to their executors or administrators."

The difference between the two processes lies in this —that the Crown is required, in the case of a lunatic, to account for all the profits, taking nothing to its own use (17 Edw. II. c. 12); whereas in the case of an idiot, or "natural fool," no such obligation exists (c. 11), for though the Crown is bound to preserve the estate for the benefit of the heirs, it is empowered to take the profits during the lifetime of the idiot, subject to the condition of supplying him with necessaries. This was effected by entrusting the care of the idiot and his estate to some one who, in fact, shared the profits with the Crown; and hence it was often a considerable advantage, and much sought after. In a note to one of the passages cited above, Blackstone remarks that "this power, though of late very rarely exerted, is still alluded to in common speech by that usual expression of *begging* a man for a fool." In 'Love's Labour's Lost,' Act V. Scene 2, Shakespeare makes the clown Costard say—"You cannot *beg* us, sir; I can assure you, sir, we know what we know"—meaning "You cannot prove us to be fools." Douce, in his *Illustrations of Shakespeare*, remarks upon this passage:— "It was not the nearest relation only who *begged* the wardship of idiots in order to obtain possession of their property, but any person who could make interest with the Sovereign, to whom the legal guardianship belongs. Frequent allusions to this practice occur in the old comedies. In illustration of it, Mr. Ritson has given a curious story, which, as it is mutilated in the authority which he has used, is here subjoined from a more original source, a collection of tales, &c., compiled about the time of Charles I., preserved among the Harleian MSS. in the British Museum, No. 6395:—'The Lord North begged old Bladwell for a foole (though he could never prove him so), and having him in his custodie as a lunaticke, he carried him to a gentleman's house, one day, that was his neighbour. The Lord North and the gentleman retired awhile to private discourse, and left Bladwell in the dining-roome, which was hung with a faire hanging; Bladwell walking up and down, and viewing the imagerie, spyed a foole at last in the hanging, and without delay drawes his knife, flyes at the foole, cutts him cleane out, and layes him on the floore; my Lord and the gentleman comming in againe, and finding the tapestrie thus defaced, he asked Bladwell what he meant by such a rude, uncivill act; he answered, "Sir, be content, I have rather done you

a courtesie than a wrong; for if ever my Lord North had seen the foole there, he would have *begged* him, and so you might have lost your whole suite."' The same story, but without the parties' names, is related in Fuller's *Holy State*, p. 182. Powel, in his *Attourney's Academy*, 1630, 4to, says:—'I shall neede to give you this monitorie instruction touching an *ideot;* that you be assured that yourselfe is somewhat the wiser man before you goe about to *beg* him, or else never meddle with him at all, lest you chance to play at handy-dandy, which is the guardian or which is the foole? and the case alter, *e converso ad conversum.*' In *A Treatise of Taxes*, 1667, 4to, p. 43, there is the following passage:—'Now, because the world abounds with this kind of fools (Lottery fools), it is not fit that every man that will may cheat every man that would be cheated; but it is rather ordained that the Sovereign should have the guardianship of these fools, or that some favourite should beg the Sovereign's right of taking advantage of such men's folly, even as in the case of lunatics and ideots.' To this practice, too, Butler alludes, in *Hudibras*, pt. 3, canto 1, l. 590—

> 'Beg one another idiot
> To guardians, ere they are begot.'

"Mr. Justice Blackstone, in treating of idiots, has spoken of it; and adds in a note, that the King's power of delegating the custody of them to some subject who has interest enough on the occasion, has of late been very rarely exerted."

These quotations serve to illustrate the practical operation of a mode of proceeding which was in force for several centuries, but which has now entirely passed away.

That the arrangement was open to great abuse, is obvious; but, as Blackstone explains, the mischief was practically avoided by dealing with idiots as lunatics, the insanity being referred by the jury to some particular time subsequent to the period of birth; and it is now provided that, with certain exceptions, the investigation shall be confined to the alleged lunatic's state of mind at the time of the inquiry. It also appears to have been the practice, in modern times, to grant the surplus profits of an idiot's estate to some of his family. (1 Ridg. P. C. 519; App. n. 1.)

The care exercised by the Sovereign, such as it was, was confined to the cases of idiots and lunatics possessed of estates; and neither the common law nor the statute of Edw. II. took any notice of the idiot or lunatic poor,

for whom, indeed, no provision whatever was made until the present century. In so far as they were destitute, they were provided for, like other destitute persons, by the Poor Law; but there was no special provision adapted to their particular affliction.

Commission of Lunacy.]—The method of proving any person *non compos* is thus described by Blackstone (bk. i., ch. 8):—

"The Lord Chancellor, to whom, by special authority from the King, the custody of idiots and lunatics is entrusted, upon petition or information, grants a commission in the nature of the writ *de idiota inquirendo*,[1] to inquire into the party's state of mind, and if he be found *non compos*, he usually commits the care of his person, with a suitable allowance for his maintenance, to some friend, who is then called his committee. However, to prevent sinister practices, the next heir is seldom permitted to be this committee of the person, because it is his interest that the party should die. But it hath been said that there lies not the same objection against his next of kin, provided he be not his heir; for it is his interest to preserve the lunatic's life, in order to increase the personal estate by savings which he or his family may hereafter be entitled to enjoy. The heir is generally made the manager or committee of the estate, it being clearly his interest by good management to keep it in condition; accountable, however, to the Court of Chancery, and to the *non compos* himself, if he recovers, or otherwise to his administrators."

And in book 3, ch. 27, there is this further statement:—

Lord Chancellor.]—"As to idiots and lunatics, the King himself used formerly to commit the custody of them to proper committees, in every particular case; but now, to avoid solicitations and the very shadow of undue partiality, a warrant is issued by the King, under his royal sign manual, to the Chancellor or Keeper of his Seal,[2] to perform this office for him, and if he acts improperly in granting such custodies, the complaint must be made to the King himself in Council. But the previous proceedings on the commission, to inquire whether or no the party be an idiot or a lunatic, are on the law side of the Court of Chancery, and can only be redressed, if erroneous, by writ of error in the regular course of law."

(1) Or in the nature of the writ *De lunatico inquirendo*, which is analogous to the writ *De idiota inquirendo*.

(2) Not necessarily: there is one instance on record of the Lord High Treasurer having been selected.

Present practice.]—Since Blackstone wrote, however, important changes in the law have taken place from time to time with regard to the mode of proceeding. Irrespective of the various "Lunacy Acts," now consolidated by the "Lunacy Act, 1890," to some extent the Supreme Court of Judicature Acts of 1873 and 1875 interfered with previous procedure; and these Acts, taken together may be said to comprise the existing law upon the subject.

Objects of the Acts.—The objects for which the repealed "Lunacy Regulation Act, 1853" (16 & 17 Vict. c. 70) was enacted are thus described in the preamble:—

"For removing or diminishing the delays and expenses now attending on the execution of commissions in the nature of writs *De Lunatico Inquirendo*, and the proceedings consequent on inquisitions taken thereon;

"And for regulating and amending the practice and course of procedure in matters of lunacy;

"And for consolidating and amending the several Acts of Parliament respecting the care and management of the persons and estates of lunatics so found by inquisition, and the appointments, duties, and salaries of officers in lunacy."

This Act was amended by the "Lunacy Regulation Act, 1862" (25 & 26 Vict. c. 86), but in furtherance of the same general objects. Both these Acts (together with many others) are now embodied in the "Lunacy Act, 1890" (53 Vict. c. 5), which for brevity's sake will be referred to throughout this volume by the letter **A.**

Extent of Act.—The Act is for the most part limited to England and Wales; but some of its provisions extend also to Ireland (§ 2). It will not be necessary here to notice any enactments except those which relate to England and Wales. The present treatise does not include the law of lunacy as applicable to Ireland, or to Scotland.

Definition of "Lunatic."]—The word "lunatic," means "an idiot, or person of unsound mind." (**A** 341.)

The Judge in Lunacy.—The jurisdiction of the Judge in Lunacy is exercised either by the Lord Chancellor for the time being entrusted by the Sign Manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics, acting alone or jointly with any one or more of such Judges of the Supreme Court as may for the time being be entrusted with the duty. (**A** 108 (1).)

Appeal.]—By the Supreme Court of Judicature Act of

1873, s. 18, all jurisdiction vested in or capable of being exercised by Her Majesty in Council, or the Judicial Committee of Her Majesty's Privy Council, upon appeal from "any order in lunacy made by the Lord Chancellor or any other person having jurisdiction in lunacy," is transferred to the Court of Appeal established by that Act.

Officers in Lunacy.]—There are two Masters in Lunacy and such clerks and officers as may be sanctioned by the Lord Chancellor and the Lords of the Treasury (A 111); and also three Visitors of Lunatics (A 163) and such clerks as may from time to time be determined by the Lord Chancellor (A 163). It is provided that the Masters in Lunacy are to be appointed by the Lord Chancellor, and are to be barristers of ten years' standing (A 11). The vacancies among the Visitors are to be filled up by the Lord Chancellor, who is to appoint a medical practitioner in actual practice to succeed a Medical Visitor, and a barrister of not less than five years' standing to succeed a Legal Visitor (A 163). The Visitors so appointed will hold their office during good behaviour, subject to removal by the Lord Chancellor in case of misconduct, neglect, or disability (A 164). The Visitors, when appointed, are to give up the practice of their respective professions (A 164), and are not to be in any way interested in any licensed house (A 165). Due provision is made for salaries, expenses, and retiring allowances, which are to be paid out of moneys provided by Parliament (32 & 33 Vict. c. 91, s. 13).

Masters in Lunacy.]—Before acting in his office, each Master is to make a declaration to discharge it faithfully (A 111 (4), and Sched. I.); and in the execution of it he is to have the same powers and duties as heretofore (A 111); and to conduct inquiries connected with the persons and estates of lunatics, and to discharge such other duties as the Lord Chancellor may direct (A 111 (1)). The powers of the Masters are joint and several, so that their duties may be performed by them either separately or together (A 111 (2)).

Visitors of Lunatics.]—The Masters in Lunacy are *ex-officio* Visitors of Lunatics; and there are also Medical Visitors and Legal Visitors, who are officially termed Chancery Visitors (A 163). The whole body, or any three at the least, may from time to time form a Board for their mutual guidance and direction, with liberty to report to the Lord Chancellor (A 167). In the event of the illness or unavoidable absence of any Medical or

Legal Visitor, he may appoint a temporary substitute (A 168).

Percentage and Fees.—With regard to the charges incident to the administration of the estates of lunatics it is provided that the Lord Chancellor, with the concurrence of the Treasury, may make Rules that such charges should be defrayed in part by means of a percentage on the annual incomes of the lunatics, graduated in an equitable manner as between the richer and the poorer estates, and in part by means of fees on proceedings. The graduated scale which is prescribed in the Rules issued under A 148 is based upon the principle of requiring the smaller incomes to contribute in a higher proportion than the larger ones. It is as follows:—

On incomes of £100 and under £1000, a percentage of 4 per cent., but in no case exceeding	£30
On incomes of £1000 and under £5000, a percentage of 3 per cent., but in no case exceeding	100
On incomes of £5000 and upwards, a percentage of 2 per cent., but in no case exceeding	200

Thus, for example, an income of £500 a year will contribute a percentage of £20; whilst an income of £20,000 a year (*i.e.*, forty times as large) will only contribute a percentage of £200, or not more than ten times as much as in the former case; the contribution from the smaller income being at the rate of 4 per cent.; from the larger, 1 per cent. Both percentages and fees are to be collected by means of stamps recoverable under the Rules contained in the Judicature Act, 1875, s. 26, except so far as they may be varied by the Rules in Lunacy. In certain cases the Lord Chancellor may reduce or remit the amount. (See A 148 (4).)

The "Judicature Act, 1875," s. 26, enacts that the Lord Chancellor, with the advice and consent of the Judges of the Supreme Court, or any three of them, and with the concurrence of the Treasury, may fix the fees and percentages to be taken in the Courts, "including the percentage on estates of lunatics," but, subject to any order made in pursuance of that provision, the existing fees and percentages shall continue to be taken, applied, and accounted for in the existing manner.

Commission of Lunacy.—A general commission of inquiry, with such variations as may be expedient, may from time to time be issued in duplicate under the

Great Seal, directed to the Masters by name, jointly and severally, who are by virtue thereof to proceed, in each case of alleged lunacy, concerning which the Judge in Lunacy orders them to inquire, in like manner and with all the like powers and authorities (subject to the provisions in the Act contained) as heretofore. The Lord Chancellor may issue a commission specially to any person or persons alone or in addition to the Masters, or one of them, if upon any occasion he thinks it proper to do so; and the provisions of the Act so far as applicable are to extend to every commission so issued specially (A 112–13).

Oaths may be Administered.]—The Masters may administer any oath and take any affidavit and may summon any person to give evidence before them, and every person so summoned is bound to attend as required (A 114).

Procedure.]—The Act does not contain a complete code of instructions with regard to the course of proceeding in the inquiry, but it provides for certain important points, which it will be advisable to notice.

Notice to alleged Lunatic.]—On the presentation of the petition for inquiry, if the alleged lunatic is not within the jurisdiction, no notice need be given to him, but the inquisition is to be before a jury (A 96). If he is within the jurisdiction he shall have notice of the petition (A 90).

Jury.]—Where the alleged lunatic is not within the jurisdiction, the inquiry must be before a jury (A 96); but where he is within the jurisdiction, it will depend upon the circumstances of the case whether the inquiry is, or is not, to be before a jury (A 90–92). On receiving notice of the petition, the alleged lunatic may demand a jury (A 90); and the demand so made must be complied with, unless the Judge in Lunacy is satisfied, by personal examination, of his incompetency to form and express a wish upon the subject (A 91). Moreover, where the Judge in Lunacy does not order an inquiry before a jury, the Masters, upon consideration of the evidence before them, may certify to him that in their opinion an inquiry before a jury is expedient, and thereupon, without further order, may issue their precept to the Sheriff, and proceed with the inquiry accordingly (A 93). The Lord Chancellor may regulate the number of jurors, but so that the inquisition be found by the oaths of twelve at least (A 97); and the Commissioner acting with the jury is to have all the powers of a judge of the High Court (A 99).

Trial in Common Law Court.]—Whenever the Judge in Lunacy orders an inquiry before a jury, he may direct the issue as to the alleged insanity to be tried in the High Court, instead of before a Master; and the verdict in such case shall have the same effect as an inquisition under a commission of lunacy (A 94 (1)). On the trial, the alleged lunatic, if within the jurisdiction, is to be examined before the taking of evidence is commenced, and at the close of the proceedings, before the jury consult as to their verdict, unless the presiding judge shall otherwise direct; and such examinations are to take place either in open court or in private, as may be directed by the Judge (A 94).

Inquisition without a Jury.]—Where the alleged lunatic does not demand a jury, or, where he does demand one, and the Judge being satisfied by personal examination (A 91) of his incompetency to form and express a wish in that behalf, considers an inquiry before a jury unnecessary or inexpedient, the Judge may order accordingly; and the Masters shall thereupon personally examine the alleged lunatic and investigate the facts, in order to ascertain whether or not he is of unsound mind; and when they have certified their finding thereon, such certificate shall be deemed to be an inquisition, and shall have the same effect as an inquisition taken upon the oath of a jury (A 92, 95).

Time.]—The investigation as to the alleged lunatic's state of mind is to be confined to the question of his lunacy at the time of the inquiry (A 98); and no evidence is to be received as to anything done or said by him, or as to his demeanour or state of mind, at any time being more than two years before the time of the inquiry, unless the person executing the inquisition otherwise directs (A 98 (1)).

Report of Commissioners in Lunacy.]—In certain cases, if the Commissioners are of opinion that the property of any person detained or taken charge of as a lunatic, but not so found by inquisition, is not duly protected, or that the income is not duly applied for his benefit, they may make a report to the Lord Chancellor, which is to be taken as tantamount to an ordinary petition for inquiry; and, notice being given to the alleged lunatic, the case is thereupon to proceed and be conducted, as nearly as may be, like the case of an ordinary petition (A 100; see also A 116 (1*a*)).

Proceedings after Inquisition.]—The "Lunacy Regulation Act, 1853" contained sundry provisions of a technical

but very important character, with respect to proceedings after inquisition (such as the mode of taking evidence—the appointment, security, and accounts of committees and receivers—the management of lunatics' estates—the inquiry as to the next of kin—the reports of the Masters—and various other points), which now are dealt with by Rules under the "Lunacy Act, 1890."

Orders in Lunacy.]—So also it will suffice to allude to the provisions with respect to Orders in Lunacy, their form and other points which are comprised in **A** 144, 145, and 147, and in the Rules. The Lord Chancellor, with advice and assistance, is empowered to make general orders for embodying such provisions and directions as are usually inserted in Orders in Lunacy, and for dispensing with their formal parts.

Visitation of Lunatics.]—Great care is taken by the Act to secure the due visitation of the persons found lunatic by inquisition. It is required that the Chancery Visitors shall visit the lunatics at such times and in such rotation and manner, and shall make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangement for their maintenance and comfort, and otherwise respecting them, as the Rules in Lunacy, or as any special order of the Judge in Lunacy in any particular case may direct (**A** 183); but so that every lunatic shall be personally visited and seen by one of the Chancery Visitors twice at least in every year, the interval between successive visits to any lunatic being in no case allowed to exceed eight months. Every lunatic in a private house is to be visited at least four times in every year during the two years next following the inquisition (**A** 183). The Visitors are to make a report in writing after each visit, and the reports so made are to be submitted to the Lord Chancellor annually, or oftener (**A** 185). They may also make separate or special reports in any case, and are particularly required to report to him, without delay, any instance in which, on proceeding to visit, they have been unable to discover the residence of the lunatic, or have been otherwise prevented from actually seeing him (**A** 185). Their reports are to be filed, and kept secret from every one except the members of the Board of Visitors, and the Judge in Lunacy, and such persons as he may specially appoint. The reports relating to any particular patient are to be destroyed on his death, or on the inquisition being superseded, or discharged on a traverse, unless in such case the Judge in Lunacy specially order that they be not de-

stroyed until the lunatic's death. Further, the Visitors are to make a general report every six months (A 184 (1)).

Estates of Lunatics.]—Many important provisions are contained in the Act, "with respect to the management and administration of the estates of lunatics," for which reference must be made to the Act itself (A 116–143). In some cases the Judge in Lunacy is empowered not merely "to manage and administer" the estate, but to sell or otherwise dispose of it for the benefit of the lunatic. In this respect the principle of modern legislation goes beyond the purpose originally contemplated by the statute of Edward II., which was confined to the protection and preservation of the estate on behalf of the lunatic and his heirs; though it may doubtless be considered that this extension of the principle, having the advantage of the lunatic still in view, is in harmony with the intentions of the earlier statute (see p. 7, *ante*). The powers given to the Judge in Lunacy, with regard to the estates of lunatics, extend to property within any British possession (A 110).

Traverse of Inquisition.]—Any person desiring to traverse[1] the inquisition must petition within three months from the date of the return, and must proceed to trial within the time (not exceeding six months) which may be fixed by the Judge in Lunacy (A 101); unless the time be extended in any special case (A 102). No person may traverse oftener than once; but the Judge in Lunacy, if dissatisfied with the verdict in any case, may order a new trial or trials (A 103). No person, however, shall be entitled to a traverse of any inquisition made upon the trial of an issue in the High Court; but in any such case the Judge in Lunacy, upon petition, presented within three months after the trial, may order a new trial, or a new inquiry, subject to such directions and upon such conditions as he may deem proper (A 104). Notwithstanding the traverse in any case, the Judge in Lunacy may make such orders as he, or they, may think necessary or proper for the custody of the person who is the object of the inquisition, or for the management of his estate (A 108 (2)).

Supersedeas.]—Where any person has been found of unsound mind by inquisition, if the Judge in Lunacy deems it expedient and for the lunatic's benefit, he may, with the consent of the lunatic and other persons concerned, order the commission to be superseded, on such terms and conditions, and subject to such arrangement

(1) 2 & 3 Edw. VI. c. 8, s. 6.

respecting the lunatic's estate, as he may think proper (A 105).

Costs.]—In the case of Mr. W. F. Windham already referred to (p. 4, *ante*), in which the jury, after a protracted inquiry, found that the alleged lunacy had not been proved, an application on behalf of the alleged lunatic was made to the Lords Justices to order the payment of the costs of the inquiry by the parties who had presented the petition; which, under the circumstances of that case, the Lords Justices refused.[1] At the same time they expressed a doubt as to their power, under any circumstances, to make such an order. It is now provided, however, that the Judge in Lunacy may in all cases order the costs of any proceedings to be paid either by the party or parties presenting the petition, or by the party or parties opposing the petition, or out of the estate of the alleged lunatic, or partly in one way and partly in another; such order to have the same force as an order made by the High Court.[2]

General Rules.]—The Lord Chancellor is empowered to make Rules in Lunacy for carrying into effect any Act relating to lunacy (A 338 (2)). These Rules must be laid before Parliament.

SECT. 2.—LUNATICS NOT SO FOUND BY INQUISITION.

Having sketched the course of proceeding with regard to persons found lunatic by inquisition, we may now advert to those cases in which the law will interfere with regard to the property of persons who are in fact insane, but are not so found by inquisition. It has been already mentioned that certain cases of persons not found lunatic by inquisition, whose property is not duly protected or applied, may be brought under the notice of the Lord Chancellor by a report from the Commissioners in Lunacy, in lieu of an ordinary petition for inquiry; but those cases, when so reported, are then to be dealt with in the ordinary manner, under a commission of lunacy, or order for inquiry (A 100). In reference to such cases, it was recited in the "Lunacy Regulation Act, 1853" (16 & 17 Vict. c. 70) as the reason for so dealing with them, that the repeated expenses of proceedings under commission would

(1) *Windham, In re*, 31 L. J., Ch., 720.

(2) It may be remarked that many of the provisions of the "Lunacy Regulation Act, 1862" (25 & 26 Vict. c. 86) were suggested by the circumstances connected with the inquiry which took place in the case referred to. See Sir George Grey's speech, introducing the Bill into the House of Commons, May 20, 1862 (*Hansard*, vol. 166, p. 1974).

be much diminished under that Act, and that proceedings under commission would confer larger and more effectual powers for the protection, care, and management both of person and estate than those provisions which were previously applicable to such cases. There is, however, another class of cases, where the interference of the law is desirable as regards the management of the estate, though it may not be required as regards the custody of the person, and where, nevertheless, the estate is too small to render a commission of lunacy expedient, notwithstanding the diminution of expense. In any case of this kind, if it be established to the satisfaction of the Judge in Lunacy by the report of a Master, or by the report of the Commissioners in Lunacy, or by affidavit or otherwise, that the person in question is of unsound mind and incapable of managing his affairs, and that his property does not exceed £2000 in value, or £100 in yearly income, the Judge may, without directing any inquiry under a commission of lunacy, but after giving due notice to the alleged lunatic, make an order for rendering the property, or the income, available for his maintenance or benefit, or for the management of his property (**A** 116 (1*e*) and (4)). In furtherance of this object, the Judge is empowered to sell, charge, mortgage, or otherwise dispose of any property, and to direct the proceeds, or the dividends, or income, to be paid to any relative or other person for the maintenance or benefit of the insane person and his family (**A** 117). Rules may be made for regulating the procedure to be adopted in such cases (**A** 338).

Criminal Lunatics.]—Similar powers are given to the Judge (**A** 116 (1*f*)) with respect to any person who is or has been a criminal lunatic (see *post*, Part III.).

SECT. 3.—SINGLE PATIENTS IN UNLICENSED HOUSES.

Lunatics taken care of by Relatives.]—It has been already explained (p. 2, *ante*) that a lunatic does not come necessarily under the control of the law, but may be taken care of by his relatives or friends. The prerogative of the Crown does not prevent a relation or friend from confining a lunatic (2 Roll. *Abr.* 546), if it be deemed more expedient to adopt that course than to apply for a commission of lunacy. But if that course be adopted, those provisions which the law has made for the protection of the lunatic must be duly observed, whether he be kept as a single patient in an unlicensed house, or be confined with others in a private or public asylum.

Living with Relatives.]—An insane person may be taken care of privately in a house in which there is no other person similarly afflicted. Even if this be done by some relative, friend, or other person who derives no profit from the charge, an opportunity for general supervision is provided by the law (**A** 206); but in any particular case of a lunatic under the care of any person receiving or taking charge of such one lunatic only, and deriving no profit from the charge, as also in the case of any person detained or taken charge of as a lunatic, or represented to be a lunatic, it is lawful for the Lord Chancellor or the Home Secretary, at any time, by an order in writing under his hand, directed to the Commissioners in Lunacy, or any of them, or to any other person, to require the person or persons to whom the order is directed, or any of them, to visit and examine the lunatic, or alleged lunatic, and report upon the subject (**A** 205 (1)). The Lord Chancellor or the Home Secretary may likewise direct an inspection and report as to any place wherein any lunatic, or alleged lunatic, is detained (**A** 205 (1)). Any person wilfully obstructing any persons appointed to make such inquiries will be liable to forfeit £20, in addition to any other punishment to which he may be otherwise liable (**A** 321 (2)). And if any person detaining or having or taking part in the care or custody of any lunatic or alleged lunatic, in any way ill-treat, or wilfully neglect such lunatic or alleged lunatic, he may be indicted for misdemeanour, or may be fined £20 on summary conviction (**A** 322).

Taken care of by Committee.]—If the lunacy have been found by inquisition, and the lunatic be under the care of a committee appointed by the Lord Chancellor, such committee will be subject to the Lord Chancellor's control.

Boarded in Unlicensed Houses.]—If, however, the lunatic be received to board and lodge in the house of a person who is compensated by a pecuniary remuneration, express provision is made (**A** 315).

Statutory Enactments.]—The Annual Reports of the Commissioners in Lunacy show that this class of lunatics has received year by year increasing attention; and (as one of the results) the provisions of the first Lunacy Act (8 & 9 Vict. c. 100), now repealed, relating to that class, were considerably amended and enlarged by subsequent legislation. The main provisions upon the subject appear to be contained in **A** 198–200.

Ill-treatment.—If any person having the care or charge of a single patient, or any attendant of a single patient, in any way abuse, or ill-treat, or wilfully neglect such

patient, he (or she) is liable to a penalty of £20 on summary conviction, or to indictment for misdemeanour (**A** 322). The crime of Rape is also provided against (**A** 324).

Visits by Friends—Correspondence.]—See **A** 47.

Visitation by Commissioners.—One, or two, Commissioners may at all reasonable times visit a single patient, and inquire as to the treatment and state of health, bodily and mental, of the patient, and report thereon to the Commissioners; and such reports are to be entered by their Secretary, and, if the Commissioners think expedient, a copy is to be laid before the Lord Chancellor (**A** 199).

Removal—Discharge.]—The Commissioners may order the removal of the lunatic, and any person detaining him in contravention of such order will be guilty of a misdemeanour (**A** 76 (2)). As to discharge by relatives, see **A** 72, 74.

Visitation by County or Borough Visitors.]—On the request in writing of the Commissioners, or two of them, any single patient may be visited by the visitors of the county or borough in which the unlicensed house is situate (**A** 199 (2)).

Commission of Lunacy.]—It is desirable to notice the provisions of **A** 100, which enable the Commissioners in Lunacy to report to the Lord Chancellor, where the property of any person detained as a lunatic, but not so found by inquisition, is not duly protected; and the case is thereupon to be dealt with as an application for an inquisition. Where the property is small, however, a commission is not needed (**A** 116, 1 *e* (2)).

SECT. 4—PRIVATE LUNATICS IN REGISTERED HOSPITALS AND LICENSED HOUSES.

Legislation.]—As already stated (p. 19, *ante*), a lunatic may be taken care of by his relatives or friends; and if, instead of applying for a commission of lunacy, they think it better to place him in a private or public asylum, they can do so, subject to the regulations imposed by statute.

From the year 1774 (when the 14 Geo. III. c. 49, the first Act for the regulation of private madhouses, was passed) up to the year 1845, those establishments were subjected to supervision by a numerous succession of temporary Acts; including the 2 & 3 Wm. IV. c. 107 (passed in 1832), which authorised the Lord Chancellor to appoint annually a certain number of Commissioners, to be styled the "Metropolitan Commissioners in Lunacy,"

In 1844, these Commissioners presented to the Lord Chancellor a most interesting and valuable report, to which they appended several suggestions for the amendment of the law; and in the following year the then existing Acts were repealed, and the law upon the subject was placed upon a permanent footing by the statute 8 & 9 Vict. c. 100, which was passed on August 4, 1845. This Act was amended in 1853, by the 16 & 17 Vict. c. 96; and further amendments were subsequently made.

Two Classes—Houses and Hospitals.]—There are two classes of establishments to which the existing enactments apply—houses in which lunatics are received for profit, and hospitals. By the Interpretation clause (**A** 341) it is declared that the word "hospital," as used in the Act, means "any hospital or part of an hospital or other house or institution (not being an asylum) wherein lunatics are received, and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients." There is, therefore, a marked distinction between the two classes of establishments; but they are dealt with by the Act very much on the same footing, and placed under similar control. The houses, however, are to be licensed, but the hospitals registered.

Hospitals to be Registered.]—Every hospital in which lunatics are received is required to have a medical practitioner resident therein, as the superintendent and medical officer. (**A** 230.)

Boarders in Hospitals.]—A question was once raised, whether persons can be lawfully received as voluntary boarders in such hospitals, who, though not insane, and being in all respects free agents, may nevertheless be conscious of a want of power of self-control, or of addiction to intemperate habits, or of a liability to an attack or recurrence of mental malady, and may therefore be desirous of residing in an institution of this kind. The Commissioners in Lunacy (see 17th *Report*, p. 13, and Appendix F) having consulted counsel (Mr. Welsby) on this question, were advised that there appeared to be nothing in the statutes to prevent the admission of the persons referred to as voluntary boarders into registered hospitals, and that there would apparently be no difficulty in enforcing legally the stipulations and conditions of any agreement, by bond or otherwise, for their residence therein. By **A** 231 (8) they are evidently contemplated.

Idiots and Imbeciles.]—Of the institutions which have

sprung up of late years, for training idiots and imbeciles, some are in their nature hospitals for the insane, whilst others are institutions carried on for profit.

Registration of Hospitals.]—The registration of the hospital by the Commissioners used to be little else than a ministerial act; but **A** 23 materially alters the position of such institutions. The Commissioners are invested with extensive powers of inspection and control. They may issue in the first instance what is to be only a Provisional certificate of Registration. Then within three months the Committee of Management are to submit Regulations to be observed in the hospital; which may be varied from time to time. The Regulations when approved are to be printed, and one copy is to be sent to the Commissioners, and another kept hung up in the hospital (**A** 232 (2)).

Houses to be licensed.]—Whilst hospitals are merely to be registered, every house for the reception of lunatics (*i.e.*, of more than one lunatic [1]) must be licensed (**A** 210). Any person receiving two or more lunatics into any house without a licence, or keeping them there after the lapse of two months from the expiration of the licence, or after its revocation, is guilty of a misdemeanour (**A** 222); and after the expiration or revocation of any licence, the powers of the Commissioners and Visitors, and the provisions of the Lunacy Acts, continue in force for all purposes, in the same manner as if the licence were still subsisting, so long as any lunatics are detained in the house (**A** 223).

By whom.]—The licences are granted by the Commissioners in Lunacy, within the limits of what is termed their "immediate jurisdiction;" and by the justices in quarter sessions, in all places beyond those limits (**A** 208 (1–2)).

Licensing by the Commissioners in Lunacy.

The limits of what is termed the "immediate jurisdiction" of the Commissioners in Lunacy comprise the following places, namely:—

The City of London,
The City of Westminster,
The County of London,
The County of Middlesex,
The Borough of Southwark.

(1) Unless in virtue of **A** 46 the residence of a second or third patient is permitted by the Commissioners in a house not intended to be a licensed house.

The following places in the county of Surrey :—

Barnes,	Mitcham,
Kew Green,	Mortlake,
Merton,	Wimbledon.

The following place in the county of Kent :—

Southend.

The following places in the county of Essex :—

East Ham,	Plaistow,
Leyton,	Walthamstow,
Leytonstone,	West Ham.
Low Leyton.	

And every other place (if any) within the distance of seven miles from any part of the cities of London and Westminster, or borough of Southwark. (**A**, Sched. III.)

In all the places above-mentioned, the power of granting the licences, according to their discretion, rests with the Commissioners in Lunacy (**A** 208 (1)). No person, however, can act in granting any licence, if at the time, or within a year preceding, he is or has been interested in a licensed house (**A** 208 (3)).

When.]—The Commissioners in Lunacy, or five of them, are required to meet, at their office, or as the Lord Chancellor may direct, on the first Wednesday in February, May, July, and November, in every year, to receive and determine the applications for licences; and they are further empowered to receive and determine such applications at any special meeting duly summoned for the purpose (**A** 159).

Conditions—Residence.]—The system of licensing having been in force for many years (about 116 years in fact, reckoning from the original Act of 1774), there were many houses actually licensed at the time of the passing of the Act of 1890. Different provisions have therefore been made with regard to houses so licensed, and those for which licences may first be applied for subsequently to the date of the last-named statute. In point of fact it may be said that no new licences ever will be granted at all, the policy of the Act of 1890 being to extinguish private lunatic asylums altogether. The new licences which will be granted are no more than extensions, under conditions, of licences which were in some sense in existence on March 29, 1890, the date of the passing of the new Act. What those conditions are will be found stated with all sufficient clearness in s. 207, *et seq.*, of the Act.

Application.]—The person or persons applying for a licence will have to do so in accordance with certain rules

not set out in the statute itself, but made under powers conferred by the statute. These rules will be given *post.*

Discretion.]—An absolute discretion is vested in the Commissioners to grant or to withhold the licence applied for, as they think fit (**A** 207 (1)). There seems no appeal.

Form of Licence.]—The form in which the licence, when granted, is to be given by the Commissioners, is prescribed by the Act (**A**, Schedule II, Forms Nos. 18 and 20).

Cost.]—The licence bears a 10*s.* stamp; and a fee is to be paid for it, according to a prescribed rate (**A** 217).

Duration.]—The licence is to be granted for such period, not exceeding thirteen calendar months, as the Commissioners may think fit (**A** 216).

Alteration of Premises.]—Previous notice, accompanied by a plan, must be given to the Commissioners, and their consent obtained, where any addition or alteration is proposed to be made, in the case of any house licensed by them (**A** 213).

Change of Premises.]—Special provision is likewise made for granting a licence, for such time as the Commissioners may think fit, for the transfer of the patients to another house from any house licensed by them, where the transfer becomes necessary or expedient for any reason (**A** 219).

Transfer of Licence.]—Where the licensee dies, or becomes incapable, the Commissioners may, by indorsement, transfer the licence, for the unexpired term, to the superintendent of the house or other person approved by them (**A** 218 (1)).

Revocation—Prohibition of Renewal.]—On the recommendation of the Commissioners, the Lord Chancellor may revoke or prohibit the renewal of any licence granted by them; due notice in either case being given to the person concerned, and, in the case of a revocation, being also published in the *London Gazette* (**A** 221). To detain lunatics after the expiration or revocation of a licence is a misdemeanour (**A** 222).

Inspection.]—This matter is dealt with in great detail in ss. 191—200 of the Act of 1890. On the first visit to the house after the granting of the licence, the Commissioners are to examine it, and if they find it correct, to sign it; but if they find it to be informal, they are to make an entry accordingly in the Visitors' Book (**A** 192).

Infringement of terms of Licence.]—See *post.*

Quarter Sessions.

The course pursued with regard to the licensing at quarter sessions is very similar to that just described with regard to the licensing by the Commissioners; but with some important modifications. In all places not within the "immediate jurisdiction" of the Commissioners, the justices for the county or borough assembled in general or quarter sessions have the same authority for granting licences as the Commissioners have within their "immediate jurisdiction" (A 208 (2)). With respect to boroughs, it is provided that the justices of every borough shall for the purposes of the Act assemble in special sessions at such times as the quarter sessions for the borough shall be holden (A 209). Whether in counties or boroughs, however, no person can "act in granting any licence," if at the time, or within a year preceding, he is or has been interested in a licensed house (A 208 (3)).

Conditions—Residence.]—The remarks already made upon this point. with regard to licences granted by the Commissioners (see p. 24, *ante*), apply equally to licences granted by the justices (A 208 (2)).

Application.]—The person or persons applying for a licence will have to do so in accordance with the Rules issued by the Commissioners. (See *post.*)

Discretion.]—An absolute discretion is vested in the justices to grant or to withhold the licence applied for, as they think fit; the authority conferred upon them being the same as that which is conferred upon the Commissioners (A 208 (2); and 207). It will be observed, however, that where a licence is applied for in respect of a house not previously licensed, the justices are not to decide until they have received and duly considered the report of the Commissioners (A 210). With regard to houses previously licensed, the copies transmitted to the Clerk of the Visitors (see the Rules, *post*), of the entries made by the Visiting Commissioners or Visiting Justices since the grant or last renewal of the licence, are to be laid before the Justices on their taking into consideration the renewal of the licence to any house to which such entries relate.

Form of Licence.]—A form for the licence is prescribed by the Act for the case of a licence being granted by the justices for a house not previously licensed. This form recites that the application having been transmitted to the Commissioners in Lunacy, their report in reference to it has been received, and has been taken into consideration by the justices (A, Sched. II., Form 19).

Copy to be sent to Commissioners.]—In every case a copy of the licence granted by justices is to be sent by the Clerk of the Peace to the Commissioners in Lunacy. Penalty for default, 20*s.* (**A** 215).

Cost.]—The stamps and fees are the same as in the case of licences granted by the Commissioners (**A** 217).

Duration.]—The licence is to be granted for such period, not exceeding thirteen calendar months, as the justices may think fit (**A** 216).

Alteration of Premises.]—Where any addition or alteration is proposed to be made as regards any house licenced by justices, notice, accompanied with a plan, must be sent to the Clerk of the Peace, and the consent in writing of two of the visitors must be previously obtained (see the Rules); and the consent of the Commissioners to the proposed additions or alterations is also required (**A** 213).

Change of Premises.]—Special provision is likewise made for the transfer of the patients to another house from any licensed house, where the transfer becomes necessary or expedient.

Transfer of Licence.]—In case of the death or incapacity of the licensee, similar powers to those conferred upon the Commissioners (*ante*, p. 25) may be exercised by "any three justices for the county or borough" (**A** 218 (1)).

Revocation—Prohibition of Renewal.]—On the recommendation of a majority of the justices of any county or borough, in general or quarter sessions assembled, the Lord Chancellor may revoke any licence granted by the justices for such county or borough; and on the recommendation of the Commissioners in Lunacy, the Lord Chancellor may revoke or prohibit the renewal of any licence granted by any justices; due notice in either case being given to the person concerned, and in the case of a revocation, being also published in the *London Gazette* (**A** 221). To detain lunatics after the expiration or revocation of a licence is a misdemeanour (**A** 222).

Inspection.]—The duty of the Commissioners as to inspecting the licence (*ante*, p. 25) applies to every house licensed by justices, as well as those licensed by the Commissioners (**A** 192). Moreover, the manager of the licensed house is required to produce the licence to the visitors at every visit; but it does not appear that any particular duty with respect to it is cast upon the visitors, except that of signing an acknowledgment that the licence, as well as certain other books, have been duly produced (**A** 196).

Infringement of terms of Licence.]—The Act imposes a heavy penalty for any infringement of the terms of any licence, as regards either the number or the sex, or the class of the patients received. The penalty is £50 in respect of each patient (**A** 220).

Visitation.

Extreme care has been taken by the Legislature to provide for the visitation of registered hospitals and licensed houses, so as to bring them under constant supervision, and to afford the most ample protection to the unfortunate and helpless persons confined within them. According to the general scheme of the "Lunacy Act, 1890," all registered hospitals, wherever situated, and all licensed houses within the "immediate jurisdiction" (p. 23, *ante*), are placed under the supervision of the Commissioners in Lunacy; whilst all licensed houses situated in districts beyond the limits of the "immediate jurisdiction," are placed under the supervision of visitors, and also of the Commissioners in Lunacy. Special provision is likewise made for the medical visitation of all licensed houses in which there is no resident medical superintendent (**A** 191, 193, 198).

Registered Hospitals.]—Every hospital in which lunatics are received is to be visited, without previous notice, by two, at least, of the Commissioners (one being a medical practitioner and the other a barrister), once at least in every year; such visits being made at such times as the Visiting Commissioners may think fit, and also at such other times (if any) as the Commissioners shall direct (**A** 191 (4–6)). In addition to these visits, any hospital may be visited at any time by any one or more of the Commissioners (**A** 191 (1)).

Licensed Houses within "immediate jurisdiction."]—Every licensed house within the "immediate jurisdiction" of the Commissioners is to be visited six times a year. Four times by two, at least, of the Commissioners (one being a medical practitioner and the other a barrister), and twice by one or more of the Commissioners; such visits being made at such times as the Visiting Commissioners may, subject to any directions of the Commissioners in Lunacy, think fit (**A** 191 (2–3, 5–6)). The Lord Chancellor, however, on the representation of the Commissioners, may direct that any house licensed by them, and not receiving pauper patients, shall be visited twice only in the year (**A** 191 (7)). In addition to these visits,

every licensed house not within the "immediate jurisdiction" may be visited at any time, and must be visited twice at least in every year, by any one or more of the Commissioners (**A** 191 (3)).

Powers and Duties of Visiting Commissioners.]—When visiting any such hospital or licensed house, the Commissioners are invested with large powers of inquiry, and the subjects into which they are specially to inquire are prescribed by the Act of 1890. Thus it is incumbent upon them to inspect the whole of the premises; to see every patient; to ascertain whether any patient is under restraint, and, if so, why; to inspect the orders of admission and medical certificates, and in certain cases the licence, as well as the books required to be kept, and other documents. They are also to inquire as to the performance of Divine service; the occupations or amusements of the patients; the system of treatment, and other matters; and to enter the result of their inspections and inquiries in the "Visitors' Book," and any remarks they may think fit to make in the "Patients' Book" (**A** 194 and 196).

Obligations of Managers.]—A corresponding obligation is imposed upon the manager in every case, requiring him to show the premises and the patients, to answer the inquiries, and to produce the books and other documents (**A** 195–6).

Copies of Entries.]—Copies of the entries made by the Visiting Commissioners in the "Visitors' Book," the "Patients' Book," and the "Medical Visitation Book," are to be forwarded to the Commissioners in Lunacy by the proprietor or resident superintendent of the licensed house or hospital, within three days after the visit. (See the Rules.)

Visits by Night.]—Any one or more of the Commissioners may visit and inspect any licensed house, or hospital, at such hour of the night as they may think fit (**A** 119).

Special Visits.]—Any two or more of the Commissioners may visit any patient in any licensed house, and after two visits, with an interval of seven days between them, may order his discharge, if they think fit (**A** 75).

Licensed Houses beyond "immediate jurisdiction."]—For the visitation of houses licensed by justices, in places beyond the "immediate jurisdiction" of the Commissioners, it is provided that visitors shall be appointed in every county or borough at the Michaelmas quarter sessions in every year, consisting of three or more justices, who are to act gratuitously, and one (or more) medical practitioners, who are to be remunerated. In the event of

death, inability, disqualification, resignation, or refusal to act, the vacancy may be supplied at any quarter sessions. The Clerk of the Peace is to publish a list of the visitors, and to send a copy to the Commissioners; and he or some other person appointed by the quarter sessions, is to act as the paid clerk to the visitors, and his appointment is to be published. An assistant clerk may also be employed. But no person interested in a licensed house (or who within a year has been so interested) can act as visitor, clerk, or assistant clerk. A declaration is to be taken by each (**A** 177–81). Provision is made for dealing with the money received for licences (**A** 224–5). (See also **A** 182.)

Visitation by Visitors.]—Two at least of the visitors (one being a medical practitioner) are to visit each licensed house within their jurisdiction four times a year, at least, and at such other times as the justices may direct; and in addition, each house may be visited at any time, and must be visited twice a year, by one or more of the visitors (**A** 193). For this purpose, the powers conferred and duties imposed upon the visiting justices are very similar to those of the Visiting Commissioners (see p. 29, *ante*); corresponding obligations being likewise imposed upon the managers of the houses visited (p. 29, *ante*). Moreover, it is provided that the visitors shall be summoned by their clerk to meet at such time and place, for the purpose of executing their duties, as they may think proper; but that the times and places of such meetings shall be kept secret, and each meeting held as privately as may be, and in such manner that no manager or person interested in or employed about or connected with any house to be visited shall have notice of any intended visitation (**A** 181).

Copies of Entries.]—Copies of the entries made by the visitors in the different books are to be forwarded by the manager, within three days after the visit, to the Commissioners in Lunacy, and also to the clerk of the visitors; and these copies are to be laid before the justices when the renewal of the licence is considered. (As to these matters see the Rules.)

Night Visits.]—Any two visitors may visit and inspect any licensed house within their jurisdiction, at any such hour of the night as they shall think fit (**A** 193 (1)).

Special Visits.]—Any two or more visitors of any licensed house (of whom one must be a medical man) may make special visits to any patient therein (with certain exceptions); and after two such visits may, if they think fit,

order his discharge; the exercise of this power being subject, however, to certain restrictions (**A** 78).

Visitation by Commissioners.]—In addition to the visitation by the visitors, every licensed house not within the "immediate jurisdiction" of the Commissioners in Lunacy is to be visited, without previous notice, by two, at least, of the Commissioners (one being a medical practitioner, the other a barrister) twice at least in every year (**A** 191 (3)); and any such house may also be visited at any time by any one or more of the Commissioners (**A** 191 (1)). Their powers and duties, and the corresponding obligation of the managers, are similar to those which relate to the visitation of houses within the "immediate jurisdiction"; but it is further required that the Visiting Commissioners shall consider the observations made in the "Visitors' Book" by the visitors (**A** 194 (1 *d*)), and shall also carefully consider the state of mind of any patient, the propriety of whose detention may seem to them doubtful, or whose sanity may be specially brought under their notice (**A** 197 (1)). If in any such case they make a minute in the "Patients' Book," a copy is to be forthwith sent by the manager to the clerk of the visitors; and the visitors, or two of them (one being a medical man), are thereupon required to visit the patient immediately, and to act as they shall see fit (**A** 197 (2)).

Copies of Entries.]—Copies of the entries made by the Visiting Commissioners are to be sent, as in the case of other visits, to the Commissioners in Lunacy, and also to the clerk of the visitors, to be laid before the justices when the renewal of the licence is considered (as to this matter see the Rules).

Night Visits.—The authority of the Commissioners to visit by night applies to all licensed houses, whether licensed by themselves or by justices (**A** 191).

Special Visits.]—Any two or more of the Commissioners (one being a medical man and one a barrister) may make special visits to any patient (with certain exceptions) detained in any house licensed by justices, and, after two such visits, may order his discharge; the exercise of this power being subject, however, to certain restrictions (**A** 75–6).

Objects and Results.—The great importance of the general system of visitation to which licensed houses and registered hospitals are now subjected, can scarcely be overrated. Its objects and results are thus concisely noticed in the "Further Report" of the Commissioners,

in 1847 (p. 61). "To ascertain that the patient is duly confined; that he has medical aid, fit attendance, and proper comforts during his confinement; that he is provided with employment and amusement; that his food is good, and his place of residence healthy, clean, well-ventilated and in good order; that he himself is not ill-treated, neglected or improperly restrained; and finally, that he is liberated when fit for liberation, are amongst the duties imposed upon the various visitors, and concurrently with them, upon this commission." "We are satisfied that the good condition of these establishments, more especially of the licensed houses, is mainly owing to the special supervision to which they are constantly subject." "Without adverting to the many cases where persons have been restored to the world by means of such intervention, important benefits and comforts of various sorts have been obtained for insane patients by the present system of inspection and supervision. The dwellings for the insane are no longer the gloomy prisons in which they were formerly confined; cleanliness, warmth, and ventilation are insisted upon; better diet, clothing, and bedding have been provided; personal restraint is diminished, and even where still employed, its severity is greatly mitigated, and its application strictly watched; the health and mental condition of the lunatic are more carefully considered; occupation and amusement are more generally afforded to him, and in all respects better treatment is secured; whilst an opportunity is periodically given to him of representing any hardship to which he may have been subjected, an advantage which, as is found by experience, many patients fully appreciate." Again (p. 93), "These facts will tend to show how advantageous, and indeed how necessary, is the frequent visitation of all asylums. It is indispensable that powers of supervision should exist in every case, that they should be vested in persons totally unconnected with the establishment, and that the visitations should not be limited in point of number, and should be uncertain in point of time; for it is most important to the patients that every proprietor and superintendent should always be kept in expectation of a visit, and should thus be compelled to maintain his establishment and its inmates in such a state of cleanliness and comfort as to exempt him from the probability of censure. We are satisfied, from our experience, that if the power of visitation were withdrawn, all or most of the abuses that the Parliamentary investigations of 1815, 1816, and 1827 brought to light, would speedily revive,

and that the condition of the lunatic would be again rendered as miserable as heretofore."

Medical Visitation.]—Where there is not a medical superintendent resident in any licensed house, provision is made for the regular visitation of such house by a medical attendant (**A** 228); but this point will be more fully noticed hereafter.

Visits by Friends.]—Provision is likewise made to enable the friends of the lunatics confined in any licensed house, or hospital, to visit them (**A** 47); but this point also will be more fully noticed hereafter.

Management.

The following remarks must be understood to apply to all registered hospitals and licensed houses (whether licensed by the Commissioners or by the Justices), unless some limitation be expressed.

Regulations.—Regulations are to be framed by the committee of every registered hospital, and submitted to one of the Secretaries of State: and when approved by him, are to be printed, and to be observed (subject to alterations, with the like approval). And a copy is to be sent to the Commissioners, and another copy kept hung up in the visitors' room of the hospital (**A** 231-2).[1] The Commissioners may, with the sanction of one of the Secretaries of State, make regulations for the government of any licensed house. A copy is in such case to be transmitted to the manager to be observed by him (**A** 226).

Medical Superintendent or Attendant.]—In every hospital there must be a medical practitioner resident therein, as the superintendent and medical officer thereof (**A** 230). As to licensed houses, the provision is different. In every house licensed for 100 patients or more, the residence of a medical practitioner, as the manager and medical officer, is compulsory; in other cases there is a scale of medical attendance prescribed dependent on the number of the patients for which the house is licensed, whether below 11, or below 50, or below 100, as the case may be (**A** 228).

Medical Visitation Book.]—This book is to be duly kept in every house and hospital, by the medical superintendent or attendant. It is to be in the form prescribed by the Rules of the Commissioners.

Medical Case Book.]—The medical superintendent or

(1) See *Ninth Report* of Commissioners in Lunacy, 1855, pp. 10–19; and Appendix B, pp. 48–75.

attendant is also to keep a book to be called "The Case Book," the form of which the Commissioners in Lunacy are empowered to prescribe by Rules.

Patients.]—The "Lunacy Act, 1890," contains numerous and minute provisions with regard to the admission, treatment, discharge, and other important points connected with the custody, care, and control of the patients received into these establishments. The detailed enactment upon each point should be carefully studied in the Act itself; as a due observance of those enactments is of the utmost importance, as well for the benefit of the insane persons who are confined under the authority of the law, as for the protection of the medical men and others by whose agency they are so confined, or to whose care they are thus entrusted. The principal points appear to be these:—Admission; treatment; visits of friends; temporary absence for benefit of health, or on trial; escape and recapture; removal or transfer to another establishment; discharge on recovery, or otherwise; death.

Admission—Orders.]—To authorise the confinement in any licensed house, or hospital, of an insane person who has not been found lunatic by inquisition, it is required that there shall be an order of Justices petitioned for by some relative or friend of the lunatic, and supported by the certificates of two medical men (**A** 4, 5). This document is based upon a request. It is, indeed, an authority rather than an Order; the reception of the patient into the particular establishment being a matter of voluntary arrangement and agreement between the proprietor or manager on the one hand, and the friends of the lunatic on the other. The person who undertakes the responsibility of signing the request (called, however, a petition for an Order) is required (amongst other things) to state his "connection or relationship with the patient" (see the form in **A**, Schedule II., Form 1); and he must himself have seen the patient within fourteen days prior to the presentation of the petition, he must specify the time and place at which he last saw the patient, and engage to visit the patient either personally or by deputy, at least every six months. A statement of certain particulars is required to be appended to the order; but it need not be signed by the same person (**A**, Schedule II., Form 2). Provision is made for the admission of patients in circumstances of great emergency (**A** 11).

In the case of a person found lunatic by inquisition an order signed by the committee appointed by the Lord Chancellor, and having an office copy of such appointment

annexed or signed by a Master, is a sufficient authority for his reception into any Institution for Lunatics (**A** 12).

Responsibility of Medical Men.]—The medical men who sign these certificates necessarily do so under grave responsibilities. Any medical man signing a false certificate, is guilty of a misdemeanour (**A** 317).[1] The responsibility of medical men now stands on a much better defined footing than it formerly did. They will now be held harmless if they have acted in good faith and with reasonable care, and of this latter issue a Judge of the High Court has to decide (**A** 330). This alteration of the law was first enacted by the "Lunacy Amendment Act, 1889," and some cases were tried under it before it was embodied in the Consolidation Act of 1890.[2] The general principle appears to be that on the defendant against whom proceedings are taken lies the *onus probandi* as to having acted in good faith and without negligence; and that where his defence on these grounds is overruled, the trial of the action will proceed on its merits. Then the question of bad faith and negligence becomes in some degree one of evidence on details, and here the somewhat old case of *Hall* v. *Semple*[3] comes in to illustrate the doctrines laid down by the Courts. *Hall* v. *Semple* is referred to in the *Seventeenth Report* of the Commissioners in Lunacy (1863, pp. 30–32) as follows:—The subject of medical certificates, and the necessity for the utmost caution on the part of the medical practitioners who sign them, and the proprietors and superintendents who receive the patients to whom they relate, were, during the last year, brought prominently before the public in the case of *Hall* v. *Semple*, when the plaintiff obtained a verdict with £150 damages against the defendant, for having signed one of the certificates for his admission into Munster House, Fulham. The charge was, that Dr. Semple had negligently and culpably failed duly to inquire into the truth of the facts, from which mainly he drew his conclusion that Mr. Hall was insane; and in the course of the trial, which lasted five days, the law applicable to the case was fully discussed, and ably and elaborately laid down by the presiding judge. Upon being questioned by Mr. Justice Crompton, the jury stated their opinion that Dr. Semple *bonâ fide* believed that in what he did he was authorised by the Act, although he

(1) As to the prosecution of two medical men (*Reg.* v. *Dawson and another*) for signing certificates without examining the patient, see *Sixth Report* of the Commissioners (1851), p. 19.

(2) See especially *Toogood* v. *Wilkes*, Winchester Summer Assizes, 1889, *Coram*, Field, J.

(3) 3 F. & F., 337.

did it negligently; upon which Mr. Justice Crompton observed, "That is a verdict for the plaintiff, on the ground of culpable negligence and want of reasonable care and probable cause;" to which the jury assented.

"The second certificate for Mr. Hall's reception, signed by Mr. Guy, a surgeon, purported to be founded upon the examination of the patient upwards of six weeks prior to its date; whereas the 4th section of the Act 16 & 17 Vict. c. 96 requires that the patient should have been examined not more than seven clear days previously to his reception.

Mr. Hall was admitted into Munster House on the 31st July, 1862; and on the 2nd August, before any return respecting him had been made to our office, the house was visited by two members of this Board, whose attention was particularly directed by Mr. Elliott, the proprietor, to the case of Mr. Hall, as apparently not insane. The Visiting Commissioners, who, without such an intimation, would have specially examined Mr. Hall, had a long, separate interview with him, during which the irregularity and invalidity of Mr. Guy's certificate transpired. Mr. Elliott was at once informed by the Visiting Commissioners that he could no longer legally retain Mr. Hall as a patient, and they made the following entries relative to his case in the "Visitors' Book:"—

VISITORS' BOOK.

"*2nd August*, 1862.

"We had a long and special interview with the patient last received" (Mr. Hall), "and which suggested the necessity of a full inquiry into his case and history. On examining the certificates under which he was admitted on the 31st ultimo, it appeared that one of them" (Mr. Guy's), "dated the 29th of July, was founded on a visit to the patient on the 13th of June, and is consequently wholly invalid. It follows that the patient can no longer be legally detained."

"Mr. Hall was, upon this ground, forthwith discharged by Mr. Elliott. But it became our duty to consider the propriety of taking legal proceedings against Mr. Guy for having signed a certificate contrary to the provisions of the Act, and against Mr. Elliott for a misdemeanour in having received a patient on such a certificate.

"Mr. Guy, in explanation, pleaded ignorance of the law respecting the dates of signing and examination, and stated that he had, in fact, seen Mr. Hall several times subsequently to his examination, and once within three or four days before signing the certificate.

"As respects Mr. Elliott, who merely pleaded inadvertency in omitting to observe the date of the examina-

tion, a letter was addressed to him by the solicitors of the Board, from which the following is an extract:—

"We are instructed by the Commissioners to say, that, having fully considered your explanation, they cannot think it satisfactory. In their opinion there is no part of the duty of the proprietor of a licensed house which requires greater care than the examination of certificates. Your long experience ought to have rendered you familiar with the particulars in regard to them, which demand special attention. The Commissioners, therefore, consider your negligence on this occasion as a most grave offence. They instruct us, however, to say that, although they will at present forego any further proceedings, yet, in the event of a similar occurrence, they will, without fail, institute a prosecution against you." Subsequently to the trial of the action, *Hall* v. *Semple*, it appeared to the Commissioners expedient that they should again address Mr. Elliott in reference to his illegal reception of Mr. Hall, and, in order to the promulgation of their views, to circulate generally copies of their communication.

Records and Returns.]—On the admission of a patient, certain records and returns are required to be made, which must be carefully attended to.

The Register.]—In a book, which is to be called "The Register of Patients," and which is to be kept according to a prescribed form, the name and certain other particulars relating to the patient are to be entered (Rule 1 (1 *b*); 2).

Notice to Commissioners.]—Within one clear day after the patient's reception, a notice of his admission, accompanied by a copy of the order and medical certificate on which the patient was admitted, must be sent to the Commissioners; and after two but within seven days from his reception, a "Medical Statement" with respect to his mental state and bodily health must also be forwarded. This medical statement or report will refer to the condition of the patient, not on admission, but after at least two days' observation of the case. (Rule 7 (3): Sched., Form 7).

And to Visitors.]—In the case of a house licensed by justices, similar documents are likewise to be sent to the clerk of the visitors, within the times limited as just stated. (Rule 7 (4)).

Further Report.]—At the end of one month a further report (according to Form 9 of the Schedule to the Rules) is to be sent to the Commissioners, &c. See these provisions in detail in **A** 39.

Treatment of Patients.]—It has been already stated that in every establishment ample provision must be made for medical attendance (p. 33, *ante*). Various books are to be kept, and amongst other things, the books must contain the name of every patient who is placed in seclusion, or under medical treatment, or who has suffered any injury or act of violence; as well as a correct description of the medicine and other remedies prescribed. A separate Register has to be kept of the application (if any) and of the cause, duration, &c., of mechanical restraint. The Commissioners may at any time call for copies of the entries in the books. Both the Commissioners and the Visitors, at their visits, are especially required to direct their attention to the system adopted, whether that of non-coercion or otherwise, as well as to the cases of the patients actually placed under restraint; and also to the occupations or amusements of the patients, and other points affecting their treatment (**A** 187, 194, and the Rules). With regard to the general subjects of medical and moral treatment, diet, classification, occupation, amusement, exercise, restraint, religious observances, and other similar matters, very full observations will be found in the *Reports* of the Commissioners for 1844 and 1847.

Ill-treatment.]—If any manager, officer, nurse, attendant, servant, or other person employed in an institution for lunatics, or any person having charge of a lunatic, in any way ill-treats or wilfully neglects any patient, he or she may be fined £20, or be indicted for misdemeanour (**A** 322, 328).[1] And if any nurse or attendant be dismissed for misconduct, the dismissal, and the cause of it, must be reported to the Commissioners within one week (Rules). "The object of this provision is, by means of a central register, available for general reference, to prevent improper persons from being employed in the care of the insane. It is very important that this enactment should be made known to all attendants." (*Eighth Report of the Commissioners*, 1854, Appendix B. p. 63; see also *Ninth Report*, 1855, pp. 40, 41; and *Seventeenth Report*, 1863, p. 38). As to carnal abuse of a female patient, see **A** 324.

Attendants.]—With respect to the qualifications, duties, remuneration, and other points connected with the important subject of the day and night nurses and other attendants, much valuable information may be derived from the Reports of the Commissioners (see especially,

(1) As to the prosecution of an attendant for manslaughter (*Reg.* v. *Hill*, 5 Cox C. C. 259), see *Sixth Report* (1851), pp. 17–19.

Ninth Report, 1855; *Eleventh Report*, 1857; *Thirteenth Report*, 1859; and *Seventeenth Report*, 1863). Female patients are not to be attended by male attendants except in cases of emergency (**A** 53).

Visits of Friends—Correspondence.]—Provision is made to enable the friends of persons confined, or supposed to be or to have been confined as lunatics, to obtain information concerning them from the Commissioners and Visitors (**A** 51), and to visit them whilst in confinement (**A** 47). The correspondence of patients is dealt with in **A** 41.

Escape and Re-capture.]—Notice of every escape and re-capture is to be given to the Commissioners; and in the case of a house licensed by justices, to the visitors also (Rules). If retaken within fourteen days, the lunatic may be retained under the original order and certificates; but not otherwise (**A** 85). If the escape occur through the neglect or connivance of any manager, officer or servant, he will be liable to a penalty of £20, which cannot be reduced below £2 (**A** 323).

Temporary Absence.]—Provision is made for sending or taking any patient, for the benefit of his health, to a specified place for a definite time; and also for permitting him to be absent on trial, for such period as may be thought fit (**A** 55 (3)). The Medical Officer may of his own authority permit a patient to be absent for a period not exceeding forty-eight hours (**A** 55 (7)).

Removal or Transfer.]—If, in consequence of ill-treatment, or for any other reason, it is deemed advisable to remove or transfer any patient from one establishment to another, this may be done by any person having authority to order his discharge with the consent in writing of one Commissioner. Fresh medical certificates need not be obtained, but the original reception order, &c., must be handed over, and copies of the order for removal must be given to the manager of each of the institutions or houses affected (**A** 59, 70). Neglect to give the necessary notices involves indictment for misdemeanour or a penalty (**A** 316).

Special Examination.]—Provision is made for a special examination of a patient when any person deems such to be necessary (**A** 49).

Discharge on Recovery, or otherwise.]—On the recovery of any patient, notice is to be given to the person who signed the petition for the reception order, or by whom the last payment was made; and if the patient be not removed within seven days he is forthwith to be dis-

charged (**A** 83). Any private patient may be discharged or removed, whether recovered or not, by the order in writing of the person who signed the petition for a reception order (**A** 72 (1)); or, in the event of his death or incapacity, of some other person authorised to act in his stead (**A** 72 (2)); but if the lunatic be dangerous, the consent of the Commissioners or Visitors must be obtained for his discharge (**A** 74). If there be no person qualified, or able or willing, to order the discharge (**A** 72) the Commissioners may do so (**A** 72 (3)).

Power is also given to the Commissioners, and the Visitors, under certain circumstances and after special visits, to discharge any patient who is detained without sufficient cause (**A** 75, 77, 78). But s. 78 does not apply to a lunatic so found by inquisition.

Every discharge must be entered in certain books according to the requirements of the Rules.

Death.]—Rule 24 prescribes that certain things shall be done on the death of any patient; a statement of the cause of death, with the name of any person present, must be drawn up and signed by the medical attendant; and a certified copy must be sent by the manager within forty-eight hours to the following persons, viz.:—The Commissioners; the relation named in the Reception order; the registrar of deaths for the district; and, in the case of a licensed house, the clerk of the visitors. The death must be entered in the "Register" by the manager, and in the "Medical Case Book" by the medical attendant. A certified copy of the statement is to be transmitted within two days to the coroner, so that he may hold an inquest if he deems it necessary (**A** 84).

SECT. 5.—PRIVATE LUNATICS IN COUNTY OR BOROUGH ASYLUMS.

Admission.]—Whenever it appears to the visiting committee of any asylum, that such asylum is more than sufficient for the accommodation of the pauper lunatics for whom it was intended, the committee may, if they think fit, resolve to permit the admission of other pauper lunatics (**A** 270 (1)). Such resolution may require that no such lunatic shall be admitted without an undertaking by the guardians of the union to which the lunatic is chargeable for the due payment of the expenses of maintenance of such lunatic during his continuance in the asylum, and of the expenses of his burial in case he die therein, as well as for his removal within six days

after notice in writing by the manager of the asylum (**A** 270 (2)). A Local Authority may provide asylum accommodation for pauper and private patients together or in separate asylums (**A** 231). If this policy comes into vogue generally, it may eventually lead to the extinction of private lunatic asylums.

Other Provisions.]—The various provisions with regard to private lunatics received into public asylums, their admission, their medical certificates, the records and returns relating to them, their treatment and ill-treatment, correspondence, escape and recapture, transfer, removal and discharge, and death, are similar to, though not precisely identical with, those already detailed with respect to private lunatics in licensed houses and registered hospitals. They will be found (*inter alia*) in the following enactments:—**A** 12, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 47, 51, 56. 59, 70, 72, 74, 78, 79, 82, 205, 322.

Half-yearly Lists.]—The clerk of every asylum receiving private patients is required, on the 1st January and the 1st July in every year, to prepare a list containing the names of all the private patients in the asylum, and within fifteen days afterwards to transmit such list to the Commissioners in Lunacy (Rule 25 (3)). He is also, within the same time, to make out a certificate under his hand of the number of private patients of each sex, and to transmit it to the clerk of each Local Authority, to be laid before the Local Authority (Rule 25 (3)).

SECT. 6.—LUNATICS WANDERING AT LARGE OR NOT UNDER PROPER CARE.

Notwithstanding the various provisions of the law which have been described in the foregoing pages for ensuring the due care and treatment of lunatics when placed in confinement, there may still be cases which those provisions will not meet, and which may in fact be beyond their scope. A lunatic, for example, may be wandering about, away from all control; or he may be under the control of his relatives or friends, and nevertheless improperly treated. Such cases may be dealt with under the Act of 1890.

Wandering at large.]—If any person found wandering at large is deemed to be a lunatic (whether such person be, or be not, a pauper), he should be taken before a justice of the peace, to be dealt with according to the statute. If he be so found by any constable, or overseer

or relieving officer—or if the case be brought to the knowledge of any of those officers—such officer is bound immediately to take him, or cause him to be taken, before a justice. If he be so found by any other person, such person may either give information to the constable, or overseer, or relieving officer, so that the requisite steps may be taken by the proper officer; or he may bring the case to the knowledge of some justice of the peace, who, upon its being made to appear to him by the information upon oath of any person whomsoever, that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may order the constable, or relieving officer, or overseer, to bring the alleged lunatic before him, or before some other justice having the like jurisdiction (**A** 15). The justice before whom the lunatic is thus brought, after calling to his aid a medical man, may, on obtaining a medical certificate, as required by the Act, make an order for the reception of the lunatic into an institution. It is to be observed, however, that in any such case a justice may examine the lunatic at his own abode or elsewhere (**A** 17). If he deems it desirable, he may suspend for fourteen days the execution of the order for the removal of the lunatic; and the medical man also may, by his certificate, require the removal to be suspended (**A** 19). When the order is to be executed, the constable, or overseer, or relieving officer (as the case may be) must remove the lunatic accordingly; and those officers are liable to penalties for any neglect or refusal to perform the duties imposed upon them under this enactment (**A** 15).

Chargeability.]—Where a lunatic in an institution becomes a pauper he must, as regards his maintenance therein, be dealt with accordingly as a pauper lunatic, unless and until he is taken under the charge of his friends or relations (**A** 286, &c., but see 296). His property, however, may be rendered available to meet the charge of his maintenance.

Relatives and Friends.]—A summary reception order is not to restrain or prevent any relation or friend from retaining or taking the lunatic under his own care, if such relation or friend shall satisfy the justice, or the visitors of the asylum in which the lunatic is or is intended to be placed, that he will be properly taken care of (**A** 22).

If a lunatic be taken or kept under the care of his relatives or friends, they are not only morally bound to exercise proper care in the management of him, but may

become subject, in certain cases, to legal responsibility for cruel treatment or neglect. The powers of the Lord Chancellor, and of the Home Secretary, as to directing inquiries, have been already adverted to.

Restraint.]—It is necessary for all parties to be extremely careful how they act, even with a *bonâ fide* desire to do the best, in the case of a person who is insane, or supposed or believed to be so.

Brookshaw v. *Hopkins* (Lofft, 235; 240) was an action against *a Justice of the Peace* for improperly confining the plaintiff as a lunatic. It is stated "that the defendant sent expresses to the relations, who took the plaintiff and confined him in a madhouse for six months." The defence turned chiefly upon the 24 Geo. II. c. 44; and the case occurred in 1773, the year before the passing of the first Act for the regulation of madhouses, but it seems to show that any man may interfere to restrain the fury of a lunatic (Lofft, 243).

In acting upon this principle, however, due care and judgment must be exercised. In *Fletcher* v. *Fletcher* Lord Campbell, C.J., stated, "By the common law of England, it is only a person of unsound mind, and dangerous to himself or others, that may be restrained of his liberty by another; such is taken to be the law from the case in Bro. Abr. down to the last case on the subject." The case here alluded to is Bro. Abr. tit. "Faux Imprisonment," pl. 28 (28 L. J., (N.S.), Q. B., 134; and 1 Com. Bench, 39).

Anderdon v. *Burrows* (4 C. & P., 210), was an action of trespass against a medical man, who (in November, 1829), without having seen the plaintiff, had authorised his confinement within his own house, as an insane person. It was held that a medical man is not warranted, merely on statements made to him by the relations of a person supposed to be insane, in sending men to take him into custody and confine him, unless he is satisfied, from those statements, that such a step is necessary to prevent the lunatic from doing some immediate injury to himself or others. Lord Tenterden, C.J., observed, "From the statements made by Dr. Burrows, when the parties were before the magistrate, it seems that it is usual, on the application of the family, to act in this manner. I confess I am sorry to hear it so said, for it certainly is not right; and although there may be difficulty in getting access to a party labouring under insanity, yet the proper course is, if access cannot be obtained, to apply to the high authority which has cognizance over such matters,

to get the party taken up, in order that he may be examined."

Scott v. *Wakem* (3 F. & F., 328), was an action of trespass against a medical man, for placing the plaintiff (who, it appeared, was suffering from *delirium tremens*) under restraint as a dangerous lunatic. This occurred in February, and the action was tried at the Surrey Summer Assizes, in 1862. It was held by Bramwell, B., that at common law, and apart from the lunacy statutes, a medical man may justify measures necessary to restrain a dangerous lunatic; and that if he be called in to attend a person suffering under *delirium tremens*, he may justify such measures as are reasonably necessary, either to cure the person so suffering, or to restrain him from doing mischief, so long as the fit lasts, or is likely to return.

In *Symm* v. *Fraser and Andrews*,[1] an action was brought against two medical men by Mrs. Symm, a widow, her complaint, in substance, being that in December, 1868, they had put her under restraint, and treated her as if she were labouring under a fit of *delirium tremens*, whereas, as she represented, she was not so; and their defence, in substance, being that she was so. It was tried at Westminster, before the Lord Chief Justice and a special jury; and a verdict returned for the defendants. At the close of his summing up, the Lord Chief Justice remarked—"If they (the jury) believed this evidence, could they doubt that, even if the medical men had directed that the plaintiff should be watched and restrained, they had done what was right, and for their patient's benefit? There had been, no doubt, some restraint upon natural personal liberty, but was it not necessary? Let the jury put themselves in the position of these gentlemen, or of the friends and relatives of this person (the plaintiff), and let them ask whether, even supposing that the defendants were responsible for all that had been done to prevent her from getting out into the streets or throwing herself out of window, the jury would not consider that these gentlemen, so far from being proper subjects of condemnation and of censure, were not rather fit objects of gratitude and regard?" . . . "The Lord Chief Justice, in conclusion, desired them to consider the case, not only with reference to the interests of the individuals committed to the care of medical men, but also with a view to their interests in another sense—taking care not to impair or neutralise the energy and usefulness of medical assistance by ex-

(1) *Times*, November 27, 28, 30, December 1, 2, 1863, and 3 F. & F., 859.

posing medical men unjustly to vexatious and harassing actions."

The *Attorney-General* v. *Pearson*[1] arose out of a case which occurred in Islington, in 1842. James Elliot, an alleged lunatic, having been removed to the workhouse under the direction of the relieving officer, and his furniture placed in the charge of a person named Beavan, two actions were commenced by Elliot—one, for assault and false imprisonment; the other, for trespass, in taking the furniture. The first was brought against Allen and others, *Overseers*, Hicks, *Relieving Officer*, Ellis, *Master of the Workhouse*, Semple, *Medical Officer*, and Beavan; and was tried before Tindal, C.J., in the Court of Common Pleas, at Westminster, in May, 1844. The jury found for the plaintiff, with £400 damages. A motion was afterwards made for a new trial (see 14 L. J., C. P., 136; 1 Com. Bench, 18); and by consent the Court reduced the damages to £200, and a *stet processus* was entered in the second action. The verdict failed as against Allen; and Semple and Beavan suffered judgment to go by default. The damages and costs on both sides, amounting to nearly £900. were paid by the trustees of the parish of Islington out of the rates; and an information was filed by two of the ratepayers, seeking to charge the trustees personally with the payment of the amount. The Court (Knight Bruce, V.C.), under all the circumstances of the case and being of opinion that the facts were such as to justify the parish officers in interfering (although they had not pursued the course prescribed by the Act 9 Geo. IV. c. 40, § 38, which required that the alleged lunatic should be taken before a justice), dismissed the information, without costs. This judgment did not determine the legal question as to the lawfulness of the expenditure by the trustees; but merely decided that the Court of Equity did not, under the circumstances of the particular case, consider that the trustees ought to be required to refund the amount to the parish.

Turk v. *Barker*, was an action brought by the plaintiff against the defendant, a relieving officer for Lambeth, for having caused him to be taken and placed in the lunatic ward of Lambeth Workhouse, where he was detained for some days. It appeared, from the evidence at the trial, that the family of the plaintiff, in May, 1862, made complaint to the relieving officer of the violent conduct of the plaintiff, and a certificate was given by Dr. Cronin, a medical practitioner, to the effect that the plaintiff "was

(1) 10 Jur., 651.

of unsound mind, aggravated by drink, and wholly unfit to be at large; that his conduct both at home as well as abroad was outrageous, and that he was continually threatening his own life and that of his children." The relieving officer, under these circumstances, went to the house of the plaintiff, and caused him to be placed in a cab and driven to the workhouse, where he was placed in the lunatic ward. When there he was visited by the medical officer, who could not for two or three days pronounce any positive opinion as to the sanity of the plaintiff, as he was vehemently excited at his position. Eventually he came to the conclusion that the plaintiff was of sound mind, though very excitable from the effects of drinking. Mr. Justice Byles, in summing up, said, that what had happened to the plaintiff had probably been most beneficial to him, and that there was no pretence for imputing any malicious motive to the defendant, who had simply done as he believed his duty. The defendant, however, as he had not obtained the certificates required by the statute, was legally wrong, and a verdict must go against him. The jury thereupon gave a verdict for the plaintiff, with £20 damages. A rule *nisi* having afterwards been obtained to enter the verdict for the defendant, or for the plaintiff with nominal damages, Mr. Best showed cause against it, and Mr. Serjeant Ballantine appeared in support of the rule. For the defendant it was contended that the damages were excessive, that the defendant had acted *bonâ fide*, and without malice, at the instigation of the man's own family and his neighbours, and that the confinement he had been subject to had cured him. The Court held that the damages were the province of the jury, and that they ought not to disturb the verdict.[1]

SECT. 7.—REMOVAL OF LUNATICS FROM INDIA TO ENGLAND.

An Act which was passed in 1851 (14 & 15 Vict. c. 81) "to give better effect to inquisitions of lunacy taken in India," provides for the removal from India to the United Kingdom, by order of the Supreme Court of Judicature at any of the Presidencies of India, of any idiot, lunatic, or person of unsound mind, for whom a guardian, keeper, or curator of person and estate has been appointed by such Supreme Court.

(1) *Knight's Official Advertiser*, November, 1863.

PART II.

Pauper Lunatics.

Division of the subject.]—Pauper lunatics may be, and frequently are, paupers in respect of destitution existing independently of the lunacy; but sometimes they become paupers in consequence of the lunacy. In either case, they must be relieved by the Guardians, or other Local Authorities who are charged with the administration of relief to the poor; but the relief, on the other hand, must be afforded in the particular manner which is pointed out or prescribed by the law as adapted to the peculiar circumstances of their unfortunate condition. Wherever it is requisite or proper to do so for the purpose of cure or treatment, they ought to be sent to the county or borough asylum, or, in default of such accommodation, to some registered hospital or licensed house; but where it is not necessary to adopt that course, they may either be kept in the workhouse or be lodged with relatives or friends, or be boarded out or otherwise maintained, as may be deemed most suitable. It must be added, that the relief and treatment of pauper lunatics is necessarily a mixed subject, presenting a double aspect, which has led the Legislature to place it under the control of two distinct central authorities. In respect of their lunacy, pauper lunatics come under the jurisdiction of the Commissioners in Lunacy; whilst in respect of their pauperism they come under the jurisdiction of the Local Government Board.

It is proposed to treat of the several branches of the subject *seriatim*, as far as it is possible to do so.

Sect. 1.—Pauper Lunatics in County and Borough Asylums.

Legislation.]—Of the establishments available for pauper lunatics, the most important are the county and borough

asylums; and it may be useful to present a brief summary of the legislation which has taken place with reference to these institutions.

Up to the year 1808, the only enactments affecting pauper lunatics were certain provisions in successive Vagrant Acts, which authorised the detention of dangerous maniacs, in chains, if necessary (rather with a view to the protection of the public than for their own benefit), and which provided for their removal to the parishes of their settlement, and the application of their property towards their maintenance. In the year 1808, however, the Act 48 Geo. III. c. 96 was passed,[1] which laid the foundations of that system of providing public lunatic asylums at the expense of the respective counties and boroughs in England and Wales which has since been gradually carried into effect. The scheme of that Act, in many of its general features at least, has been adhered to in the subsequent legislation on the subject; though material improvements have been introduced from time to time. The Act was amended, at different times, by the 51 Geo. III. c. 79; the 55 Geo. III. c. 46; the 59 Geo. III. c. 127; and the 5 Geo. IV. c. 71; and all these statutes were repealed in 1828 by the 9 Geo. IV. c. 40, which amended and consolidated the law upon the subject, and remained in force until 1845, when it was in its turn repealed by the 8 & 9 Vict. c. 126. This last-named statute (together with the statutes amending it, viz., 9 & 10 Vict. c. 84, and 10 & 11 Vict. c. 43) was itself repealed by the Act 16 & 17 Vict. c. 97, which was passed 20th August, 1853, and which, combined with the Acts that have since been passed to amend it (viz., 18 & 19 Vict. c. 105; 19 & 20 Vict. c. 87; 25 & 26 Vict. c. 111; 26 & 27 Vict. c. 110; and 28 & 29 Vict. c. 80; 45 & 46 Vict. c. 82; 48 & 49 Vict. c. 52; 52 & 53 Vict. c. 41), contained nearly the law in force with respect to these

(1) "The first Act which notices pauper lunatics (17 Geo. II. c. 5) enables any two justices to cause them to be apprehended, and to be locked up in some secure place, '*and there chained;*' and if the pauper's settlement should prove to be in another parish, then he was to be forwarded thither, and there '*locked up and chained*,' by the justices of that district. This Act is adverted to in the Report made by the Select Committee appointed to investigate the subject in 1807, as being the only Parliamentary Act affecting the lunatic poor." "The state of pauper lunatics was first investigated by a Parliamentary Committee in 1807. Other Select Committees investigated the condition of madhouses in 1815 and 1816; . . . and in 1827, another Select Parliamentary Committee inquired into the state of the madhouses in the County of Middlesex." "The Parliamentary inquiry of 1807 gave rise to the Act 48 Geo. III. c. 96."—(See *Further Report* of the Commissioners in Lunacy, 1847, pp. 66, 67.)

asylums up to the year 1890, passing over statutes such as the "Local Government Act, 1888," which had only an incidental bearing on the subject.

Asylums—how to be provided.]—The 48 Geo. III. c. 96, and the 9 Geo. IV. c. 40, left it entirely at the option of the justices to provide asylums or not, as they might think proper; but the 8 & 9 Vict. c. 126, introduced an important change upon this point, by rendering it incumbent upon the justices of every county and borough, not already provided with an asylum, to obtain one, either separately or jointly with other counties and boroughs, and by empowering the Secretary of State, after the lapse of three years, to require the justices to take the necessary steps for that purpose, in every case in which they had up to then failed to do so. Notwithstanding this enactment, however, it appeared from the *Seventh Report* of the Commissioners in Lunacy (1853), that in 1852 there were still several counties unprovided with asylums, and that there were only four boroughs which separately possessed one.

Looking at this deficiency, and the importance of supplying it, the Legislature, by the Act of 1853 (16 & 17 Vict. c. 97), made it compulsory upon the justices of every county not having an asylum to provide one forthwith, either by erecting or otherwise providing an asylum for the county alone, or by uniting for that purpose with any county or counties, borough or boroughs; and also (if deemed expedient) with the subscribers to any hospital for lunatics, established, or in course of erection, or afterwards to be established; but so that no agreement for this purpose should interfere with the reception of as many lunatics not paupers as might otherwise have been received into such hospital. The Act likewise imposed a similar obligation upon the justices (or council) of every borough not having an asylum, excepting any borough in which, at the passing of the 8 & 9 Vict. c. 126, there were not six justices, besides a recorder (which boroughs, as well as cities, towns, or other districts not being boroughs within the meaning of the Act, were to be annexed for the purposes of the Act to the adjacent counties), though it allowed such boroughs as might prefer this alternative to contract for the reception of their lunatics into the asylums of other boroughs or counties; and it further provided that boroughs then contributing to county asylums should be considered as possessing asylums. The Secretary of State was empowered, after the lapse of one year from the passing of the Act, to annex to the adjoining

counties any boroughs which should be reported to him by the Commissioners in Lunacy as having failed to carry out its provisions; or to require the justices of any counties or boroughs, similarly reported to him, to provide new asylums or enlarge or improve existing ones, as might be requisite.

Two or more asylums might be provided for any county or borough in which the existing asylum or asylums might be found to be inadequate or unfit (16 & 17 Vict. c. 97, s. 30); and a separate committee of visitors might be appointed for each such asylum (s. 23).

So much, in brief, for what was the state of things prior to the passing of the Act of 1890. Let us now proceed to consider what is the existing situation.

Purposes.]—Every local authority is to provide an asylum or asylums "for the accommodation of pauper lunatics" (53 Vict. c. 5, s. 238 (1)); and the word "lunatic," as used in the Act is defined by the Interpretation Clause to "mean an idiot or person of unsound mind" (s. 341). The Act, therefore, contemplates that asylum accommodation should be provided for the pauper idiots as well as other pauper lunatics of every county or borough; and the provisions of s. 238 appear to admit of the classification of the different classes of insane paupers, whether lunatics or idiots, in different asylums in the same county, where the numbers may be such as to require or justify the erection of more than one asylum. (And see **A** 275 (4).)

Mode of Proceeding.]—It is not necessary here to describe those provisions of the statute which relate to the detailed proceedings of the Local Authority, or to do more than state, in general terms, that the necessary powers are conferred upon them for appointing a committee to act (**A** 239), with a view to providing the asylums, and afterwards for appointing committees of visitors to manage the asylums thus provided. Such visitors may also enter into temporary contracts for sending pauper lunatics into the asylums of other counties or boroughs or into registered hospitals[1] or licensed houses, as well as for receiving pauper and other lunatics of other counties or boroughs into their own asylums, when there is accommodation to spare. The proceedings of the committees are to be subject, in certain respects, to the supervision and control of the Commissioners in Lunacy and the Secretary of State.[2]

(1) But subject to the restrictions contained in **A** 269 (8).

(2) On the numerous points connected with the providing of asylums, their structure and arrangements and adaptation to their special purpose, the various exigencies of their internal economy, the cost of

The provisions above referred to, which relate to the providing and upholding of the asylums and to the proceedings of the justices in counties, and of the justices, or in certain cases the council, in boroughs, as well as of the committees to be appointed by them, are mainly comprised in the following sections of the "Lunacy Act, 1890":—238—82. It is to be noted that many of the provisions of earlier Lunacy Acts have been superseded as to this matter by the "Local Government Act, 1888," which has transferred to the County Councils many of the powers formerly exercised by the justices in Quarter Sessions (see especially §§ 32, 38, 86).

Funds.]—The necessary expenditure is to be defrayed out of the county or borough fund, as the case may be. Power is also given to borrow "such money as the Local Authority requires," but the borrowing powers are subject to the control of the Local Government Board (**A** 273–4).

Dissolution of Union.]—Where counties or boroughs have united for the purpose of providing an asylum, the union may be dissolved, with the consent of the Secretary of State, and upon certain terms and conditions (**A** 267 (1)); but in any such case, a committee must be elected before the dissolution to provide asylum accommodation in each county or borough included in the union to be so dissolved (**A** 267 (2)).

Visitation.

Committee of Visitors.]—Every asylum is placed under the supervision and control of a Visiting Committee, appointed annually in accordance with the provisions of the "Lunacy Act, 1890."

Meetings and Officers.]—The Visiting Committee are to meet within one month after their election, and afterwards as often as they may think fit; three to be a *quorum*. They are to elect a chairman, who shall have a casting vote (**A** 175 (2)); they are to appoint a paid clerk, who may be also the clerk of the asylum, and in whose name they may sue and be sued (**A** 176). But any committee appointed wholly or partly by a County Council will be subject to the regulations of the "Local Government Act, 1888" respecting committees.

Visits.]—Two members at least of the committee are

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their erection, and other particulars, —much valuable information will be found in the series of Reports of the Commissioners in Lunacy (see all the *Annual Reports*, as well as the *Further Report* of 1847).

required, once at least in every two months, to visit the asylum together; to inspect every part of it; to see and examine, as far as circumstances will permit, every lunatic therein, and the order and certificates for the admission of every lunatic admitted since the last visitation; and the general books kept in the asylum; and they are to enter in a book to be kept for the purpose their remarks on the condition and management of the asylum, and the lunatics therein, and to sign the book (**A** 188). The committee are to report annually to the Local Authority to which the asylum belongs at their quarterly meeting in November, or at such other time as the Local Authority appoints (**A** 190). A copy of such report is to be sent by their clerk to the Commissioners in Lunacy (Rule 26).

Guardians and Overseers of the Poor.]—The Act further provides for the visitation of the pauper lunatics in the asylums by the guardians of the poor, and by any medical practitioners appointed by them for that purpose. Such visits may be made (between the hours of 8 A.M. and 6 P.M.) whenever the Guardians see fit; but the medical officer of the asylum may refuse to allow the examination of any lunatic, where he is of opinion that it would be injurious. On this subject the Poor Law Board made some remarks, in a circular letter, dated 15th December, 1862. Referring to 25 & 26 Vict. c. 111, s. 34 [repealed, but re-enacted in substance in Rule 27], the Board observed, "Section 34 requires the superintendent of every asylum, once at least in each half-year, to transmit to the Guardians of every union and parish a statement of the condition of every pauper lunatic chargeable to such union or parish. This return will enable the Guardians to determine whether they should exercise the power given to them by the statute 16 & 17 Vict. c. 97, s. 65 [to which **A** 201 nearly corresponds], of sending a physician or other medical practitioner, or a committee of themselves, to visit and examine any or all the pauper lunatics chargeable to the union in the asylum. In the event of a committee being sent, the Board recommend that only a limited number should be appointed for the purpose, so that there be no unnecessary expense incurred in the visit. Considerable discussion has arisen between the Guardians and the Auditors in several unions, where the latter have objected to the number of Guardians sent on such visits and the amount of the expenses incurred in their visits. The Board think that, as a general rule, a committee of three, or at the most five Guardians, would

be sufficient for the purposes of the contemplated examination." On the 27th June, 1870, the Poor Law Board issued a General Order, limiting the number of Guardians to be deputed to make such visits (see *Glen's Poor Law Board Orders*).

Commissioners in Lunacy.]—The Commissioners are empowered and required to visit all county and borough asylums. Two or more of the Commissioners (one to be a medical practitioner, and one a barrister) are to visit every asylum once or oftener in every year, and to make certain inquiries directed by the Act, and also such other inquiries as they may think meet (**A** 187 (1)). Any one or more of the Commissioners may at any time visit any asylum; and every Commissioner so visiting alone shall have the same powers as two or more Commissioners (**A** 187 (2)).

Lord Chancellor—Home Secretary.]—Power is given to the Lord Chancellor to direct, in the case of any person detained or taken charge of as a lunatic, or represented to be a lunatic, or to be under any restraint as a lunatic, that such lunatic or supposed lunatic shall be visited and examined; and also that the state of any asylum in which any lunatic or person represented to be a lunatic is confined or alleged to be confined, shall be inspected and inquired into and reported upon. Similar powers are likewise given to the Secretary of State for the Home Department (**A** 205).

Management.

General Rules—Regulations.]—The Visiting Committee are to make general rules for the government of the asylum, with the approval of the Secretary of State; and subject to such general rules, they are from time to time to make Regulations, setting forth the number and description of officers and servants to be kept, their duties and salaries; the diet of the patients; the reservation of beds for certain cases; and the exclusion of persons afflicted with any contagious or infectious disease, or coming from a place where any such disease prevails (**A** 275). For suggestions made by the Commissioners with regard to these Regulations, see the *Further Report* of 1847, pp. 46–49, and Appendix F.; and the *Seventh Report*, p. 6, and Appendix C.

Officers.]—The Visiting Committee are to appoint a chaplain, a resident medical officer, a superintendent, a clerk, a treasurer, and such other officers and servants

as they may think fit; and they may, if they think fit, appoint a visiting physician or surgeon; and they are to appoint a resident superintendent, being either the medical officer, or one of the medical officers, of the asylum, or (with the sanction of the Secretary of State) some other person. They have also power to remove any officer or servant (**A** 276).

Chaplain.]—The chaplain must be in priest's orders, and licensed by the Bishop of the Diocese, who may revoke the licence. The chaplain, or his substitute approved by the visitors, must perform Divine service in the chapel of the asylum or some other convenient place on every Sunday, Christmas Day, and Good Friday, and otherwise as the Committee may direct. If, however, any patient be of a religious persuasion differing from that of the Established Church, a minister of such persuasion may visit him at proper and reasonable times, at the request of the patient or his friends, and with the consent and under the regulations of the medical officer (**A** 277). The chaplain is not required by the Act to reside on the premises; but a residence may properly be provided for him, if the visitors think fit (*Congreve* v. *Upton*, 9 L.T., 684.)

Nurses and Attendants.]—Within one week after the dismissal for misconduct of any nurse or attendant, the clerk of the asylum is to transmit to the Commissioners in Lunacy, by the post, information of the dismissal and its cause (Rule 21).

Salaries and Pensions.]—The salaries of the several officers and servants are to be fixed by the Visiting Committee (**A** 276 (5)). Provision is made for granting superannuation allowances under certain circumstances and conditions. But no annuity by way of superannuation granted by the visitors is to be paid out of the County or Borough Fund until confirmed by the County Council (**A** 280–81).

Accounts.]—The clerk of the asylum is to keep the accounts of receipts and expenditure; and the treasurer and every officer receiving or expending money or goods is also to keep an account of his receipts and expenditure (**A** 278). The accounts of every asylum belonging wholly or in part to a County Council are to be audited in accordance with the provisions of the "Local Government Act, 1888" (**A** 279). The clerk is to send an abstract of the accounts to the Local Government Board and to the Commissioners in Lunacy. This abstract is to be made in such form as the Local Government Board may

direct; copies are to be laid before both Houses of Parliament (**A** 278 (3, 4, 5)).

Patients.]—The county and borough asylums are intended primarily and principally for pauper lunatics; and it is only when the accommodation in any such asylum is more than sufficient for the pauper lunatics of its own county or borough, or of all the counties and boroughs contributing to it, that the pauper lunatics of other counties or boroughs, as well as other lunatics, may be received (**A** 270).

Private Patients.]—These have been already noticed in a previous section.

Pauper Patients.]—Before adverting to the mode of admission, it is necessary to refer to the preliminary question, as to what pauper lunatics are to be sent to the asylums. The "Lunacy Act, 1890," does not contemplate or require that every pauper lunatic should necessarily be sent to an asylum (or registered hospital or licensed house); but only such pauper lunatics (including idiots and all persons of unsound mind) as may be deemed to be proper persons to be taken charge of, and detained under care in an asylum. This is shown by the language of the Act, as well as by the terms of the medical certificate (**A** 24, Schedule). If any pauper lunatic is not a proper person to be taken charge of, and detained under care and treatment, he is not required to be sent to an asylum. This point must be determined in each case by the medical men who give the certificates, and by the justices who make the orders.

Quarterly Lists.]—The 202nd section of the Act of 1890 provides for the visitation of "every pauper lunatic *not* in an institution for lunatics." Its object is to secure such a periodical examination of all pauper lunatics not in confinement, as may show whether they are "properly taken care of and may properly remain out of an asylum." For this purpose each such lunatic if not in a workhouse is to be personally visited once in every quarter of a year "by the medical officer of the union, or district in which the lunatic is resident," but if in a workhouse by the medical officer of the house. The medical officer is to make his report in the form prescribed by the Rules (Form 17); and with respect to the lunatics in any workhouse is to certify whether, in his opinion, the workhouse is sufficient for the accommodation of the lunatics detained therein, and whether or not the lunatics so detained are proper persons to be kept in a workhouse. A special remuneration is assigned to the medical officer in respect

of "each quarterly visit to a pauper not in a workhouse." The forms are to be supplied to him by the Guardians. The lists are to be transmitted to the clerk to the guardians, who is to send the originals to the Commissioners in Lunacy, and copies to the Committee of Visitors of the asylum of the county or borough in which the union is wholly or partly situate (Rule 29).

Annual Lists.]—In addition to the quarterly lists above referred to, annual lists have to be made out "on the first day of January in every year, or as soon after as possible," of all the lunatics chargeable to every union (Rule 29). These lists are to be prepared by the clerks to the guardians, in unions and in parishes under boards of guardians. The form of the list is given in the Rules, Schedule, Form 19; and it will be seen to apply to all the different classes of pauper lunatics, whether confined in asylums, boarded out, in registered hospitals, or licensed houses, or maintained in workhouses, in lodgings, or with relatives. On or before the 1st February, copies of the list are in each case to be sent to the following authorities:—(1) The Local Government Board; (2) The Commissioners in Lunacy; (3) The Committee of Visitors of the asylum of the county or borough in which the union is wholly or partly situate; (4) The clerk of the Local Authority within the area whereof the union is wholly or partly situate; to be laid before the Local Authority.

Admission—Preliminary Proceedings.]—The object of the statute is to secure the reception into an asylum of all those pauper lunatics who ought properly to be sent there; and the duties imposed on the several officers have reference to that object.

Medical Officer.]—On becoming aware that any pauper resident in his district is or is deemed to be a lunatic and a proper person to be sent to an asylum, the medical officer is to give written notice thereof, within three days, to the relieving officer; or if there be no relieving officer, to an overseer of the parish (**A** 14 (1)); subject to a penalty not exceeding £10 for neglect (**A** 320).

Relieving Officer.]—On becoming aware, either by means of a notice from the medical officer or otherwise, that any pauper resident in any parish for which he acts, is or is deemed to be a lunatic (irrespective of the question whether he is or is not a proper person to be sent to an asylum), the relieving officer is required to give notice thereof, within three days, to some justice of the county of the borough, who is thereupon to deal with the case (**A** 14). If the pauper cannot be conveniently

taken before a justice, he may be examined by the justice at the lunatic's own house or elsewhere, and an order for his admission into an asylum may be made there (**A** 17). For every neglect under this section the relieving officer is subject to a penalty not exceeding £10 (**A** 320).

Overseer of the Poor.]—In any parish or place where there is no relieving officer, the like duties are to be discharged by an overseer, subject to the same penalties for neglect (**A** 14 (2): 320).

Justice of the Peace.]—On receiving the notice from the relieving officer (or overseer), the justice is to order the pauper to be brought before him, or some other justice, within three days (unless he deems it better to go to the place where the pauper is, and examine him there); and the justice before whom he is so brought is to examine him, with the aid of a medical man. If the required medical certificate be given, and the justice (on examining the pauper when brought before him, or otherwise) be satisfied that the pauper is a lunatic, and a proper person to be detained; or if certificates be given by the medical man called in by the justice as well as by the medical officer of the parish or union; the justice is to make an order for the pauper's reception into an asylum (**A** 14, 17, 18, 19).

Medical Certificate.]—The form of the certificate is prescribed by the Act (Schedule II., Form 8). As to the penalties for signing false certificates see **A** 317.

Order of Admission.]—The form of the order is prescribed by **A**, Schedule II., Form 12. It is addressed to the superintendent of the asylum, and "directs" him to receive the pauper as a patient into such asylum. It must be accompanied by a statement containing certain particulars, as far as they are known or can be ascertained. A certificate given with the view of removing a lunatic as a private patient will justify his detention as a pauper patient; and *vice versâ*, if the justice frames his order accordingly (**A**, Schedule II., Forms 8 and 12), and see **A** 37 (1).

Orders by the Commissioners.]—The Commissioners (or two of them) are empowered to order the removal of pauper lunatics from any workhouse to an asylum (**A** 60); and they are also empowered to visit any pauper lunatic or alleged lunatic not in an asylum, hospital, licensed house or workhouse; and on obtaining the certificate of a medical man, and being satisfied that the pauper is a lunatic and a proper person to be detained, may order his removal to an asylum. So that an order for the reception

of a pauper lunatic resident in any parish, into a county or borough asylum, may be made by the following authorities:—1. A justice of the peace; 2. Any two of the Commissioners in Lunacy.

Pauper Lunatics wandering at large.]—The provisions above noticed refer to the cases of resident lunatics; the cases of pauper lunatics wandering at large being specially provided for (A 15). This enactment has been already adverted to, in treating of private lunatics (*ante*); and it will not be necessary here to do more than point out that the same proceedings are to be taken, whether the lunatic found wandering at large be a pauper or not, except that in the case of a pauper only one certificate is required. If an order be made by a justice it must be according to Form 12, of Schedule II.

Removal to Settlement Parish.]—The liability of the settlement parish will be noticed in considering "the incidents of the charge" (see *post*); but it is necessary here to advert to the question whether a pauper lunatic resident in any parish can be lawfully removed to the parish of his settlement *instead* of being sent to an asylum. This question was raised in *Reg.* v. *Barnsley* (18 L. J., M. C., 170), in reference to the Act 8 & 9 Vict. c. 126, which is now repealed; and it was held that a pauper lunatic who was not a proper person to be sent to an asylum might be removed to the parish of his settlement in the ordinary way. Since the decision of that case, which occurred in 1849, there have been some material alterations of the law, and it is necessary to bear in mind that it is now the duty of the relieving officer (under penalties for neglect) to bring before a justice within three days, the case of *every* pauper lunatic resident within his district, without exception, whether he may or may not regard the lunatic as a proper person to be sent to an asylum. If the justice decline to send the lunatic to an asylum, then the case may become one in which an order may be obtained for removal to the parish of the settlement, unless indeed the pauper be exempt from removal on any ground; but if the pauper be "a proper person to be detained" he ought not to be removed to his settlement parish *instead* of being sent to the asylum.

Conveyance to Asylum.]—If the pauper be ordered to be sent to an asylum, the relieving officer (or overseer), or constable, is required (under a penalty for neglect) to convey him immediately to the asylum, or other establishment (A 16); unless the medical man by whom he was examined shall certify his unfitness to be removed, in

which case his removal shall be suspended until he is fit (**A** 19).

Reception.]—The pauper lunatic mentioned in the order is to be sent to the asylum (if there be one) of the county or borough comprising the parish or place from which he is sent, unless there be a deficiency of room, or unless by reason of special circumstances he cannot be conveniently taken to it (**A** 27 (2)); or unless he cannot be received into it, in consequence of the existence of any contagious or infectious disease at the place from which he comes (**A** 275). If there be two or more asylums of the same county, the statute does not specify to which of them the pauper shall be sent; but the selection will probably be regulated by the justices. If there be no asylum of the county or borough, or if there be one, and the pauper cannot be received into it or taken to it, he may be sent elsewhere; for the order will authorise his admission not only into any asylum of the county or borough, or any other asylum for the reception of pauper lunatics of such county or borough, but also into any asylum for any other county or borough, or any registered hospital or licensed house. If he be sent elsewhere, in consequence of deficiency of room, or of special circumstances which prevent his being taken to the asylum, such deficiency of room or special circumstances must be stated in the order (**A** 27 (2)); and apparently this must be done at the time when the order is made, as it is to be addressed to the superintendent of the particular asylum, hospital or house to which the pauper is to be sent; and where the pauper is so sent in consequence of there being "no asylum" or "deficiency of room," or "special circumstances," it must state the reasons, whatever they are. If there be an asylum of the county or borough, the justice making the order should ascertain whether or not it is full, before the order is made. If the pauper be sent to an asylum which does not belong wholly or in part to the county or borough, or with which there is no contract, or which the borough is not otherwise contributory, the order must be endorsed by a visitor of such asylum (**A** 27 (3)). No pauper lunatic is to be received into any asylum without a proper order, statement and certificate: but if he be duly taken, with the requisite documents, to the asylum to which, according to the statutes, he ought to be taken, it would seem that his admission into such asylum cannot be lawfully refused, unless there be "a deficiency of room," or unless the admission be prohibited on account of contagious or infectious disease.

Records, and Returns.]—The admission is to be entered in the "Register of Patients" (Rules 1 (1); Schedule Form 1); copies of the order and other documents, and also a statement from the medical officer of the asylum, are to be forwarded to the Commissioners in Lunacy within certain specified times (Rule 7).

Treatment of Patients.]—The medical officer of the asylum is to keep proper records of the cases of the several patients and their treatment, in the "Medical Journal," and in the "Case Book" (Rules 1 (4); 3 (1); 9).

Diet.]—The Visiting Committee of every asylum is empowered from time to time to determine the diet of the patients (**A** 275 (6)); and although the Visiting Commissioners are to inquire "as to the dietary of pauper patients" (**A** 187 (1*g*)), it does not appear that they have any authority to regulate it, or to do more than inquire.

Ill-treatment.]—If any manager, officer, nurse, attendant, servant, or other person employed in any asylum, ill-treats or wilfully neglects any lunatic patient, he may be indicted for misdemeanour, or fined not less than £2, nor more than £20 (**A** 322; and see **A** 324). If any nurse or attendant be dismissed for misconduct, the dismissal is to be reported to the Commissioners (Rule 21). With regard to complaints of ill-treatment in particular cases, and inquiries and prosecutions consequent thereon, see the following passages in the Reports of the Commissioners, viz.:—*Eighth Report*, p. 34; *Eleventh Report*, pp. 24–37 (prosecution for manslaughter in the Surrey County Asylum); *Fifteenth Report*, pp. 55–65 (prosecution for manslaughter in the Middlesex Asylum at Colney Hatch); *Sixteenth Report*, pp. 53–64; *Seventeenth Report*, pp. 35–38.

Visits of Friends.]—Information as to persons confined in asylums may be obtained from the Commissioners, who may authorise relations or friends to visit them (**A** 51 and 47).

Escape and Recapture.]—The order for admission, accompanied by the proper certificate, authorises the detention of the lunatic in the asylum until he is duly removed or discharged; and if he escapes, he may be retaken within fourteen days, and again confined under the same order (**A** 85). Within three days after the escape or recapture, the clerk of the asylum is to send notice thereof to the Commissioners in Lunacy, subject to a penalty for neglect (Rule 23; Schedule Forms 12, 13; **A** 320). If the escape occur through the wilful neglect

or connivance of any manager, officer or servant in the asylum, he will be liable to a penalty of £20, or less (**A** 323). As to escape into Scotland or Ireland, see **A** 86–8.

Temporary absence.]—A Commissioner, as regards any hospital or licensed house, two members of a managing committee, or two visitors of a house licensed by visitors, may of their own authority permit a pauper patient to be absent on conditions, **A** 55 (6–7). Two visitors, with the advice in writing of the medical officer of the asylum, may permit any patient to be absent from the asylum on trial, for such period as they may think fit, making an allowance to him; the amount whereof is not to exceed the charge in the asylum. If he do not return at the proper time, he may be retaken within fourteen days afterwards, as in the case of an escape, unless a medical certificate be sent to the visitors, certifying that his detention in an asylum is no longer necessary (**A** 55 (8)). Any such recapture should be reported to the Commissioners by the clerk of the asylum (Rule 23). If any manager, officer, or servant, permit any patient to be at large, save in the case of temporary absence duly authorised, he will be liable to a penalty (**A** 323). On this subject, see the remarks of the Commissioners, *Fifteenth Report*, p. 72; and *Seventeenth Report*, p. 21.

Removal or Transfer.]—Power is given to visitors of asylums to order the transfer of pauper lunatics from asylums, registered hospitals, or licensed houses, to other asylums, hospitals, or houses, subject in certain cases to the consent in writing of two of the Commissioners in Lunacy (**A** 65). The order may be addressed to any relieving or other officer of the union, county or borough to which the lunatic is chargeable, or to any other person (**A** 66). Two visitors of an asylum may make a similar order. It may be pointed out that the word *removal* is used in these enactments to signify the *transfer* of lunatics from one establishment to another. The removal is to be entered in the Register of Patients, and also in the Register of Removals (Rule 22).

Discharge.]—When a pauper lunatic has been received into an asylum, the power to direct his discharge does not rest with the authorities who sent him there, but is vested in the visitors of the asylum. Any three of the visitors,—or any two of them, with the advice in writing of the medical officer of the asylum,—may order such discharge (**A** 77). In any such case, the visitors, if they see occasion to do so, may notify their intention to a relieving officer of the union to which the lunatic is

chargeable, or to the clerk of the Local Authority liable to his maintenance; on the receipt of this notice, the relieving officer or clerk must remove the pauper forthwith, subject to a penalty not exceeding £10 for neglect (**A** 80 (2)); and also, as to certain cases, see **A** 270 (2). With regard to the mode of removal in such cases, see the circular issued by the Poor Law Board on 27th February, 1857. Provision is also made for delivering any pauper lunatic to his relatives or friends, on their giving an undertaking to the satisfaction of the visitors, that he shall be no longer chargeable to any union, county, or borough, and shall be prevented from doing injury to himself or others (**A** 79). Every discharge must be registered (**A** 22). As to the establishment of a charitable fund, to meet the case of any patient who has been discharged, in consequence of being cured, and to provide for his wants "in the interval between his leaving the asylum (or licensed house) upon recovery, and his resumption of his ordinary labour," see *Thirteenth Report* of the Commissioners, 1859, pp. 76, 77.

Death.]—The death of any patient is to be registered by the clerk of the asylum, within three days (Rule 24 (3)); and within forty-eight hours, a notice and statement, in the prescribed form (Rule 24, Schedule Form 14), of the death, and the cause of death, and the names of any persons present at the death, must be drawn up and signed by the clerk and medical officer, and copies transmitted to various persons:—1. The Commissioners in Lunacy; 2. The relations; 3. The Registrar of Deaths for the district; 4. In the case of a pauper, also to the relieving officer of the union, or the clerk of the peace of the county or borough to which the deceased was chargeable; Lastly, in the case of a lunatic not a pauper, to the person on whose petition the order for admission was made, or who made the last payment (Rule 24 (4 *g*)). Penalties are provided for neglect in these respects.[1] In addition to the notices above referred to, the manager of the asylum is to give notice to the coroner, so that he may hold an inquest if he deems it necessary (Rule 21 (2); 84).

Burial.]—The expenses of the burial are to be borne by the union to which the deceased pauper was chargeable,

(1) As to legal proceedings against the superintendent of a county asylum for furnishing a defective certificate of the cause of death, which omitted to mention the post-mortem examination, see *Seventeenth Report* of the Commissioners, 1863, pp. 32–34; and as to proceedings against the clerk of an asylum, for irregularities in regard to the required returns, see the same *Report*, p. 35.

or by the Local Authority liable for his maintenance (**A** 297; and see also **A** 270 (2)); but, apparently, the burial must be provided for by the authorities of the asylum; *i.e.* the visitors or any of their officers duly authorised in that behalf, who, according to the decision of the Court of Queen's Bench, in *Reg.* v. *Stewart* (12 A. & E., 773), appear to be responsible for the decent interment of the corpse,[1] and who are authorised and required to pay the proper burial fees. The interment should, of course, as a general rule, take place in the parish in which the death occurs; but where the burial ground of such parish is closed, or overcrowded, the body may be buried in some neighbouring parish, with the consent of the minister and churchwardens (**A** 259). Or the Visiting Committee of any asylum may, with the consent of the Local Authority by whom they are appointed and of a Secretary of State, enter into an agreement with any burial board, or the proprietors of any cemetery, for the burial of the pauper lunatics dying in the asylum; or land belonging to the asylum, not exceeding two acres, may be set apart and consecrated as a burial ground for lunatics or officers or servants dying in the asylum. In this latter case, the incumbent of the parish is not to be entitled to any fee for the interment of any person buried therein by direction of the Committee.

Half-yearly Lists, and Statements.]—A list of the pauper lunatics in each asylum is to be furnished every half-year by the clerk of the asylum to the Committee of Visitors, to the Commissioners, and to the clerk of each Local Authority to whom the asylum belongs (Rule 25).

(1) In delivering the judgment of the Court, in *Reg.* v. *Stewart*, Lord Denman, C. J., said:—"Every person dying in this country, and not within certain exclusions laid down by the ecclesiastical law, has a right to christian burial; and that implies the right to be carried from the place where his body lies to the parish cemetery. Further, to use the words of Lord Stowell, in *Gilbert* v. *Buzzard* (2 Hagg. C. R., 333, 334), 'that bodies should be carried in a state of naked exposure to the grave would be a real offence to the living, as well as an apparent indignity to the dead.' We have no doubt, therefore, that the common law casts on some one the duty of carrying to the grave, decently covered, the dead body of any person dying in such a state of indigence as to leave no funds for that purpose. The feelings and the interest of the living require this; but the question is, on whom it falls. . . It should seem that the individual under whose roof a poor person dies is bound to carry the body decently covered to the place of burial; he cannot keep him unburied, nor do anything which prevents christian burial; he cannot, therefore, cast him out, so as to expose the body to violation, or to offend the feelings or endanger the health of the living; and for the same reason, he cannot carry him uncovered to the grave."

A statement of their condition is to be sent by the manager to the Guardians of every Union (Rule 27).

SECT. 2.—PAUPER LUNATICS IN REGISTERED HOSPITALS AND LICENSED HOUSES.

The registration and licensing, visitation and management, of these establishments having been already treated of (*ante*, pp. 21–40), it will only be necessary here to advert to those provisions which specially refer to the pauper lunatics who may be received into them.

Admission.]—The cases in which a pauper lunatic may be sent to a registered hospital or licensed house are pointed out in **A** 27 (3); which requires that he shall, if practicable, be sent to the county or borough asylum, and only allows of his being sent elsewhere in the event of there being no such asylum, or of the asylum being full, or of there being "special circumstances" preventing his being taken to it or received into it (**A** 27 (2)). The order for his admission must state the reasons for his being so sent to the hospital or licensed house; and no pauper can be lawfully received into any such establishment without an order and statement and medical certificate, as prescribed by the statute, the order, statement and certificate to be in the forms prescribed in **A**, Schedule II. (see Forms 12 and 8). It will be seen, on comparison, that the forms of the order, statement and certificate, are substantially identical with those prescribed for general patients. It is to be remarked, however, that the order, although in terms an "order," and "directing" the manager to receive the pauper into the particular house or hospital, yet contains an express provision that the manager of any hospital or licensed house shall not be bound to receive any lunatic under such order, except in pursuance of a subsisting contract (**A** 27 (4)).[1] It is, therefore, in the absence of a contract, substantially no more than a request; and thus differs from an order addressed to the manager of the county or borough asylum, which (subject to an exception as regards certain diseases) he is bound to obey, unless there be a deficiency of room.

The observations made under the following heads, as to private patients, will also apply generally to pauper patients, viz.:—

Records and Returns; Book of Admissions (*ante*, p. 37),

(1) And see *Reg.* v. *Hatfield Peverel*, 18 L.J., M. C., 225, 14 Q. B., 298.

Medical Visitation Book, Medical Case Book (*ante*, p. 33);—*Notice to Commissioners and to Visitors* (*ante*, p. 37);—*Treatment, Ill-treatment,* and *Attendants* (*ante*, p. 38);—*Visits of Friends* (*ante*, p. 39); *Escape and Recapture* (*ante*, p. 39); and *Temporary Absence* (*ante*, p. 39).

Diet.]—The Visiting Commissioners, and visitors, respectively, on their visits to these establishments, are expressly directed to inquire "as to the diet of the pauper patients" (**A** 194 (1*f*)); and the Visiting Commissioners are also empowered to determine and regulate such dietary (**A** 52 (1)).

Visitation by Guardians or Overseers.]—Power is given to the Guardians of any Union and to any medical practitioner, appointed by them, to visit the pauper lunatics chargeable to such Union confined in any institution for lunatics (**A** 201 (1)).

Removal or Transfer.]—With regard to the powers given to visitors of asylums, and to the Commissioners in Lunacy, upon this subject, see the remarks already made (*ante*, p. 61). As to the powers of Guardians, see the next paragraph.

Discharge, on Recovery or otherwise.]—The Guardians of any parish may, by an order of their Board, direct that any pauper patient belonging to such parish, and detained in a hospital or licensed house, shall be discharged therefrom, and may direct the mode of such discharge; and if a copy of such order be produced to the manager of such licensed hospital or house, he shall forthwith discharge such patient accordingly, or cause or suffer him to be discharged (**A** 73). It is provided, however, that no such patient shall be so discharged from any licensed house or hospital, if the medical officer or the regular medical attendant shall certify that such patient is dangerous and unfit to be at large, unless the Visitors or the Visiting Commissioners shall consent, in writing, thereto (**A** 74).

Powers are given, under certain restrictions, to the Commissioners, and visitors, respectively, to discharge individual patients, whether paupers or not (**A** 75 and 77). Commissioners may discharge within seven days, and after a single visit (**A** 75). The order of discharge is to be served forthwith on the manager, and a copy is to be sent, in the case of a pauper, to the authority liable for his maintenance. It seems, therefore, that the Guardians, or other Local Authority, have no opportunity of expressing to the Commissioners any objection which they may entertain to the discharge of the pauper in any such

case, though perhaps they have of remonstrating with visitors (see **A** 78).

In the event of the recovery of a pauper patient, the manager is to transmit notice of such recovery to the Guardians, or the clerk of the Local Authority, as the case may require; and if the pauper be not removed within seven days, he is forthwith to be discharged (**A** 83).

Every removal, and discharge, must be registered and notified to the Commissioners, and the visitors (Rules 22, 23). As to the payment of the expenses of the discharge or removal, see **A** 297.

Death—Burial.]—The remarks made as to the death of any private patient will apply to the death of a pauper patient (*ante*, p. 40); but in the case of a pauper, express provision is made for the payment of the expenses attending the burial, which are to be borne by the Union, or Local Authority (as the case may be), to which the deceased was chargeable (**A** 297). The liability to provide for the burial, however, appears to rest upon the authorities of the hospital, or the manager of the licensed house, acccording to the principles laid down in *Reg.* v. *Stewart* (*ante*, p. 63).

SECT. 3.—PAUPER LUNATICS IN WORKHOUSES.

Visitation by Commissioners.]—By the Lunacy Act of 1845 (8 & 9 Vict. c. 100, s. 111) the Commissioners in Lunacy were empowered to visit all workhouses containing lunatics, and to report thereon to the Poor Law Commissioners. In June, 1847, they made a comprehensive report to the Poor Law Commissioners upon the subject of the lunatics detained in workhouses throughout England and Wales (see *Further Report* of 1847, Appendix A, pp. 233–308); but afterwards they confined themselves to making special reports upon particular workhouses. (See *First Annual Report of the Poor Law Board*, 1848, p. 9.) In 1853, the enactment above mentioned was repealed, and a new provision substituted, by which authority was given to one or more of the Commissioners, by direction of their Board, to visit workhouses containing lunatics, and to inquire whether the provisions of the law as to lunatics had been carried out, and also as to their dietary, accommodation and treatment; and to report thereon to the Poor Law Board (16 & 17 Vict. c. 96, s. 28). By the same Act the Commissioners were empowered, for any special reason, to

appoint any competent person or persons to visit, examine and report upon any pauper lunatics in any workhouse. The substance of these enactments has been retained in the "Lunacy Act, 1890," and will be found in § 203.

Quarterly Visits by Medical Officer.]—The medical officer of every workhouse is required to visit the pauper lunatics therein, and to include them in his quarterly list, in which he is to state whether the accommodation in the workhouse is sufficient for them, and whether they are proper patients to be kept in the workhouse (**A** 24 (1), 202 (1), Schedule II. Form 10).

By Guardians.]—The Visiting Guardians are required to enter, every quarter, in a book to be kept for that purpose, their observations as to the dietary, accommodation and treatment of the lunatics or alleged lunatics in the workhouse of their Union; and this book is to be laid by the master of the workhouse before the Commissioners in Lunacy at their next visit (**A** 54).

Dangerous Lunatics.]—The "Poor Law Amendment Act, 1834," prohibits the detention in the workhouse of any "dangerous lunatic, insane person, or idiot" (*i.e.*, dangerous lunatic, dangerous insane person, or dangerous idiot), for any longer period than fourteen days; and the violation of this enactment is a misdemeanour (4 & 5 Will. IV. c. 76, § 45). The General Consolidated Order issued in July, 1847, and similar orders, which are in force in all Unions and parishes under boards of guardians, contain the following article:—"Art. 101. No pauper of unsound mind, who may be dangerous, or who may have been reported as such by the medical officer,[1] or who may require habitual or frequent restraint, shall be detained in the workhouse for any period exceeding fourteen days, and the guardians shall cause the proper steps to be taken for the removal of every such pauper to some asylum or licensed house as soon as may be practicable."[2]

Lunatics not dangerous.]—Although the prohibition referred to in the preceding paragraph applies only to "dangerous" lunatics, it does not follow that all pauper lunatics who are not dangerous may be lawfully detained in a workhouse. Under the existing law, all pauper lunatics, who are proper objects for the care and treatment, which can only be obtained in asylums, hospitals, or licensed houses, ought to be sent there (**A** 14, 16).

(1) See Art. 207, No. 4, of the same Orders.

(2) See Glen's *Poor Law Board Orders*, 10th edition, 1887, p. 116.

The Commissioners in Lunacy may order any lunatic in a workhouse to be removed from the workhouse to an asylum, hospital, or licensed house, but subject to an appeal by the Guardians to the Secretary of State for the Home Department (**A** 60).

Regulations.]—It is necessary to notice those articles in the General Orders of the Poor Law Commissioners, the Poor Law Board, and the Local Government Board, which relate to the treatment of pauper lunatics in workhouses, as well as their admission and discharge (see note on 4 & 5 Wm. IV. c. 76, s. 45, *post*); but it is requisite to ascertain, as regards each Union or parish, whether these orders, or articles, are in force therein. As regards the arrangements for giving baths to insane inmates of workhouses, see the Poor Law Board's circular of 21st March, 1870.

Lunatic Wards.]—In some workhouses, separate wards are set apart for the insane paupers. The existence of such wards is contemplated; but it will be a question in every case, how far any of the lunatics maintained in them may be proper persons to be sent to an asylum. See the remarks on this subject in the several Reports of the Commissioners in Lunacy.[1]

Chronic Lunatics.]—The pressure upon the asylums and other establishments, arising from the constantly increasing numbers of the insane placed in confinement or under care and treatment with a view to their improvement or cure, appeared to render it desirable to make a special arrangement with regard to chronic and incurable cases. Accordingly the visitors of any asylum may, with the consent of the Local Government Board and the Commissioners, make arrangements with the Guardians of any Union for the transfer into the workhouse of chronic cases not being dangerous, and which are duly certified as fit to be so removed. Any chronic lunatic so sent to a workhouse is still to be regarded as a patient in the asylum (**A** 26 (2)).

Idiots.]—Provision is made by 31 & 32 Vict. c. 122, s. 13, empowering the Guardians, with the consent of the Local Government Board, to send any "idiotic pauper" to an idiot asylum or establishment for the reception and relief of idiots; and also to send any "idiotic imbecile, or insane pauper who may be kept in a workhouse" to the workhouse of any other Union. Reference may also

(1) As to a case in which the lunatic wards for the insane poor of a parish under a Board of Guardians were situated in another parish, see the *Fifteenth Report* of the Commissioners (1861), p. 46.

be made to the 25 & 26 Vict. c. 43, relating to certified schools. This Act has been extended by 31 & 32 Vict. c. 122, § 23.

In the Metropolis.]—A special system has been established in the metropolis, in pursuance of the provisions of the "Metropolitan Poor Act, 1867" (30 & 31 Vict. c. 6), and the amending Acts, under which such of the insane and idiot paupers belonging to the Unions and parishes in the metropolis as may be lawfully maintained in a workhouse are received into asylums provided and managed by the Metropolitan Asylums Board; and it is expressly enacted, by 30 & 31 Vict. c. 6, s. 30, that "every such asylum shall be considered as a workhouse within the meaning of the Lunacy Acts." As this system is limited to the metropolis, it has not been deemed necessary to include in the present work the statutes relating to it.

SECT. 4.—PAUPER LUNATICS RECEIVING OUT-DOOR RELIEF.

Those pauper lunatics who are not proper patients to be sent to an asylum, hospital, or licensed house, need not necessarily be received into the workhouse. The law does not preclude the Guardians (if under all the circumstances of the particular case they deem it expedient to do so) from making such an allowance of out-door relief as may provide for the maintenance of any such lunatic under the care of relatives or otherwise. The Orders relating to out-door relief issued by the Local Government Board, except from their operation all cases of mental infirmity affecting any person who requires relief, or any of his or her family.[1] This class of pauper lunatics are to be visited by the medical officer every quarter, and are to be included in his quarterly return (Rule 28, Schedule Forms 17, 18); as well as in the annual return to be prepared by the clerk to the Guardians under Rule 29. And the Commissioners in Lunacy, or any two of them, are empowered to visit a pauper lunatic not in an institution, and on obtaining the requisite medical certificate, and being satisfied that the lunatic is a proper person to be detained, to order his removal to an asylum, hospital, or licensed house (**A** 23).

SECT. 5.—INCIDENCE OF THE CHARGE.

Relief.]—If a pauper lunatic is maintained in a workhouse, or by means of out-door relief, his relief is charge-

(1) See Glen's *Poor Law Board Orders*, 10th edition, 1887, *passim*.

able like the relief of other paupers; and consequently, in the case of a union, it is chargeable on the common fund, under the provisions of the "Union Chargeability Act, 1865" (28 & 29 Vict. c. 79, s. 1).

Asylums, Hospitals and Licensed Houses.]—When a pauper lunatic is sent to one of these establishments, the expense is to be defrayed and borne according to the statutory provisions specially applicable to the matter. According to the general scheme of the Act, the charge is cast, in the first instance on the union from which the lunatic is sent; but it may be transferred (according to circumstances) to the union comprising the parish of his settlement,—or to the county or borough,—or to his own property, if he has any,—or to his relations who may be legally liable for his support.

Primary Charge.]—An order may be made upon the guardians of the union for the payment to the treasurer of the asylum, or proper officer of the hospital, or proprietor of the licensed house, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care of the lunatic; and such order may be made either by the justice who made the reception order, or by any two justices of the county or borough in which the institution is situate, or from any part of which the lunatic was sent, or by any two justices being visitors of the institution (**A** 287). As regards an asylum, the rate of charge is regulated by **A** 283; but as regards a hospital or licensed house, it will be matter for agreement, as the reception of the lunatic is not compulsory, except where there is a contract (**A** 69). The guardians, however, if they think fit, may pay without an order (**A** 295), but the provisions of 22 & 23 Vict. c. 49, *post*, should be referred to, as regards the limitation of the time for payment.

The payment so made (whether with or without an order), if made by the guardians of a union will be chargeable to the common fund of such union. Prior to the year 1861, the only lunatics chargeable to the common fund in unions were those who were irremoveable under 9 & 10 Vict. c. 66; but in that year it was enacted by the 24 & 25 Vict. c. 55, s. 6, that the expense of all lunatics in asylums, hospitals, or licensed houses should in future be borne by the common fund. Moreover, the cost of all relief is now chargeable to the common fund in unions, under 28 & 29 Vict. c. 79, s. 1, *post.*

Parish of the Settlement.]—If the pauper lunatic when sent to the asylum or other establishment be exempt

from removal under any provision of 9 & 10 Vict. c. 66, no order for the payment of the expenses can be made upon the union of his settlement (**A** 294); but if he be not so exempt, an order may be obtained under **A** 288–89, adjudicating the settlement, if the parish of the settlement be known, and directing payment to be made by the guardians of the union comprising such parish. Where the maintenance is chargeable to the common fund under 24 & 25 Vict. c. 55, s. 6, this order may be applied for by the guardians of the union, under s. 7. Payment may be made, however, by the guardians of the union comprising the parish of settlement without any order (**A** 295). Special provisions are enacted with respect to appealing against any such order; as also against the refusal of an order (**A** 301–13); as well as for enforcing it when made (**A** 314).

County or Borough.]—If, however, the settlement of the lunatic cannot be ascertained (or if he have in fact no settlement), the charge may be transferred to the Local Authority in whose area he was found (**A** 290), or in certain cases, to the union in which he was found (**A** 291).

Special provision is made by the "Poor Law Amendment Act, 1867" (30 & 31 Vict. c. 106, s. 23, *post*), and by the "Poor Law Amendment Act, 1868" (31 & 32 Vict. c. 122, s. 14, *post*), for the case of pauper lunatics sent from a borough not contributing to the county asylum. In any such case, where the borough is in a union, the visitors of the asylum are to make out two accounts, one to be sent to the guardians of the union, and the other to the town council of the borough; and the ordinary charge is to be paid by the guardians, and the extra charge by the town council. Similar provisions are made in the "Poor Law Amendment Act, 1876" (39 & 40 Vict. c. 61, s. 26, *post*), with respect to lunatics sent from boroughs to registered hospitals or licensed houses.

Parliamentary Grant.]—The grants which used annually to be made by Parliament in aid of the cost of the maintenance of pauper lunatics in county or borough asylums, registered hospitals, and licensed houses, the repayments of which used to be made through the Local Government Board have, in virtue of the "Local Government Act, 1888" (51 & 52 Vict. c. 41) ceased as direct payments, but an equivalent reaches the same destination through the County Councils.

Property of Lunatic—Pensions.]—Where the lunatic has an estate more than sufficient to maintain his family,

it may be applied under order of justices towards his support (**A** 299); and special provisions are also made with regard to members of benefit societies (39 & 40 Vict. c. 61, s. 23).[1] As to the powers of the Lord Chancellor where the property is small, see **A** 116 (1 *e*); and as to orders made by the Chancery or Probate Divisions, on behalf of guardians, see the several cases referred to in the notes on **A** 299; and 12 & 13 Vict. c. 103, s. 16 (*post*).

Relatives.]—The liability of the relatives of the lunatic to contribute towards his maintenance is not in any way varied or affected by the fact of his being confined in an asylum, hospital, or licensed house (**A** 299); but it is not necessary here to refer to the statutes on the subject, which do not relate specially to lunatics, except the enactment contained in 13 & 14 Vict. c. 101, s. 5 (*post*), which (as amended by 39 & 40 Vict. c. 61, s. 20 (*post*) enforces the obligation of a husband to support his lunatic wife.

Summary of the Law as to Pauper Lunatics.]—It may here be stated in summary form that pauper lunatics can be dealt with:—

(*a.*) if demanding asylum treatment—in an institution;
(*b.*) if demanding less than that, but *some* treatment—in a workhouse certified to be appropriate (**A** 24 (*c.*)).
(*c.*) if demanding no separate treatment—in any workhouse.

It may be noted that (*b*) is a new provision, as to certification; and seems likely to have important bearings in the workhouse treatment of the insane.

(1) This Section has been amended by 42 & 43 Vict. c. 12.

PART III.

Criminal Lunatics, and Insane Prisoners.

Criminal Lunatics.]—It is not within the scope of the present work to enter into the question of the legal responsibility of persons of unsound mind. The legal doctrine upon this subject, with regard to criminal acts, is stated in the answers given by the Judges to the questions proposed to them by the House of Lords, in *McNaughten's Case.*[1] Although the expression "Criminal Lunatic" has been objected to as involving a contradiction in terms, it does not always do so in fact; as, under some circumstances, a lunatic is regarded by the law as a criminal, and dealt with accordingly. Thus, in the answer to the fourth of the questions above referred to, the Judges state that, if a person labours under a partial delusion only, and is not in other respects insane, he is in the same situation as to responsibility "as if the facts with respect to which the delusion exists were real." Referring to a supposed case of murder by such a person, they add:—"If his delusion was that the deceased had inflicted a serious injury to his character and fortune, and he killed him in revenge for such supposed injury, he would be liable to punishment." In other words, although he is a lunatic, acting under the influence of an insane delusion, he is, nevertheless, also a criminal. In general usage, however, the term "Criminal Lunatic" is not confined to the cases of lunatics whom the law regards as criminals, but applies to all cases of insane persons who commit acts which are in themselves criminal, and which would if the agent were sane, be deemed such.

Lunatics about to commit a Crime.]—There is a further class of cases closely connected with those above-mentioned, but yet sufficiently distinct to require a separate provision; namely, the cases of insane persons who contem-

(1) 8 Scott, N. R., 600; 1 C. & K., 130 n.; 10 Cl. & Fin., 200.

plate the commission of criminal acts, which they are prevented by timely interposition from accomplishing. The Act 39 & 40 Geo. III. c. 94 enacted that, where any person was discovered and apprehended under circumstances denoting a derangement of mind and a purpose of committing some crime for which, if committed, he would be liable to be indicted, he might be sent to prison, and could not then be bailed except by the authorities specified in the Act (§ 3); but this enactment was repealed by the 1 & 2 Vict. c. 14,[1] which provided that any such person so apprehended might be sent by two justices, acting with the advice of a medical man, to the county asylum, if there were one, and if not to some hospital or licensed house, to be there maintained at the charge of the parish of his settlement, or if such parish could not be ascertained, at the charge of the county or borough where he was apprehended.[2]

Offenders becoming Insane.]—In addition to those "Criminal Lunatics" who had committed criminal acts in a state of insanity, whether total or partial, there are the cases of criminals becoming subsequently insane. With regard to these, Blackstone (*Comm.*, Book iv. chap. ii.) points out that if a man who in his sound mind has committed an offence, becomes mad before arraignment, he ought not to be arraigned; if after he has pleaded, and before trial, he ought not to be tried; if after trial, and a verdict of guilty, but before judgment, judgment ought not to be pronounced; and if after judgment, execution ought to be stayed.[3] The Act 39 & 40 Geo. III. c. 94, passed in 1800 in consequence of Hadfield's case,[4] required that, if a person charged with treason, murder, or felony be acquitted on the ground that he was insane at the time of committing the offence, the jury shall find specially to that effect; and in any such case, and also where a person indicted for any offence, or brought up to be discharged for want of prosecution, is found to be insane, either by the jury charged

(1) Itself repealed by 37 & 38 Vict. c. 96.

(2) *Reg.* v. *Elsley*, 15 Q.B., 1025. See also the provisions of A 15, as to lunatics wandering at large, or not under proper control.

(3) See also 1 Hale P. C. 34; and Russell on *Crimes*, vol. i. book 1, chap. I., where the cases are collected. See also *Reg.* v. *Barton*, 3 Cox C.C., 275; *Reg.* v. *Frances*, 4 Cox C.C., 57; *Reg.* v. *Layton*, 4 Cox C.C., 149; *Reg.* v. *Higginson*, 1 C. & K., 129.

(4) The trial of Hadfield (27 *State Trials*, 1281) having taken place on 26th June, 1800, the Bill was introduced by the Attorney-General on 30th June, and received the Royal Assent on 28th July. Hadfield died in Bethlehem in 1849. (See *Suggestions for the future Provision of Criminal Lunatics*, by Dr. Hood, London, 1854, p. 15.)

with the indictment or by a jury impannelled for the purpose, the Court is empowered to direct his confinement, until the Queen shall give order for his safe custody, during her pleasure, in such place and in such manner as to Her Majesty may seem fit.[1]

Other Insane Prisoners.]—Besides insane offenders, and offenders becoming insane, there may be other prisoners, or persons in legal custody (whether imprisoned in reference to criminal proceedings, or under civil process, or otherwise) who may become, or may be found to be, insane; and special provisions are made with respect to them (see 25 & 26 Vict. c. 104, s. 5; 29 & 30 Vict. c. 109, s. 68).

Removal to Asylum—Maintenance.]—The Act of 1800, whilst it empowered the Sovereign to give orders for the safe custody of criminals found to be insane, contained no provision for defraying the expense of their care and maintenance, where they had not sufficient property of their own. The result appears to have been that many such persons continued to be kept in the county jails and houses of correction, instead of being placed in more suitable establishments; and this led to a parliamentary investigation. In 1807, a select committee of the House of Commons was appointed to inquire into the state of the criminal and pauper lunatics in England and Wales; and they made a Report, suggesting certain alterations of the law as regards the criminal lunatics, and recommending

(1) As to cases under the statute, see *R.* v. *Pritchard*, 7 C. & P., 303; *R.* v. *Dyson*, 7 C. & P., 305, n.; 1 Lewin 64; *Reg.* v. *Hodges*, 8 C. & P., 195; *Reg.* v. *Pearce*, 9 C. & P., 667—also in *Re Pearce*, *Ex parte Clark*, 8 Jur., 89; *Reg.* v. *Goode*, 7 A. & E., 536. See also the case of Wild, discussed in the House of Commons in 1830; Hansard, vol. xxii. p. 734. The following is, or used to be, the form of the Royal Warrant:—

"Whereas was indicted for and being found by a jury duly taken in that behalf to be insane, the Court in pursuance of the Act of Parliament made and passed in the 39th and 40th years of the reign of King George the Third, did order the said to be kept in strict custody until Our pleasure should be known. And whereas humble suit hath been made unto us to be graciously pleased to order the said to be removed from the gaol of . We taking the premises into Our Royal consideration, do, by virtue of the before mentioned Act, hereby signify Our pleasure, that you do receive the said from the said gaol, and keep him in custody in the Lunatic Asylum, until Our further pleasure be known. And for so doing this shall be your warrant.

"Given at our Court of St. James's the day of , in the year of Our Reign.

"To our trusty and well-beloved, The and all others it may concern. } By Her Majesty's Command."

the establishment of a central asylum. The following is an extract from that Report:—"It therefore appears to be highly desirable that a building should be erected for the separate confinement of all persons detained under the above-mentioned Act (39 & 40 Geo. III. c. 94) for offences committed during a state of insanity; and that provisions should be enacted similar to those of 17 Geo. II. c. 5, s. 20, directing the magistrates of the county where the trial has been had, in all cases where it shall not appear to them that the lunatic has sufficient property to defray the expenses of his own maintenance, to inquire into the place of his last legal settlement, and to make an order upon such parish, or if that cannot be ascertained, upon the county where he has been tried, to allow such weekly sum for his maintenance as shall from time to time be fixed by the Secretary of State for the Home Department, or such persons as His Majesty shall appoint to superintend such place of confinement. As one establishment of this nature will be sufficient for the whole kingdom, it may be expedient that it should be in or near the metropolis, and that power should be given to the Secretary of State to make such regulations as may not only provide for the due care and management of the persons there confined, but may also ensure a full examination by competent judges into the state of mind of any person who may appear to be cured previous to his being allowed his discharge.[1] This was followed in the ensuing year, 1808, by an address to His Majesty, for the erection of a building for criminal lunatics; and after some communications in 1814, arrangements were made in 1816 for the erection, at the charge of the Government, of a separate prison in connection with Bethlehem Hospital, for the reception of sixty criminal lunatics, to be maintained at the charge of the Government, but under the care of the Governors of the Hospital.[2]

Meanwhile an Act which was passed on 23rd June, 1808 (48 Geo. III. c. 96, s. 27), made provision for charging the maintenance of any lunatic kept in custody under 39 & 40 Geo. III. c. 94, either on his own property, or (if that were insufficient) on the parish of his settlement, or (if that could not be ascertained) on the county; and another Act, passed in 1816, directed that offenders becoming insane after conviction should be removed to a lunatic asylum, though it made no provision for the

(1) *Session Papers*, No. 39, Session of 1807.

(2) *Session Papers*, No. 443; June 11th, 1816.

charge of their maintenance there. Both these Acts were repealed in 1828,[1] and other provisions made. These were themselves repealed in 1840 by 3 & 4 Vict. c. 54.[2] This last-mentioned Act (repealed by 17 & 18 Vict. c. 64) is referred to in the *Seventh Annual Report* of the Poor Law Commissioners (pp. 53, 54) as follows:—

"The 3 & 4 Vict. c. 54, was passed to make further provision for the confinement and maintenance of insane prisoners, and its provisions more particularly apply to the remedy of certain defects in the former state of the law relative to such prisoners. The confinement of a person insane at the time of his apprehension and committal to prison, or becoming insane during the period of his imprisonment, until he becomes sane, in some asylum, is authorised by it. There is a clause in the Act which authorises the justices of the peace of the place where the prisoner is confined to inquire into the settlement of such prisoner, and his pecuniary circumstances; and where it shall not appear that he is possessed of means sufficient to provide for his maintenance, then to make an order upon the overseers of his parish to pay the reasonable charges for inquiring into such person's insanity, for the conveyance to the asylum, and a certain weekly sum for maintenance.[3] When the place of settlement cannot be ascertained, the order must be made on the treasurer of the county. If the person is possessed of property, such property is to be applied towards the maintenance of such prisoner, and the justices may make an order upon the overseers of the place where it happens to be, to seize the same, or so much as may be necessary to defray the above charges, who are to account for the same to the justices of the place where the order was made, at their next special sessions. An appeal is allowed to the overseers of the parish, and where the parish is in a Union, or under guardians, to the guardians of the union or parish, or the overseers of the parish, against the order of settlement, to which the clerk of the peace shall be the respondent. The 9 Geo. IV. c. 40, s. 54, contained a power similar to that in the present Act applicable to insane persons confined by order of any court or by the King's order; but although it was enacted that the property of a prisoner, if sufficient for his maintenance, should be applied thereto, no provision was made to enable it to be reached."

(1) All the previous Acts were repealed in 1845 by 8 & 9 Vict. c. 126.

(2) This Act, passed on August 4th, 1840, was occasioned by the case of Oxford, who was tried on July 9th, 1840 (9 C. & P., 525; 1 R. C. & M., 16).

(3) *Reg.* v. *Berkshire JJ.*, 3 N. S. C., 473.

The 3 & 4 Vict. c. 54 (repealed in 1884), received important modification, in consequence of the proceedings which occurred in the case of Townley, who, having been tried at Derby, on 12th December, 1863, for the murder of Miss Goodwin, and convicted, was certified to be insane, whilst in jail under sentence of death, on 17th December, by certain justices of the peace for the borough of Derby, and on 29th December, by certain justices of the peace for the county of Derby, together with two medical men—such certificates having been obtained at the instance of the prisoner's attorney; and who was afterwards reported by special commissioners to be of sound mind. By the Act which was passed on June 23, 1864 (27 & 28 Vict. c. 29),[1] the first section of 3 & 4 Vict. c. 54, was repealed, and other provisions made, enabling the Secretary of State to remove insane prisoners, confined under any other than civil process, from prison to a lunatic asylum, under certain circumstances and conditions. The following was the form of the Secretary of State's Warrant, under 3 & 4 Vict. c. 54, s. 1:—

"Whereas by an Act passed in the 3rd and 4th years of the reign of her present Majesty, intituled, &c. And whereas it has been certified to me, under the hands of and , two justices of the peace, and the hands of , and , being persons authorised as aforesaid, that , who was at on convicted of , and had sentence of passed upon him for the same, and who is now confined in the gaol for the said county, has become insane; and whereas the Criminal Lunatic Asylum in St. George's Fields, in the county of Surrey, has been recommended to me as a fit and proper receptacle for the said lunatic: I do hereby, in pursuance of the Act of Parliament above recited, authorise and direct you to cause the said to be removed from the said gaol to the said lunatic asylum, there to remain until further order shall be made herein, and for so doing this shall be your warrant. Given at Whitehall, etc.

"To the High Sheriff of the county of , and to all others whom it may concern."

The warrant to the Governors of Bethlehem Hospital (*i.e.* the Asylum in St. George's Fields), containing the same recitals, concluded as follows:—

"I do hereby, in pursuance of the Act of Parliament above recited, authorise and direct you to cause the said

(1) This Act was repealed in 1884 by 47 & 48 Vict. c. 64.

to be received from the said gaol into the said lunatic asylum, there to remain until further order shall be made herein, and for so doing this shall be your warrant."

For the form of an order of the Secretary of State for the removal of an insane prisoner to a county asylum or licensed house, see the report of the case of *Bradford Union* v. *Clerk of the Peace for Wiltshire*, referred to elsewhere, *post*.

The Act 27 & 28 Vict. c. 29 (repealed in 1884), moreover, transferred the charge of the maintenance of insane prisoners and criminal lunatics from the parish of the settlement to the common fund of the union, in the case of unions formed under 4 & 5 Will. IV. c. 76.

Property.]—The property of criminal lunatics may be applied towards their maintenance under order of justices (47 & 48 Vict. c. 64, § 10 (3);) and the Lord Chancellor is empowered, in the case of any person indicted and acquitted on the ground of insanity, to order the application of his property for his maintenance or benefit, or that of his family, or for carrying on his trade or business (47 & 48 Vict. c. 64, § 10 (3).)

Criminal Lunatic Asylum.]—In 1860 it was deemed advisable to erect a central asylum for criminal lunatics; and such an asylum has accordingly been established at Broadmoor, near Wokingham, Berks, which is subject to the special provisions of the statute, 23 & 24 Vict. c. 75, passed in 1860. This asylum was opened in 1863.

Visitation.]—The State Asylum is to be visited by the Commissioners in Lunacy, who are to report thereon, annually, to the Secretary of State, and their report is to be laid before Parliament (23 & 24 Vict. c. 75, sects. 14, 15).

Discharge or Removal.]—The power of directing the removal or discharge, absolute or conditional, as well as temporary absence, on trial or otherwise, from the asylum, rests with the Secretary of State (47 & 48 Vict. c. 64).

Lunatics from India.]—Provision is made by the Act 14 & 15 Vict. c. 81 (§§ 1, 2, *post*), for the removal from India to the United Kingdom of any person indicted for or charged with any crime or offence, and acquitted or not tried, on the ground of his being found to be of unsound mind; such person, on arriving in the United Kingdom, to be dealt with according to the provisions of the Act 39 & 40 Geo. III. c. 94 (*post*). The expenses are to be defrayed by the Government of India; but may be recovered, as a debt, from the lunatic's estate (§§ 3, 4, *post*).

PART IV.

The Commissioners in Lunacy.

By the first Act for regulating madhouses (14 Geo. III. c. 49), passed in 1774, the College of Physicians was required to elect five Fellows to act as Commissioners for licensing and inspecting these establishments within the cities of London and Westminster, and seven miles thereof, and the county of Middlesex; the duties of licensing and visiting in the rest of the country being confided to the justices of the peace. This Act (a temporary one) was continued by 19 Geo. III. c. 15, and 26 Geo. III. c. 91; but repealed in 1828 by 9 Geo. IV. c. 41, in consequence of the Report of the Committee of the House of Commons in 1827. The last mentioned Act (limited to three years) empowered the Home Secretary to appoint every year fifteen Commissioners (five being physicians) for licensing and visiting within the Metropolitan district; and in 1832, on the expiration of 9 Geo. IV. c. 41, an Act was passed (2 & 3 Will. IV. c. 107), which authorised the Lord Chancellor to appoint annually the "Metropolitan Commissioners in Lunacy." That Act, passed for three years, was amended, and renewed by 3 & 4 Will. IV. c. 64; 5 & 6 Will. IV. c. 22; 1 & 2 Vict. c. 73; 5 Vict. c. 4; and 5 & 6 Vict. c. 87; and by the last-named Act, passed in 1842, the Metropolitan Commissioners were empowered to inspect all the public and private asylums throughout England and Wales. All these Acts were repealed in 1845 by 8 & 9 Vict. c. 100, which constituted the Board of "Commissioners in Lunacy." This Act was itself repealed by the "Lunacy Act, 1890," but all its salient features of departmental control over lunatics have been re-enacted.

By the Act of 1845, eleven Commissioners were appointed by name, three of whom were physicians, and three barristers—future vacancies to be filled up by the Lord Chancellor. The medical and legal Commissioners are paid; as also the secretary and clerks; but the per-

manent chairman is unpaid.[1] Every Commissioner, secretary, and clerk is to make a declaration of fidelity and secrecy, and is not to be interested in any licensed house, or to sign certificates. The Commissioners have a common seal, for sealing their licences and orders (**A** 150–58).

The expenses of the Commissioners, to the amount sanctioned by the Treasury, are paid out of moneys provided by Parliament (**A** 155).

The Commissioners may make rules for their own duties, and those of their officers (**A** 161 (1).) They are to make periodical returns to the Lord Chancellor of visits made, and patients seen; and in June, in every year, a general report; all to be laid before Parliament (**A** 162).

Their powers and duties, the extent of their "immediate jurisdiction," their meetings for granting licences, their proceedings as to the visitation and regulation of asylums and other establishments, and the other matters which come under their cognizance, have already been noticed under the appropriate headings. Their *Sixteenth Report*, 1862, pp. 72-74, contains a general account of their labours; while the results are exhibited in the entire series of their valuable and important reports, the last of which was the Forty-third.

(1) Those who have read Hodder's *Life of the Earl of Shaftesbury* will remember that he was chairman for many years, during which he did gratuitously an amount of good work, the extent of which was not generally known or appreciated during his lifetime.

BOOK II.

STATUTES.

17 EDW. II. ST. I.[1]

PREROGATIVA REGIS.

OF THE KING'S PREROGATIVE.

C. XI.

The Custody of Lands of Idiots.

THE King shall have the custody of the lands[2] of natural fools,[3] taking the profits of them without waste or destruction, and shall find them their necessaries, of whose fee soever the lands[2] be holden; and after the death of such idiots,[3] he shall render it [the same] to the right heirs, so that such idiots,[3] shall not be aliene, nor their heirs be disinherited.

(1) Taken from the *New Revised Edition of the Statutes*, published by authority, vol. i. p. 81. Although this statute is generally described as a statute of 17 Edward II., the accuracy of this description is open to doubt; and it is placed by the Record Commission among those, "the exact date whereof appears uncertain, but which have been uniformly considered as made previous to Edward III." Most of its provisions were repealed by the Act, 26 & 27 Vict. c. 125, "for promoting the revision of the statute law by repealing certain enactments which have ceased to be in force or have become unnecessary." The two chapters (xi. and xii.) relating to idiots and lunatics, however, are not affected by that Act. What is given above is a modern translation of those chapters, the original statute being in Latin. The passages between [ ] are readings from different manuscripts. It may be well to add that these two chapters are usually cited as c. 9 and c. 10; but they are printed in the *Statutes of the Realm* as c. 11 and c. 12.

(2) Although "lands" alone are mentioned, it seems that the prerogative extends to the custody of the person, goods, and chattels (4 Rep. 126; F. N. B. 232).

(3) The definition of idiocy, lunacy, and insanity is a subject which has frequently been judicially considered; and without attempting to enumerate all the decisions, the following authorities may be referred to—4 Rep. 124 b, 128 a; Co. Lit. 246 b, 247 a, b; Fitz. N. B. 233 b; 1 Hale P. C. 29, 31; 1 Ridg. P. C. 518, 533; Blackstone, *Comm.*, Bacon's *Abr.*; Brooke's *Abr.*; Viner's *Abr.*, 1 Russell on *Crimes*, *Lord Donegal's* Case, 2 Ves. 408; *Ball* v. *Mannin*, 1 D. & Cl., 393; *Harrod* v. *Harrod*, 1 K. & J., 4; *Ridgway* v. *Darwin*, 8 Ves., 65; *Ex parte Barnsley*, 3 Atk., 168;

C. XII.

Of Lands of Lunaticks.

Also the King shall provide, when any that beforetime hath had his wit and memory happen to fail of his wit, as there are many [with lucid intervals],[1] that their lands and tenements shall be safely kept without waste and destruction, and that they and their household[2] shall live and be maintained competently[3] with the profits of the same, and the residue besides their sustentation shall be kept to their use, to be delivered unto them when they come to right mind; so that such lands and tenements[4] shall in no wise [within the aforesaid time] be aliened; and the King shall take nothing [of the profits] to his own use. And if the party die in such estate, then the residue shall be distributed for his soul by the advice of the Ordinary.[5]

Ex parte Cranmer, 12 Ves., 455; *Carew* v. *Johnson*, 2 Sch. & Lef., 280; *Frere* v. *Peacocke*, 1 Rob., E. R., 442; *Mudway* v. *Croft*, 3 Curt., 671; *Dew* v. *Clarke*, 5 Russ., 167; *Waring* v. *Waring*, 6 Moo., P. C., 350. As to the principal forms of insanity, see the memorandum contained in the Report made to the Lord Chancellor by the Metropolitan Commissioners in Lunacy in 1844 (pp. 102–113).

(1) As to lucid intervals, see *Att.-Gen.* v. *Parnther*, 3 Br. C. C., 444; *Hall* v. *Warren*, 9 Ves., 611; *Groom* v. *Thomas*, 2 Hagg., E. R., 433; *Wheeler* v. *Alderson*, 3 Hagg., E. R., 575; *Wheeler* v. *Batsford*, 3 Hagg., E. R., 599; *Brogden* v. *Brown*, 2 Add., 445; *Ayrey* v. *Hill*, 2 Add., 609; *Re Holylands*, 11 Ves., 10; *White* v. *Driver*, 1 Phillim., 88; *Cartwright* v. *Cartwright*, 1 Phillim., 101; *Bannatyne* v. *Bannatyne*, 2 Rob., E. R., 472; 16 Jur., 864; *Waring* v. *Waring*, 6 Moo., P. C., 357. On this subject, see also the remarks in the Report made in 1844 by the Metropolitan Commissioners in Lunacy (pp. 104, 105).

(2) As to allowance for maintenance of family, see *Foster* v. *Marchant*, 1 Vern., 263; *Ex parte Whitbread*, 2 Meriv., 100; *Re Cotton*, 2 Meriv., 100 n.; *Re Drummond*, 1 M. & Cr., 631; *Re Blair*, ib. 303; *Re Creagh*, 1 Dru. & W., 323; *Edwards* v. *Abrey*, 2 Coo. t. Cott. 185; *Re Lineham*, 2 Jo. & Lat., 29; *Re Clarke*, 2 Phill., 283; *Bradshaw* v. *Bradshaw*, 1 Jac. & W., 647; *Ex parte Haycock*, 5 Russ., 154: *Re Carysfort*, 1 Cr. & Ph., 76; *Re Thomas*, 2 Phill., 169; *Re Hewson*, 21 L. J., Ch., 825; *Re Croft*, 32 L. J., Ch., 481.

(3) *Holmes'* case, Dyer, 25 b; 4 Rep. 127 b.

(4) See note (2) on preceding page.

(5) On this point, see Blackstone's remark (*ante*), that the residue, "by the subsequent amendments of the Law of Administration, shall now go to the executors or administrators."

39 & 40 Geo. III. c. 94.[1]

An Act for the safe Custody of Insane Persons charged with Offences.

[*8th July*, 1800.

[§ 1 is repealed as to England by 46 & 47 Vict., c. 38, § 4.]

Persons indicted for any Offence, and upon Arraignment found to be Insane, or if upon Trial they shall be so found, etc., the Court shall order them to be kept in custody till His Majesty's pleasure be known.

2. And if any person indicted for any offence shall be insane, and shall upon arraignment be found so to be by a jury lawfully impannelled for that purpose, so that such person cannot be tried upon such indictment,[2] or if upon the trial of any person so indicted such person shall appear to the jury charged with such indictment to be insane,[3] it shall be lawful for the court before whom any such person shall be brought to be arraigned or tried as aforesaid, to direct such finding to be recorded, and thereupon to order such person to be kept in strict custody until His 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, and it shall be lawful for such court to order a jury to be impannelled to try the sanity of such person; and if the jury so impannelled shall find such person to be insane, it shall be lawful for such court to order such person to be kept in strict custody, in such place and in such manner as to such court shall seem fit, until His Majesty's pleasure shall be known; and in all cases of

(1) *New Revised Statutes*, vol. ii. p. 909.

(2) *Reg.* v. *Davies*, 6 Cox C. C., 326.

(3) As to the application of this enactment in cases of misdemeanour, see *R.* v. *Little*, R. & R. C. C., 430; and as to the case of a deaf and dumb person indicted for larceny, and found at the trial to be insane, see *Reg.* v. *Berry*, 45 L. J., M. C., 123.

insanity so found, it shall be lawful for His Majesty to give such order for the safe custody of such person so found to be insane, during his pleasure, in such place and in such manner as to His Majesty shall seem fit.

3. [Repealed by 1 & 2 Vict. c. 14, § 1, *post.*]

The Privy Council, or one of the Secretaries of State, may cause Persons appearing to be Insane, and endeavouring to gain Admittance to His Majesty, to be kept in Custody till the Insanity of such Persons be inquired into in the manner herein directed, etc.

4. And whereas insane persons have at different times endeavoured to gain admittance to His Majesty's presence, by intrusion on His Majesty's palaces and places of residence, and otherwise, and His Majesty's person may be endangered by reason of the insanity of such persons: Be it therefore enacted, That, if any person who shall appear to be insane shall endeavour to gain admittance to His Majesty's presence, by intrusion on any of His Majesty's palaces or places of residence, or otherwise, so that there may be reason to apprehend that his Majesty's person may be endangered, it shall be lawful for His Majesty's Privy Council, or one of His Majesty's Principal Secretaries of State, to cause such person to be brought before them or him; and if upon examination it shall appear that there is reason to apprehend such person to be insane, and that the person of His Majesty may be endangered by reason of the insanity of such person, it shall be lawful for His Majesty's Privy Council, or one of His Majesty's Principal Secretaries of State, to order such person to be kept in safe custody in such place, and in such manner as according to circumstances shall be ascertained; and for such purpose, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal of Great Britain, to award a commission under the said Great Seal, directed to certain commissioners to be therein named, to inquire into the sanity of such person, and whether the person of His Majesty may be endangered by reason of the insanity of such person, and for such purpose, to direct the sheriff of the county where such person shall be, to summon a jury to try the sanity of such person, and whether His Majesty's person may be endangered by reason of the insanity of such person, in the same manner as juries are summoned to try the sanity of persons on a commission in the nature of a writ *de lunatico*

inquirendo; and if upon the inquisition so taken it shall be found that such person is so far insane that the person of His Majesty may be endangered by reason of the insanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal for the time being, to take order for the safe custody of such person so long as there shall be reason to apprehend that the person of His Majesty may be endangered by reason of the insanity of such person; and if it shall afterwards appear that such person shall have recovered the use of his or her reason, so that there shall be no longer any reason to apprehend any danger to His Majesty's person from the insanity of such person, it shall be lawful for the Lord Chancellor, Lord Keeper, or Lords Commissioners for the custody of the Great Seal for the time being, to inquire into the fact by such means as to him or them shall seem proper; and if it shall appear to his or their satisfaction that such person has so far recovered the use of his or her reason, that there is no ground for apprehending any danger to His Majesty's person from the insanity of such person, it shall be lawful for the said Lord Chancellor, Lord Keeper, and Lords Commissioners respectively, to direct such person to be discharged from custody, either absolutely or conditionally, or under restrictions, as to him or them shall seem meet.

1 & 2 Vict. c. 14.

An Act to repeal so much of an Act of the thirty-ninth and fortieth years of King George the Third as authorises Magistrates to commit to Gaols or Houses of Correction Persons who are apprehended under circumstances that denote a derangement of mind and a purpose of committing a crime; and to make other provisions for the safe custody of such Persons.

[*30th March*, 1838.

1. [This section, which repealed § 3 of 39 & 40 Geo. III., c. 94, *ante*, was itself repealed in 1874 by 37 & 38 Vict. c. 96; but this repeal did not revive the repealed enactment in 39 & 40 Geo. III., c. 94, § 3.]

Persons apprehended as deranged, and intending to commit some Crime, may be sent to Lunatic Asylums.[1]

2. If at any time . . . any person shall be discovered and apprehended under circumstances that denote a derangement of mind and a purpose of committing some crime for which, if committed, such person would be liable to be indicted, it shall and may be lawful for any two justices of the peace of the county, city, borough, or place, where such person shall be so . . . apprehended to call to their assistance a physician, surgeon or apothecary, and if upon view and examination of the said person so . . . apprehended, or from other proof, the said justices shall be satisfied that such person is insane or a dangerous idiot, the said justices, if they shall so think fit, by an order under their hands and seals, directed . . . to the constable[2] or overseers[2] of the poor of the parish, township or place where such person shall be apprehended, shall cause the said person to be conveyed to and placed in the county lunatic

(1) The marginal notes are taken from the *Revised Edition of the Statutes*; and the enactment is printed as it stands in that edition, certain portions of the section having been repealed in 1874, by 37 & 38 Vict. c. 96.

(2) It will be observed that no mention is made of guardians of the poor or relieving officers.

asylum,[1] provided there be one situated within or belonging to the county in which such person shall be . . . apprehended, and if there be no such asylum, then to some public hospital, or some house duly licensed, for the reception of insane persons;[1]

Justices may inquire into Settlement of such Persons, and make Order for Payment of their Maintenance, etc.

And it shall be lawful for the said justices[2] to inquire into[2] and ascertain, by the best legal evidence that can be procured under the circumstances of personal legal disability of such insane person or dangerous idiot, the place of the last legal settlement of such person; and it shall and may be lawful for such two justices to make an order under their hands and seals upon the overseers[4] or churchwardens[3] of such parish, township, or place where they adjudge him or her to be legally settled, to pay all reasonable charges of examining such person, and conveying him or her to such county lunatic asylum, public hospital, or licensed house, and to pay such weekly sum for his or her maintenance in such place of custody as they or any two justices shall, by writing under their hands, from time to time direct;

And where such place of settlement cannot be ascertained,[4] such order shall be made upon the treasurer of the county, city, borough or place where such person shall have been . . . apprehended.

Act not to prevent Relations, etc., from taking such Persons under their own Care.

Provided always, that nothing herein contained shall be construed to extend to restrain or prevent any relation or friend[5] from taking such insane person or dangerous idiot under their[5] own care and protection, if he[5] shall enter into sufficient recognizance for his or her peaceable behaviour or safe custody, before two justices

(1) The admission of such persons under this enactment will not be prevented by the provisions of the Acts relating to asylums, hospitals, and licensed houses: see **A** 340.

(2) "The said justices" means "the same justices who have sent the lunatic to the asylum," but the inquiry into the settlement and the consequent order may be made by them at any time.—*Reg.* v. *Clerk of the Peace for York*, *W.R.*, 20 L. J., M. C., 18.

(3) See note (2) on preceding page.

(4) An order cannot be made on the county until an inquiry into the place of settlement has been made and has failed.—*Reg.* v. *Clerk of the Peace for York*, *W.R.*, 20 L. J., M. C., 18.

(5) Both "he" and "their" seem to refer to "relation or friend."

of the peace, or the court of quarter sessions, or one of the judges of her Majesty's courts in Westminster Hall:

Appeal against Order for Maintenance.

Provided always, that the churchwardens and overseers of the parish in which the justices shall adjudge any insane person or dangerous idiot to be settled may appeal against any such order to the next general quarter sessions of the peace to be holden for the county where such order shall be made, in like manner and under like restrictions and regulations as against any order of removal,[1] giving reasonable notice thereof to the clerk of the peace of the county, riding, or division, or to the town clerk of the city, borough, or place, as the case may be, upon whose rates the burden of maintaining such insane person or dangerous idiot may fall, if such order should be invalid, and such clerk of the peace or town clerk shall be respondent in such appeal, which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine, in the same manner as appeals against orders of removal are now[2] heard and determined.[2]

3. [Repealed in 1874 by 37 & 38 Vict. c. 96.]

Act not to alter Laws relating to the Discharge of recovered Lunatics.

4. And be it enacted, that nothing herein contained, except where otherwise expressly mentioned, shall alter the laws relating to the discharge of persons who may cease to be insane or dangerous idiots from any county lunatic asylum, public hospital, or house duly licensed for the reception of insane persons, nor authorise the removal by any parish officer of any poor person from such asylum, public hospital, or licensed house, without

(1) The documents relating to the appeal should be sent or served by the treasurer or the superintendent of the asylum, and not by the clerk of the peace, or the town clerk, who is to be the respondent. —*Reg.* v. *Clerk of the Peace for York, W.R.*, 20 L. J., M. C., 18.

(2) Notwithstanding the word "now," it seems that the procedure in these cases is to be adapted to the changes which may be made from time to time with regard to appeals against orders of removal. See *Reg.* v. *Newport* (*Salop*) *Union*, 33 L. J., M. C., 155, 10 L. T., 384, relating to 3 & 4 Vict. c. 54, s. 5 (*post*), in which similar language is used; and see also *Reg.* v. *Justices of Glamorganshire*, 13 Q. B., 561, 18 L. J., M. C., 118.

an order for that purpose made by two justices of the peace for the county in which such house[1] shall be situated, after due inquiry into the circumstances of the case, unless such person shall have been discharged as cured.

Extent of Act.

5. And be it enacted, that this Act shall extend only to England and Wales.

[§§ 6–7 were repealed in 1874 by 37 & 38 Vict. c. 96.]

(1) Apparently "such house" must be read as meaning "such asylum, hospital, or house."

7 & 8 Vict. c. 101.

An Act for the further Amendment of the Laws relating to the Poor in England.

[*9th August*, 1844.

Relief of Married Women in certain cases to be subject to the same Conditions as if they were Widows.

25. So long as it may appear that the husband of any woman is beyond the seas, or in custody of the law, or in confinement in a licensed house or asylum as a lunatic or idiot, all relief given to such woman, or to her child or children, shall, notwithstanding her coverture, be given to such woman in the same manner and subject to the same conditions as if she was a widow; but nothing herein contained shall diminish or affect the obligations or liabilities of such husband in respect of such relief.

12 & 13 Vict. c. 103.

An Act to continue an Act of the last Session of Parliament, for charging the Maintenance of certain Poor Persons in Unions upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor.

[1*st August*, 1849.

Persons chargeable to the Common Fund brought within the provisions of 5 *Geo. IV., etc.*

3. The chargeability of any person to the common fund of a union shall have the same effect and shall be attended with the same consequences as the chargeability of any poor person to a parish in respect of proceedings to be taken under the Act of the fifth year of the reign of His late Majesty George the Fourth, intituled "An Act for the Prevention of Vagrancy," or under the statutes for the removal from England of poor persons born in Scotland or Ireland, or in the Isle of Man, or Scilly, Jersey, or Guernsey, or under the statutes for the removal of lunatic paupers to asylums, or under any statute against unlawfully causing or procuring the removal of any poor person.[1]

Removal of a Lunatic to an Asylum, or of a Pauper to a Workhouse of the Union, not to be deemed an interruption of the residence under 9 *&* 10 *Vict. c.* 66, *but the time to be excluded from computation.*

4. The removal of any lunatic pauper to an asylum, licensed house, or registered hospital, under the authority of the statutes in that behalf, or of any pauper, otherwise than under an order of removal, from his place of abode in any parish of a union to the workhouse of such union, shall not be deemed to be an interruption of the residence of such pauper within the meaning of the statute of the tenth year of the reign of Her Majesty, intituled "An

(1) See also 11 & 12 Vict. c. 110, s. 8, and 39 & 40 Vict. c. 61, s. 25.

Act to amend the Laws relating to the Removal of the Poor," but the time spent in such lunatic asylum, licensed house, or registered hospital or workhouse respectively, and the time during which any person shall be relieved at the charge of the common fund of the union, shall be wholly excluded from the computation of the time of residence which, according to the provisions of such statute, will exempt a poor person from being removed.[1]

5. [Repealed by 16 & 17 Vict. c. 97, § 102, *ante*.]

Guardians may appropriate certain Property of Paupers.

16. Where any pauper shall have in his possession or belonging to him any money or valuable security for money, the guardians of the union or parish within which such pauper is chargeable may take and appropriate so much of such money or the produce of such security, or recover the same as a debt before any local court, as will reimburse the said guardians for the amount expended by them, whether on behalf of the common fund or of any parish, in the relief of such pauper, during the period of twelve months prior to such taking and appropriation, or prior to such proceeding for the recovery thereof (as the case may be); and in the event of the death of any pauper having in his possession or belonging to him any money or property, the guardians of the union or parish wherein such pauper shall die may reimburse themselves the expenses incurred by them in and about the burial of such pauper, and in and about the maintenance of such pauper at any time during the twelve months previous to the decease.[2]

(1) See 24 & 25 Vict. c. 55, as well as 9 & 10 Vict. c. 66.

(2) In *Cleaver* v. *the Next of Kin of M'Kenna*, 35 L. J., Prob. 91; 13 L. T. (N.S.), 411, administration of the effects of a pauper who died chargeable to a Union was granted to the Guardians of the Union as creditors under 12 & 13 Vict. c. 103, s. 16. See also *Windeatt* v. *Sharland*, 40 L. J., Prob. 21; 23 L. T. (N.S.) 877; L. R. 2 Prob., 217; and 41 L. J., Prob. 9; 25 L. T. (N.S.) 574.

13 & 14 Vict. c. 101.

An Act to continue two Acts passed in the twelfth and thirteenth years of the Reign of Her Majesty, for charging the Maintenance of certain Poor Persons in Unions in England and Wales upon the Common Fund; and to make certain Amendments in the Laws for the Relief of the Poor.

[14*th August*, 1850.

An order for paying the whole or part of the Cost of Maintenance of a lunatic Married Woman maintained in any Lunatic Asylum, Licensed House, or Registered Hospital, and chargeable to any Union or Parish, may be made upon her husband.—11 & 12 *Vict.* c. 43.

5. And be it enacted, that where any married woman being lunatic shall be duly removed to any asylum, licensed house, or registered hospital under any of the statutes in such behalf, any two justices having jurisdiction in the place wherein the husband of such lunatic shall dwell,[1] upon application by or on behalf of the guardians of the union or of the parish having a separate board of guardians, or the overseers of the parish, to which union or parish respectively such lunatic shall be or become chargeable, may summon such husband to appear before them to show cause why an order should not be made upon him to maintain or contribute towards the maintenance of his wife in such asylum, licensed house, or registered hospital; and upon his appearance, or in the event of his not appearing upon proof of due service of such summons upon him, such justices may (if they think fit) make an order upon him to pay such sum, weekly or otherwise, for or towards the cost of the maintenance of such lunatic, as after consideration of all the circumstances of the case shall appear to them to be proper, and determine in such order how and to whom the payments shall from time to time be made,[2] which order

(1) See 39 & 40 Vict. c. 61, s. 20, *post*.

(2) "The general obligation of a husband to provide a maintenance for his wife, whenever he has the ability to do so, has long been

shall, if the payments required by it to be made be in arrear, be enforced in the manner prescribed by the statute passed in the twelfth year of the reign of Her Majesty, intituled "An Act to facilitate the Performance of the Duties of Justices of the Peace within England and Wales with respect to summary Convictions and Orders," for the enforcing of orders of justices requiring the payment of a sum of money.[1]

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secured by law in ordinary cases. There was one important exception, however, where the wife, having become lunatic, had been removed under legal authority to a lunatic asylum. In cases of this kind, it was at least doubtful whether there existed any means of compelling the husband to contribute towards the expense of her maintenance in the asylum. Great hardship has been frequently occasioned to parishes, who have been burthened with the heavy expense of such maintenance, without the means of obtaining from the husband even a partial reimbursement. It is now enacted, however, that when a married woman is maintained as a lunatic patient in an asylum or licensed house at the charge of any parish or union, her husband may be compelled, by the order of two justices, to pay either the whole expense or such portion of it as the justices may think proper upon consideration of all the circumstances of the particular case." (*Third Annual Report of the Poor Law Board*, 1850, p. 16.) See also the *Report of the Poor Law Commissioners on the further Amendment of the Poor Law*, 1839, Appendix B, No. 11, p. 297; and the *Official Circular*, 30th June, 1843, p. 110; and 1st June, 1847, p. 92. The Married Women's Property Act, 1870, 33 & 34 Vict. c. 93, s. 13, empowers justices to make such an order on a wife having separate property, for the maintenance of her husband, as they may make on a husband for the maintenance of his wife under s. 33 of 31 & 32 Vict. c. 122, which refers to ordinary relief, and not to maintenance in a lunatic asylum. It appears, therefore, that a wife having separate property is not liable for her husband's support in such an asylum.

(1) The 11 & 12 Vict. c. 43, s. 35, enacts:—"Nothing in this Act shall extend or be construed to extend to any warrant, etc. . . . nor to any complaints or orders made with respect to lunatics, or the expenses incurred for the lodging, maintenance, medicine, clothing, or care of any lunatic or insane person." This proviso, however, will not interfere with the operation of the above enactment, which is of subsequent date. See also 26 & 27 Vict. c. 77, and the case of *Bradford* v. *Clerk of the Peace for Wilts* (L. R., 3 Q. B., 604.)

14 & 15 Vict. c. 81.

An Act to authorise the Removal from India of Insane Persons charged with Offences, and to give better Effect to Inquisitions of Lunacy taken in India.

[*7th August*, 1851.

Whereas it is expedient to make provision for the several purposes hereinafter mentioned: be it therefore enacted, &c.

Power to remove from India to the United Kingdom persons of European birth found Guilty of Crimes and Offences, and acquitted on the ground of Insanity.

1. If any person shall have been or shall hereafter be indicted for or charged with any crime or offence in any court in India, and shall have been or shall hereafter be acquitted of or not to be tried for such crime or offence on the ground of his being found to be of unsound mind, and shall by reason of the premises be lawfully in custody in India, it shall be lawful for the person or persons administering the government of the Presidency in which such person shall be so in custody to order such person to be removed from India to any part of the United Kingdom, there to abide the order of Her Majesty concerning his or her safe custody, and to give such directions for enabling such order to be carried into effect as may be deemed fit and proper.

Order of Government of India to be a sufficient Warrant and Authority for the purpose of Removal.

2. The orders and directions of the said government of any of the said Presidencies for the removal of any person under the provisions of this Act shall be a sufficient warrant and authority to all commanders of vessels, and others, to whom the care and custody of any such person shall be committed, for the removal of such person from India to the United Kingdom in conformity with such directions, and for his detention in custody there until an

order shall be made by Her Majesty as hereinafter is mentioned; and that upon the arrival of any such person in the United Kingdom it shall be lawful for Her Majesty to give such order for the safe custody of such person during her pleasure in such place and in such manner as to Her Majesty shall seem fit, in like manner as if such person had been indicted for an offence and found insane, and were thereby subject to the provisions of the Act passed in the thirty-ninth and fortieth year of His late Majesty King George the Third, intituled "An Act for the safe Custody of Insane Persons charged with offences."[1]

Expenses of removal to be defrayed by East India Company, and charged upon the Revenues of India.

3. All expenses attending the removal from India and the safe custody and maintenance in Great Britain or Ireland of all such persons as aforesaid shall be borne and defrayed by the East India Company, who are hereby authorised to charge the amount of such expenses upon the revenues of the government of India.[2]

The amount of Expenses incurred by the East India Company to be a Debt due from the Lunatic, and secured by a Judgment in England and Ireland, and by Decree of Registration in Scotland.

4. The amount of all expenses incurred by the East India Company [2] in respect of the removal and custody of any such person as aforesaid shall be a debt from such person to the East India Company;[2] and that for securing the payment thereof the East India Company [2] shall be entitled to enter up against such person as of the date of the order for removal from India any judgment in England or Ireland in an amount sufficient to secure the payment of all expenses incurred and to be incurred in respect of the matters aforesaid, and the costs of ascertaining the same as after mentioned; and on production at the office in Edinburgh for the registration of writs in the books of council and session of a copy of any order of the Court of Directors directing such judgment to be entered up, certified by the Secretary of the said Company, such order shall be registered in the said books in like manner as a bond executed according to the law of Scotland with a clause of registration, and

(1) 39 & 40 Geo. III. c. 94.

(2) See 21 & 22 Vict. c. 106, transferring the government of India from the East India Company to the Crown.

decree shall be interponed thereon which shall have the like effect as if such person had executed such bond, but without prejudice to the provisions herein contained for ascertaining the sum actually due; and that upon application to be from time to time made to the Lord Chancellor of Great Britain in England [1] or Chancellor in Ireland,[1] being intrusted with the care of persons of unsound mind,[1] or the court of session in Scotland, the amount of such expenses reasonably and properly incurred shall be ascertained by a reference to one of the Masters of the Court of Chancery, or by a remit to the accountant of the court of session, or otherwise, in such manner as the person or persons to whom such application shall be made shall direct; and the East India Company [2] shall be entitled from time to time to recover payment of the amount so ascertained, and the costs of ascertaining the same, by proceeding on the judgment in England and Ireland, and registered order and decree in Scotland, and enforcing the same against the property but not against the person of the debtor, in the same manner as if such judgment had at the date of the said order of removal been recovered against the debtor when of sound mind, and had been entered up at the date of such order, or as if such bond had been granted by the debtor when of sound mind at the date of such order, and had been duly registered in the books of council and session, and a decree of the court of session interponed thereto.

Lunatics and Idiots may be removed from India by orders of the Supreme Courts at the several Presidencies.

5. In all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by the supreme court of judicature at any of the Presidencies of India, it shall be lawful for such supreme court to declare that such person ought to be removed from India to any part of the United Kingdom, and thereupon to make such further or other order or orders authorising or directing his removal, and touching his safe custody and maintenance, as to such supreme court shall seem fit and proper: provided always, that in every such case a transcript of the proceedings in the matter of the idiotcy or lunacy of such person shall, under the provisions

(1) See s. 7, *post*.
(2) See note (2) on preceding page.

hereinafter contained,[1] be transmitted to that part of the United Kingdom to which such person shall be removed.

Transcript of all Inquisitions and Orders to be transmitted and entered of Record, and to be acted upon in the United Kingdom as if the Inquisitions had been taken in the United Kingdom.

6. In all cases where a guardian, keeper, or curator of the person and estate of any idiot, lunatic, or person of unsound mind, shall have been or shall be appointed by any of the supreme courts in India as aforesaid, it shall be lawful for the proper officer of the said supreme court by order of such court to transmit a transcript, under the hand and seal of the chief justice or senior judge of such supreme court, of the proceedings by which the idiotcy, lunacy, or unsoundness of mind shall have been found, and by which such guardian, keeper, or curator shall have been appointed, to the chancery in England and the court of session in Scotland and the chancery of Ireland respectively, as the case may require, and that such transcript, when so received, shall be entered as of record, in the court or courts to which the same shall be transmitted; and that in the case of any supersedeas of any such proceedings the same shall be certified and transmitted and recorded in like manner; and that the record of any such proceedings or of any such supersedeas as aforesaid shall, in case and so long and so far as the Lord Chancellor of Great Britain or other persons instructed as aforesaid,[2] or the court of session in Scotland, or the Chancellor of Ireland intrusted as aforesaid[2] (as the case may require), shall respectively see fit, be acted upon by him and them respectively, and be of the same force and validity, and have the same force and effect, as if such proceedings or supersedeas, or proceedings or a supersedeas to the like effect, had taken place in England, Scotland, or Ireland, respectively; and it shall be lawful for the Lord Chancellor or other persons intrusted as aforesaid,[3] the court of session in Scotland, and the Chancellor of Ireland intrusted as aforesaid,[3] respectively, from time to time to make and give all such orders or directions by appointing any committee or committees, curator or curators, or otherwise, as may appear necessary or proper for securing proper care and protection to the person and estate of such idiot, lunatic, or person of unsound mind.

(1) See s. 6, *post.* (2) See s. 7, *post.*

(3) See s. 7, *post.*

Powers given to the Lord Chancellor to extend to Lord Keeper and Commissioners of the Great Seal.

7. The powers and authorities given by this Act to the Lord Chancellor of Great Britain or other persons intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Great Britain, or any other person or persons for the time being intrusted as aforesaid, and the powers and authorities given by this Act to the Lord Chancellor of Ireland intrusted as aforesaid shall and may be exercised in like manner by and are hereby given to the Lord Keeper or Commissioners of the Great Seal of Ireland, or any other person or persons for the time being intrusted as aforesaid.

17 & 18 Vict. c. 114.

An Act to extend the Rights enjoyed by the Graduates of the Universities of Oxford and Cambridge in respect to the practice of Physic to the Graduates of the University of London.

[11*th August*, 1854.

Whereas a body politic and corporate, by the name of the University of London, has been constituted by the Royal Charter of Her present Majesty, with power after examination to confer the several degrees of bachelor of medicine and doctor of medicine: and whereas it is expedient that such and the same privileges relating to the practice of physic as are enjoyed by graduates in medicine of either of the Universities of Oxford and Cambridge, by virtue of their degrees, or under any authority or licence now conferred upon them by either of the said last-mentioned Universities, should be enjoyed by the graduates in medicine of the University of London: be it therefore enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Graduates in Medicine of the University of London to be entitled to practise Physic in the same manner as Graduates of the Universities of Oxford and Cambridge.

1. Every bachelor of medicine and doctor of medicine of the said University of London shall by virtue of his degree, and without the necessity of undergoing any further examination, or of obtaining any further authority or licence, be forthwith entitled to practise physic as fully, effectually, and extensively in all respects as any bachelor of medicine or doctor of medicine of either of the said Universities of Oxford and Cambridge is entitled to practise by virtue of his degree or under any power, licence, or authority now conferred by either of the

said last-mentioned Universities: provided always that the privileges hereby conferred shall not be construed so as to extend to the practice of surgery, pharmacy, or midwifery.

[§ 2 is repealed by the Statute Law Revision Act, 1875.]

Short Title.

3. This Act may be cited as "The University of London Medical Graduates Act, 1854."

22 & 23 Vict. c. 49.

An Act to provide for the Payment of Debts incurred by Boards of Guardians in Unions and Parishes and Boards of Management in School Districts.

[13*th August*, 1859.

Whereas it is expedient to define and limit the period during which any debt hereafter incurred by guardians of unions or parishes or by district boards of management in the administration of the laws for the relief of the poor may be paid, and to make provision, in respect of debts heretofore lawfully incurred by them, for payment of the same: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

When Debts in future are to be paid.—Power to the Poor Law Board to extend the time.

1. With respect to any debt, claim, or demand which may, after the passing of this Act, be lawfully incurred by or become due from the guardians of any union or parish, or the board of management of any school or asylum district, such debt, claim, or demand shall be paid within the half-year in which the same shall have been incurred or become due, or within three months after the expiration of such half-year, but not afterwards, the commencement of such half-year to be reckoned from the time when the last half-year's account shall or ought to have been closed according to the order of the Poor Law Commissioners or Poor Law Board:[1] provided that the Poor Law Board,[1] by their order, may, if they see fit, extend the time within which such payment shall be made for a period not exceeding twelve months after the date of such debt, claim, or demand.[2]

(1) Now the Local Government Board.

(2) A creditor of the guardians cannot recover in an action commenced after the expiration of the half-year and three months, referred

Provision for Actions against Guardians or Managers.

4. If any person claiming any debt or demand shall have commenced or shall hereafter commence proceedings in any court of law or equity, or before any justice or other competent authority, within the time hereinbefore limited, or within the time to which the Poor Law Board [1] may grant extension, and shall with due diligence prosecute such proceedings to judgment or other final settlement of the question, such judgment shall be satisfied by the guardians or managers against whom or against whose officer the same may be brought, notwithstanding that such judgment may be recovered or such final settlement arrived at after the expiration of the period hereinbefore provided, and all proceedings taken by mandamus or otherwise for the enforcing of such judgment without delay shall be deemed to be within the operation of this section.[2]

Interpretation of Terms.

7. The words used in this Act shall be construed in like manner as the same words are directed to be construed by the Act of the fourth and fifth years of King William the Fourth, chapter seventy-six,[3] or any subsequent Act amending or explaining the same.

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to in 22 & 23 Vict. c. 49, s. 1, if the time for payment has not been extended by the Poor Law Board, although at the time of the commencement of the action they might have done so. *Per* Pigott, B.—The Act is in effect a statute of limitations, and should be looked at as such. *Semble*—If the Poor Law Board afterwards extend the time for payment, a fresh action may be brought. *Baker* v. *Billericay Union*, 33 L. J., M. C., 40.

(1) Now the Local Government Board.

(2) *Baker* v. *Billericay Union*, referred to in preceding note (2).

(3) See 4 & 5 Wm. IV. c. 76, s. 109.

23 & 24 Vict. c. 75.

An Act to make better Provision for the Custody and Care of Criminal Lunatics.

[*6th August*, 1860.

39 & 40 *Geo. III. c.* 94—3 & 4 *Vict. c.* 54.—5 & 6 *Vict. c.* 29.—6 & 7 *Vict. c.* 26.

Whereas by the Act of the session holden in the thirty-ninth and fortieth years of King George the Third, chapter ninety-four,[1] and the Act of the session holden in the third and fourth years of Her Majesty, chapter fifty-four,[2] Her Majesty is empowered, where any person is charged with any such offence as therein mentioned, and acquitted on account of insanity, and where any person is indicted for any offence and upon an arraignment is found insane, to give order for the safe custody of such person during Her pleasure, in such place and in such manner as she may think fit; and by the said Act of the third and fourth years of Her Majesty,[2] one of Her Majesty's principal Secretaries of State is empowered, upon such certificate as therein mentioned of the insanity of any person imprisoned as therein mentioned, to direct such person to be removed to such county lunatic asylum, or other proper receptacle for insane persons, as the said Secretary of State may judge proper and appoint: and whereas by the Acts of the session holden in the fifth and sixth years of Her Majesty, chapter twenty-nine,[3] and of the session holden in the sixth and seventh years of Her Majesty, chapter twenty-six,[4] the said Secretary of State is empowered to order any convict in Pentonville [3] or Millbank [4] Prison becoming or found insane during confinement to be removed to such lunatic asylum as the said Secretary of State may think proper: and whereas it is expedient that provision should be made for the custody and care of criminal lunatics in an asylum or asylums appropriated to

(1) Repealed by 47 & 48 Vict. c. 64.

(2) Repealed by 47 & 48 Vict. c. 64.

(3) This provision was contained in s. 23 of 5 & 6 Vict. c. 29, but that section was repealed in 1874 by 37 & 38 Vict. c. 96.

(4) See *ante*.

that purpose: be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Her Majesty may appoint Asylum for Criminal Lunatics.

1. It shall be lawful for Her Majesty from time to time, by warrant under Her Royal Sign-manual, to appoint that any asylum or place in England which Her Majesty may have caused to be provided or appropriated, and may deem suitable for this purpose, shall be an asylum for criminal lunatics, and the provision of this Act shall be applicable to every such asylum.[1]

Secretary of State may direct Criminal Lunatics to be confined in the Asylum.

2. It shall be lawful[2] for one of Her Majesty's principal Secretaries of State, by warrant under his hand, to direct to be conveyed to and kept in any such asylum any person for whose safe custody during Her pleasure Her Majesty is authorised to give order, or whom such Secretary of State might direct to be removed to a lunatic asylum under any . . . .[3] Act of Parliament, or any person sentenced or ordered to be kept in penal servitude, who may be shown to the satisfaction of the Secretary of State to be insane. . . .[3] and the Secretary of State may direct to be removed to and kept in such asylum any such persons as aforesaid, who, under any previous order of Her Majesty or warrant of the Secretary of State, may have been placed and remain in any county lunatic asylum, or other place of reception for lunatics, and every person directed by the Secretary of State to be conveyed or removed to and kept in an asylum under this Act, shall be conveyed to such asylum accordingly, and shall be kept therein until lawfully removed or discharged, and that with every person so conveyed or removed there shall be transmitted a certificate, as set forth in Schedule A to this Act annexed, duly filled up and authenticated, the contents of which certificate shall be transcribed into the general register to be kept in every such asylum.

(1) An asylum under this Act has been established at Broadmoor, near Wokingham, Berks. As to the classes of criminal lunatics sent there, see the *Twenty-first Report* of the Commissioners in Lunacy (1867), p. 13.

(2) This provision is discretionary: see s. 3, *post*.

(3) Words here omitted, repealed by 47 & 48 Vict. c. 64, Sched. II.

Nothing to affect the Authority of the Crown to make other Provision for the Custody of a Criminal Lunatic.

3. Nothing in this Act shall restrain or affect the authority of Her Majesty, where she may so think fit, to give such other order for the safe custody of any such person as aforesaid as she might have given if this Act had not been passed, or restrain or affect the authority of the Secretary of State to continue in or direct to be removed to any county asylum or other place for the reception of lunatics any of the persons aforesaid whom he might have so continued or directed to be removed if this Act had not been passed.

Secretary of State to appoint Council of Supervision and Officers for Asylums.

4. It shall be lawful for the Secretary of State from time to time to appoint any such persons as he may think fit, being not less than three in number, to be a council of supervision for any asylum under this Act, and to remove all or any of the said council, and upon the removal, death, or resignation of any member of the said council, to appoint another in his place; and also from time to time to appoint for the asylum a resident medical superintendent, a chaplain, and such other officers, assistants, and servants as he may deem necessary, and at pleasure to remove such superintendent, chaplain, officers, assistants, and servants respectively ; and the Secretary of State, with the approval of the Commissioners of Her Majesty's Treasury, shall fix the salaries to be paid to the superintendent, chaplain, officers, assistants, and servants of such asylum.[1]

Secretary of State to make Rules for the government of the Asylum.

5. It shall be lawful for the Secretary of State from time to time to make rules for the government and management of the asylum, and for the duties and conduct of the officers thereof, and for the care and treatment of the persons confined therein, and to subscribe a certificate that they are fit to be enforced, and such rules, when so certified, shall be binding on the council, and all officers, assistants, and servants of the asylum, and all other persons whomsoever, and all such rules shall be laid before Parliament, within twenty-one days after they

(1) See note (1) to s. 5, *post.*

shall be certified, or if Parliament be not sitting, then within twenty-one days after the next meeting of Parliament.[1]

Subject to such Rules, Council to superintend Asylum.

6. Subject to the rules certified by the Secretary of State under this Act, the council of supervision shall superintend and direct the management and conduct of the asylum, and the care and treatment of the lunatics confined therein; and such council or any two of them shall from time to time, as by the rules shall be provided, and at such other times as they may think fit, report in writing to the Secretary of State in relation to the management and conduct of the said asylum and the condition thereof, and to any matters concerning the same; and if any person detained and confined as aforesaid shall be of a religious persuasion differing from that of the Established Church, a minister of such persuasion at the special request of such person or of his friends and relations shall be allowed to visit him at proper and reasonable times by application to the medical superintendent, and under such rules as may be approved of by the Secretary of State, but no such person shall be compelled to attend any of the ordinances or instructions of any religious persuasion other than his own.

Lunatics escaping may be retaken by Superintendent, etc.

11. In case of escape of any person confined in any asylum for criminal lunatics, he may be retaken at any time by the superintendent of such asylum, or any officer or servant belonging thereto, or any person assisting such superintendent, officer, or servant in this behalf, or any other person authorised in writing in this behalf by the Secretary of State or such superintendent, and conveyed to and received and detained in such asylum.

(1) "Pursuant to the 5th section of the Act, rules for the guidance of the officers, attendants, and servants of the asylum were duly made by the Secretary of State, and laid before Parliament." *Eighteenth Report* of the Commissioners in Lunacy, 31st March, 1864, p. 49. The "Rules" referred to were ordered by the House of Commons to be printed on 27th July, 1863 (Sess. Papers, No. 517). In their *Twenty-ninth Report* (1875), p. 273, the Commissioners stated that "the Superannuation Act of 1859 [22 Vict. c. 26] is applicable to the whole of the staff of the asylum; and by a more recent Minute of the Lords of the Treasury, further provision is made for the cases of those who may sustain injury or loss of life in the execution of their duty."

Punishment of Persons for Rescue or permitting Escape.

12. Any person who rescues any person ordered to be conveyed to any asylum for criminal lunatics during the time of his conveyance thereto, or of his confinement therein, and any officer or servant in any asylum for criminal lunatics, who through wilful neglect or connivance permits any person confined therein to escape therefrom, or secretes, or abets or connives at the escape of any such person, shall be guilty of felony, and being convicted thereof shall be liable to be kept in penal servitude for any term not exceeding four years, or to be imprisoned for any term not exceeding two years, with or without hard labour, at the discretion of the court, and any such officer or servant who carelessly allows any such person to escape as aforesaid, shall on summary conviction before two justices of such offence, forfeit any sum not exceeding twenty pounds nor less than two pounds.

Penalty on Officers or Servants ill-treating Lunatics.

13. Any superintendent, officer, nurse, attendant, servant, or other person employed in any asylum for criminal lunatics who strikes, wounds, ill-treats, or wilfully neglects any person confined therein, shall be guilty of a misdemeanour, and shall be subject to indictment for every such offence, and on conviction under the indictment to fine or imprisonment, with or without hard labour, or to both fine and imprisonment, at the discretion of the court, 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.

Commissioners in Lunacy to visit Asylums.

14. Two or more of the Commissioners in Lunacy (one at least of whom shall be a physician or surgeon, and one at least a barrister) shall, once or oftener in each year, on such day or days and at such hours of the day and for such length of time as they think fit, and also at any time when directed by the Secretary of State, visit every asylum for criminal lunatics, and shall inquire as to the condition, as well mental as bodily, of the persons confined therein, or any of them, and shall also make such other inquiries as to such asylum as to them may seem proper, or as such Secretary of State may direct.

And report to Secretary of State.

15. The Commissioners in Lunacy shall in the month of March in every year report to one of Her Majesty's principal Secretaries of State the visits made as aforesaid in the preceding year, and all such particulars in relation to every asylum visited as aforesaid as they think deserving of notice, and shall also report in like manner in relation to any visit made by the direction of the Secretary of State, as soon as conveniently may be after such visit, and a copy of every such report shall be laid before Parliament within twenty-one days after the receipt thereof, or if Parliament be not sitting, then within twenty-one days after the next meeting of Parliament.

SCHEDULE (A).

STATEMENT RESPECTING CRIMINAL LUNATICS TO BE FILLED UP AND TRANSMITTED TO THE MEDICAL SUPERINTENDENT WITH EVERY CRIMINAL LUNATIC.

Name.
Age.
Date of Admission.
Former occupation.
From whence brought.
Married, single, or widowed.
How many children.
Age of youngest.
Whether First Attack.
When previous Attacks occurred.
Duration of existing Attack.
State of bodily Health.
Whether suicidal or dangerous to others.
Supposed Cause.
Chief Delusions or Indications of Insanity.
Whether subject to Epilepsy.
Whether of temperate Habits.
Degree of Education.
Religious Persuasion.
Crime.
When or where tried.
Verdict of Jury.
Sentence.

24 & 25 Vict. c. 55.

An Act to amend the Laws regarding the Removal of the Poor and the Contribution of Parishes to the Common Fund in Unions.

[1*st August*, 1861.

Lunatics to be chargeable upon the Common Fund.

6. The cost of the examination of any lunatic pauper, present or future, of his removal to and from and his maintenance in any asylum, licensed house, or registered hospital, who would under any provision of the sixteenth and seventeenth Victoria, chapter ninety-seven,[1] be chargeable to a parish[2] in a union,[3] shall from and after the twenty-fifth day of March next be borne by the common fund of the union[3] comprising such parish.[4]

Interpretation of Terms, and Consolidation of the Acts.

12. The words used in this Act shall be construed in the like manner as in the said Act of King William the Fourth;[5] and the provisions contained therein and in the subsequent Acts explaining and extending the same, and not repealed, shall, so far as they shall be consistent herewith, be extended to this Act.

(1) This does not include criminal lunatics, as they do not become chargeable under 16 & 17 Vict. c. 97. See the Statutes relating to Criminal Lunatics.

(2) As to pauper lunatics in boroughs, see **A** 238 *et seq.* See also 30 & 31 Vict. c. 106, s. 23, *post;* and 31 & 32 Vict. c. 122, s. 14, *post.*

(3) As to the meaning of the word "union," see s. 12, *post;* and 4 & 5 Wm. IV. c. 76, s. 109. See also 28 & 29 Vict. c. 79, *post.*

(4) See *Sixteenth Report* of the Commissioners in Lunacy, 1862, pp. 68, 69.

(5) 4 & 5 Wm. IV. c. 76, s. 109.

28 & 29 Vict. c. 79.

An Act to provide for the better Distribution of the Charge for the Relief of the Poor in Unions.

[29*th June*, 1865.

So much of sect. 26 *of* 4 *&* 5 *Wm. IV. c.* 76, *as requires Parishes in Unions to defray Expenses of their own Poor repealed; and Expenses thenceforth incurred to be charged to the Common Fund.*

1. From and after the 25th day of March, 1866, so much of the twenty-sixth section of the fourth and fifth William the Fourth, chapter seventy-six, as requires that each of the parishes in a union formed under the authority of that Act shall be separately chargeable with and liable to defray the expense of its own poor, whether relieved in or out of the workhouse of such union, shall be repealed; and all the cost of the relief to the poor, and the expenses of the burial of the dead body of any poor person under the direction of the guardians, or any of their officers duly authorised, in such union thenceforth incurred, and all charges thenceforth incurred by the guardians of such union in respect of vaccination and registration fees and expenses, shall be charged upon the common fund thereof.[1]

(1) See also 24 & 25 Vict. c. 55, s. 6, *ante*.

29 & 30 Vict. c. 109.

An Act to make Provision for the Discipline of the Navy.

[10*th August*, 1866.

Where Persons are Insane at the time of Offence or Trial.

78. Where it shall appear upon the trial by court-martial of any person charged with an offence that such person is insane, the Court shall find specially the fact of his insanity, and shall order such person to be kept in strict custody in such place and in such manner as the Court shall deem fit until the directions of the Admiralty thereupon are known, and it shall be lawful for the Lords of the Admiralty to give orders for the safe custody of such person during Her Majesty's pleasure in such place and in such manner as they shall think fit.

In case of Insanity, Prisoners to be removed to some Lunatic Asylum.

80.[1] If any person imprisoned by virtue of this Act shall become insane, and a certificate to that effect shall be given by two physicians or surgeons, the Admiralty shall, by warrant, direct the removal of such person to such lunatic asylum or other proper receptacle for insane persons in the United Kingdom as they may judge proper for the unexpired term of his imprisonment; and if any such person shall in the same manner be certified to be again of sound mind, the Admiralty may issue a warrant for his being removed to such prison or place of confinement as may be deemed expedient, to undergo the remainder of his punishment, and every gaoler or keeper of any prison, gaol, or house of correction shall receive him accordingly.

(1) This section "so far as relates to a person imprisoned in England," is repealed by 47 & 48 Vict. c. 64, Sched. II.

30 & 31 Vict. c. 106.

An Act to make the Poor Law Board permanent, and to provide sundry Amendments in the Laws for the Relief of the Poor.

[20*th August*, 1867.

Guardians empowered to detain Indoor Paupers.

22.[1] When there shall be in any workhouse a poor person suffering from mental disease, or from bodily disease of an infectious or contagious character, and the medical officer of such workhouse shall upon examination report in writing that such person is not in a proper state to leave the workhouse without danger to himself or others, the guardians may direct the master to detain such person therein, or, if the guardians be not sitting the master of the workhouse may, until the next meeting of the guardians, detain him therein, and such person shall not be discharged from such workhouse until the medical officer shall in writing certify that such discharge may take place; provided, however, that this enactment shall not prevent the removal of a lunatic to a lunatic asylum, registered hospital, or licensed house, when such removal is otherwise required by law, nor the removal of any poor person after the parent or next of kin of such person shall have given to the guardians such an undertaking as they shall deem satisfactory to provide for the removal, charge, and maintenance of such person with due care and attention while the malady continues; and this provision shall apply to every district school and district asylum, and to the managers, board of management, medical officer, superintendent, or master thereof respectively.[2]

(1) This section is repealed by the "Lunacy Act, 1890," Sched. V., "except as regards persons suffering from delirium tremens, or from bodily disease of a contagious or infectious character."

(2) See *Twentieth Report* of the Commissioners in Lunacy, 1866, p. 22, and *Twenty-second Report*, 1868, p. 88. It is directed by Article 115 of the General Consolidated Order of the Poor Law Commissioners, of 24th July, 1847, that "any pauper may quit the workhouse upon giving to the master, or (during his absence or inability to

As to Pauper Lunatics sent from Boroughs.

23. When any pauper lunatic shall be sent to an asylum from any part of a borough wholly or partly comprised within a union, which borough shall not have contributed to the erection or maintenance of that asylum, the visitors of the asylum shall, where the union and the borough are not conterminous, make out two accounts in respect of such lunatic in the asylum, one of which shall be limited to the charge which would be made in the case of a pauper lunatic sent from the county, and shall be transmitted to the guardians of the said union for payment, and the other, which shall contain the extra sum by law chargeable in respect of a pauper lunatic received into the same asylum from any other county, shall be transmitted to the town council of such borough, and shall be paid by them as other charges to which the borough fund may be liable.[1]

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act) to the matron, a reasonable notice of his wish to do so." The late Lord Campbell, whilst Attorney-General, and the late Sir William Follett, expressed their opinion that there was no legal power to detain a person in the workhouse on the ground of insanity, unless by reason of danger to the insane person, or to others, from his insanity (see the note to Article 115, in Glen's *Poor Law Board Orders*, 10th edition, 1887).

(1) See 31 & 32 Vict. c. 122, s. 14, *post.* See also the Poor Law Board's *Circular* of 4th February, 1868, and 39 & 40 Vict. c. 61, s. 26, *post.*

31 & 32 Vict. c. 122.

An Act to make further Amendment in the Laws for the Relief of the Poor in England and Wales.

[31*st July*, 1868.

Guardians may pay the Cost of Idiots sent to Asylums for Idiots.

13. The guardians of any union or parish may, with the consent of the Poor Law Board,[1] send an idiotic pauper to an asylum or establishment for the reception and relief of idiots maintained at the charge of the county rate or by public subscription, and they may with the like consent send any idiotic, imbecile, or insane pauper who may lawfully be detained in a workhouse to the workhouse of any other union or parish, with the consent of the guardians of such last-mentioned union or parish, and pay the cost of the maintenance, clothing, and lodging of such pauper in the asylum, establishment, or workhouse, as well as the cost of his conveyance thereto or his removal therefrom, and the expenses of his burial, when necessary.[2]

The 30 *&* 31 *Vict. c.* 106, *s.* 23, *to have a retrospective Effect.*

14. The provisions contained in the twenty-third clause of the Poor Law Amendment Act, 1867, shall apply to pauper lunatics sent to an asylum before the passing of that Act as well as since.[3]

(1) Now the Local Government Board.

(2) See also 25 & 26 Vict. c. 43, which empowers Boards of Guardians to send pauper children to schools certified by the Local Government Board, the word "school" being defined by s. 10 of the Act so as to extend to any institution established for the instruction of idiotic persons.

(3) See 30 & 31 Vict. c. 106, s. 23, *ante;* and 39 & 40 Vict. c. 61, s. 26, *post.*

36 & 37 Vict. c. 66.

An Act for the Constitution of a Supreme Court, and for other purposes relating to the better administration of Justice in England; and to authorise the transfer to the Appellate Division of such Supreme Court of the jurisdiction of the Judicial Committee of Her Majesty's Privy Council.

[*5th August*, 1873.

17. There shall not be transferred to or vested in the said High Court of Justice, by virtue of this Act—

* * * * * *

(3.) Any jurisdiction usually vested in the Lord Chancellor or in the Lords Justices of Appeal in Chancery, or either of them, in relation to the custody of the persons and estates of idiots, lunatics, and persons of unsound mind.[1]

18. The Court of Appeal established by this Act shall be a superior Court of Record, and there shall be transferred to and vested in such Court all jurisdiction and powers of the Courts following (that is to say):—

* * * * * *

(5.) All jurisdiction vested in or capable of being exercised by Her Majesty in Council, or the Judicial Committee of Her Majesty's Privy Council, upon appeal . . . from any order in lunacy made by the Lord Chancellor, or any other person having jurisdiction in lunacy.

(1) See A 108.

38 & 39 Vict. c. 77.

An Act to amend and extend the Supreme Court of Judicature Act, 1873.

[11*th August*, 1875.

7. Any jurisdiction usually vested in the Lords Justices of Appeal in Chancery, or either of them, in relation to the persons and estates of idiots, lunatics, and persons of unsound mind, shall be exercised by such Judge or Judges of the High Court of Justice or Court of Appeal as may be intrusted by the sign manual of Her Majesty or Her successors with the care and commitment of the custody of such persons and estates; and all enactments referring to the Lords Justices as so intrusted shall be construed as if such Judge or Judges so intrusted had been named therein instead of such Lords Justices; provided that each of the persons who may at the commencement of the principal Act[1] be Lords Justices of Appeal in Chancery shall, during such time as he continues to be a Judge of the Court of Appeal, and is intrusted as aforesaid, retain the jurisdiction vested in him in relation to such persons and estates as aforesaid.

26. [Provides for the fixing and collection of fees in the High Court of Justice and in the Court of Appeal, "including the percentage on estates of lunatics."]

31. [Abolishes the office of secretary to the visitors of lunatics.]

(1) *i.e.*, 36 & 37 Vict. c. 66, *ante*. Note also the following Rules:— Order IX., Rule 5; XVI., Rules 17, 21; XIX., Rule 13.

39 & 40 Vict. c. 61.

An Act to provide for the better arrangement of divided parishes and other local areas, and to made sundry amendments in the Law relating to the Relief of the Poor in England.

[15*th August*, 1876.

Jurisdiction of Justices to make Orders on Husband of a Lunatic.

20. Where an order upon the husband of a lunatic to contribute towards her maintenance is sought to be obtained under the provisions of section five of the Poor Law Amendment Act, 1850, the justices having jurisdiction in the union or parish, the guardians whereof shall make the application, shall be empowered to issue the summons and make the order instead of the justices having jurisdiction in the place where he may dwell.[1]

Trustees may pay Cost of Pauper's Relief out of Annuity payable to such Pauper.

23. Where any pauper shall be entitled to any annuity or periodical payment, the trustee or other person bound to make payment of the same to the pauper may from time to time pay to the board of guardians of any union or parish, out of the instalments which have become due, the cost incurred in the relief of such pauper accrued since the last instalment, and such payment shall be a legal discharge to such trustee or other person for so much money as shall have been so paid.

Where the guardians incur any expenses in the relief of a pauper lunatic, being a member of a benefit or friendly society, and as such entitled to receive any payment, they may recover from him as a debt, or from his executors, administrators, or assigns in case of his death, the sum so expended by them as aforesaid, and the managing body of such society, after notice from the clerk to the guardians, served previously to the money being paid over, shall be required to pay the same to

(1) See 13 & 14 Vict. c. 101, s. 5, *ante*.

such guardians, and shall be exonerated on payment thereof from any further liability.

Where any trustee, manager, or other person shall decline to make any payment, the guardians may apply to the justices in petty sessions assembled, and such justices may, if satisfied that it is right under all the circumstances to do so, make an order upon him to pay the requisite amounts then due to the guardians at once, and to pay from time to time in future as the liability in respect of the relief arises thereafter.

Provided that this clause shall not have effect unless and until the guardians or their relieving officer shall have declared the relief to be given on loan, nor in respect of any relief granted contrary to the rules and orders made under the authority of the statutes in that behalf.[1]

Provision for Pauper Lunatics sent from Boroughs to Licensed Houses and Registered Hospitals.

26. Where any pauper lunatic shall have been or shall hereafter be sent from any part of a borough wholly or partly comprised within a union or parish to any licensed house or registered hospital, and the account of the charges for the maintenance of such lunatic therein shall be sent to the guardians of the said union or parish, their clerk shall divide the said account into two parts, one of which shall contain the amount which would have been paid for such lunatic if he had been maintained in the asylum of the county wherein the said union or parish or the greater part of it is comprised, and the other shall contain the extra sum in such account, and the said guardians having paid the whole of such charges may send the second account, together with an account of any extra expenses caused by the removal of such lunatic to the place of confinement, to the town council of the borough from which such lunatic was so sent, and such town council shall thereupon pay the amount of such accounts to the said guardians, and if the same be not paid the amount may be recovered by the said guardians by process in any court of law as a debt. This section shall not apply to any borough which has provided or contributed to the providing of a pauper lunatic asylum.[2]

(1) See 12 & 13 Vict. c. 103, s. 16, *ante*.

(2) See 30 & 31 Vict. c. 106, s. 23, *ante*; and 31 & 32 Vict. c. 122, s. 14, *ante*, which refer to pauper lunatics in county asylums. The present enactment relates to pauper lunatics in registered hospitals or licensed houses.

46 & 47 Vict. c. 38.

An Act to amend the Law respecting the Trial and Custody of Insane Persons charged with offences.

[25*th August*, 1883.

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Trial of Lunatics Act, 1883.

Special verdict where accused found guilty, but insane at date of act or omission charged, and orders thereupon.

2.—(1.) Where in any indictment or information any act or omission is charged against any person as an offence, and it is given in evidence on the trial of such person for that offence that he was insane, so as not to be responsible, according to law, for his actions at the time when the act was done or omission made, then, if it appears to the jury before whom such person is tried that he did the act or made the omission charged, but was insane as aforesaid at the time when he did or made the same, the jury shall return a special verdict to the effect that the accused was guilty of the act or omission charged against him, but was insane as aforesaid at the time when he did the act or made the omission.

(2.) Where such special verdict is found, the Court shall order the accused to be kept in custody as a criminal lunatic, in such place and in such manner as the Court shall direct till Her Majesty's pleasure shall be known; and it shall be lawful for Her Majesty thereupon, and from time to time, to give such order for the safe custody of the said person during pleasure, in such place and in such manner as to Her Majesty may seem fit.

[Sub-s. (3.) is repealed by 47 & 48 Vict. c. 64, s. 17.]

(4.) All provisions in any existing Act or in any rules or orders made in pursuance of any existing Act, having reference to a person or persons acquitted on the ground of insanity, shall apply to a person or persons in respect of whom a special verdict is found under this Act.

Extent of Act.

3.—(1.) This Act shall extend to Ireland with the following modifications, that is to say, the words "the Lord Lieutenant" shall be substituted for "Her Majesty," and the words "the pleasure of the Lord Lieutenant" for "Her Majesty's pleasure."

(2.) This Act shall not extend to Scotland.

Repeal.

4.—(1.) The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column thereof, but this repeal shall not affect any order made or thing done in pursuance of any enactment so repealed: and any such order may be carried into effect, revoked, or varied, as if made under this Act.

(2.) Any unrepealed enactment referring to any enactment hereby repealed, shall be construed to apply to the corresponding provisions of this Act.

SCHEDULE.

ENACTMENTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
39 & 40 Geo. 3. c. 94	An Act for the safe custody of insane persons charged with offences.	Section one.
1 & 2 Geo. 4. c. 33.	An Act to make more effectual provision for the establishment of asylums for the lunatic poor, and for the custody of insane persons charged with offences in Ireland.	Section sixteen.
3 & 4 Vict. c. 54 .	An Act for making further provision for the confinement and maintenance of insane prisoners.	Section three.

47 & 48 Vict. c. 31.

An Act to make further provision respecting the removal of Prisoners and Criminal Lunatics from Her Majesty's possessions out of the United Kingdom.

[28*th July*, 1884.

Whereas it is expedient to provide for the removal of prisoners undergoing sentence, and of criminal lunatics from one British possession to another British possession, or to the United Kingdom:

Be it therefore enacted, &c.

Preliminary.

1. This Act may be cited as the Colonial Prisoners Removal Act, 1884. Short title.

Criminal Lunatics.

10.—(1.) The provisions of this Act shall apply to a person in custody as a criminal lunatic in like manner, so far as consistent with the tenor thereof, as they apply to a prisoner undergoing sentence of imprisonment; and separate regulations may be made by Her Majesty in Council under this Act in relation to criminal lunatics (subject to those regulations) all laws and regulations in force in the part of Her Majesty's dominions in which a criminal lunatic removed or returned is for the time being in custody under a warrant issued in pursuance of this Act, shall apply to such criminal lunatic as if he had become a criminal lunatic in that part. Application of Act to removal of criminal lunatics.

(2.) Where a person, who is a criminal lunatic by reason of being unfit to be tried for an offence, is removed in pursuance of this Act, and a Secretary of State or the Government of the British possession to or from which such person was removed considers that such person has become sufficiently sane to be tried for the said offence, and requires him to be returned for trial to the British possession from which he was removed, he shall, in accordance with the regulations under this Act be

returned as a prisoner to the said British possession for the purpose of being there tried for the said offence, and shall be removed thither in custody in like manner as if he had been arrested under a warrant on a charge for the said offence.

Miscellaneous.

Cost of removal.

11.—(1.) The cost of the removal of any prisoner or criminal lunatic under this Act and of his maintenance while in confinement, and of his return, and of his being sent after discharge to any place, shall be paid in such manner as may be arranged between the Governments of the British possessions concerned and the Secretary of State, subject, as regards any cost to be paid out of moneys provided by Parliament, to the consent of the Commissioners of Her Majesty's Treasury.

(2.) Nothing in this Act shall affect any power to recover the expenses of removing or returning any prisoner or criminal lunatic from the property of such prisoner or criminal lunatic or otherwise.

Power of legislature of British possession to pass laws for carrying Act into effect.

12. If the legislature of a British possession pass any law—

(*a.*) for determining the authority by whom and the manner in which any jurisdiction, power, or concurrence under this Act is to be exercised or given; or

(*b.*) for payment of the costs incurred in the removal, maintenance, return, or sending back after discharge of a prisoner or criminal lunatic; or

(*c.*) for dealing in such possession with prisoners or criminal lunatics removed thereto in pursuance of this Act; or

(*d.*) For making any class of prisoners subject to removal under this Act; or

(*e.*) otherwise in any manner for the carrying of this Act or any part thereof into effect as regards the said possession,

it shall be lawful for Her Majesty in Council to direct that such law or any part thereof shall with or without modification or alteration be recognised and given effect to throughout Her Majesty's dominions and on the high seas as if it were part of this Act.

Savings.

44 & 45 Vict. c. 58.

32 & 33 Vict. c. 10.

16.—(1.) Nothing in this Act shall affect the provisions of the Army Act, 1881.

(2.) This Act shall not affect any agreement made either before or after the passing of this Act under the Colonial Prisoners Removal Act, 1869, nor any provisions

contained in the Act of the session of the 14th and 15th years of the reign of Her present Majesty, chapter 81, intituled "An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India."

Application of Act to existing prisoners and criminal lunatics.

17. This Act shall apply to a prisoner who has been convicted, and to a criminal lunatic who has become a criminal lunatic, before the passing of this Act, in like manner as if he had been convicted and become a criminal lunatic after the commencement of this Act.

Definitions.

18. In this Act, unless the context otherwise requires, the following expressions have the following meanings; that is to say,

* * * * *

The expression "criminal lunatic" means a person detained in custody by reason of his having been charged with an offence, and either found to have been insane at the time of such offence, or found or certified or otherwise lawfully proved to be unfit on the ground of his insanity to be tried for the same, and includes a person convicted of an offence and afterwards certified or otherwise lawfully proved to be insane.

47 & 48 Vict. c. 64.

An Act to consolidate and amend the Law relating to Criminal Lunatics.

[14*th August*, 1884.

ARRANGEMENT OF SECTIONS.

Section.

1. Short titles.
2. Order for detention of insane prisoner as criminal lunatic.
3. Remitting of criminal lunatic to prison.
4. Periodical report of criminal lunatics.
5. Transfer and discharge (absolute or conditional) of criminal lunatic.
6. Duty of superintendent on discharge or expiration of sentence.
7. Person ceasing to be criminal lunatic and becoming pauper lunatic.
8. Provision as to detention of person becoming pauper lunatic.
9. Restriction on power of Secretary of State as regards lunatics not fit for ordinary asylum.
10. Provision as to expenses of maintenance of criminal lunatic.
11. Recapture of escaped lunatic, and punishment for rescuing or aiding to escape.
12. Treatment of imbeciles.
13. Saving of authority of Crown to make orders.
14. Provision as to existing criminal lunatics.
15. Making and execution of warrant of Secretary of State.
16. Interpretation of terms.
17. Repeal.
18. Commencement and extent of Act.

Schedules.

Be it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short titles.

1. This Act may be cited as the Criminal Lunatics Act, 1884.

The Acts mentioned in the First Schedule to this Act are in this Act referred to and may be cited by the short titles mentioned in the third column of the said Schedule.

Order for detention of insane prisoner as criminal lunatic.

2.—(1.) Where a prisoner is certified, in manner provided in this section, to be insane, a Secretary of State may if he thinks fit, by warrant direct such prisoner to be removed to the asylum named in the warrant, and thereupon such prisoner shall be removed to and received in such asylum, and, subject to the provisions of this Act relating to conditional discharge and otherwise, shall be detained therein, or in any other asylum to which he may be transferred in pursuance of this Act, as a criminal lunatic until he ceases to be a criminal lunatic.

(2.) A person shall cease to be a criminal lunatic if he is remitted to prison or absolutely discharged in manner provided by this Act, or if any term of penal servitude or imprisonment to which he may be subject determines.

(3.) Where it appears to any two members of the visiting committee of a prison that a prisoner in such prison, not being under sentence of death, is insane, they shall call to their assistance two legally qualified medical practitioners, and such members and practitioners shall examine such prisoner and inquire as to his insanity, and after such examination and inquiry may certify in writing that he is insane.

(4.) In the case of a prisoner under sentence of death, if it appears to a Secretary of State, either by means of a certificate signed by two members of the visiting committee of the prison in which such prisoner in confined, or by any other means, that there is reason to believe such prisoner to be insane, the Secretary of State shall appoint two or more legally qualified medical practitioners, and the said medical practitioners shall forthwith examine such prisoner and inquire as to his insanity, and after such examination and inquiry such practitioners shall make a report in writing to the Secretary of State as to the sanity of the prisoner, and they, or the majority of them, may certify in writing that he is insane.

(5.) The powers and duties by this section conferred and imposed on any two members of the visiting committee of a prison shall be exercised in the case of a prisoner in any prison within the jurisdiction of the Directors of Convict Prisons by the said directors or one of them, and in the case of a prisoner in any prison within the jurisdiction of the Prison Commissioners may also be exercised by the said commissioners or one of

them, and in the case of a prisoner in any prison not within the jurisdiction of such directors or commissioners shall be exercised by two visitors of the prison, or by two justices of the county or place in which such prison is situate.

Remitting of criminal lunatic to prison.

3. Where it is certified by two legally qualified medical practitioners that a person being a criminal lunatic (not being a person with respect to whom a special verdict has been returned that he was guilty of the act or omission charged against him, but was insane at the time when he committed the act or made the omission) is sane, a Secretary of State, if satisfied that it is proper so to do, may by warrant direct such person to be remitted to prison, to be dealt with according to law.

Periodical report of criminal lunatics.

4.—(1.) The superintendent of an asylum or other place in which any criminal lunatic is detained shall make a report to a Secretary of State at such times (not being less than once a year) and containing such particulars as the Secretary of State may require, of the condition and circumstances of every criminal lunatic in such asylum or place; and the Secretary of State shall, at least once in every three years during which a criminal lunatic is detained in any asylum or other place, take into consideration the condition, history, and circumstances of such lunatic, and determine whether he ought to be discharged or otherwise dealt with.

(2.) Where a criminal lunatic is conditionally discharged in pursuance of this Act, a report of his condition shall be made to a Secretary of State by such person at such times and containing such particulars as may be required by the warrant of discharge.

Transfer and discharge (absolute or conditional) of criminal lunatic.

5.—(1.) A Secretary of State may from time to time by warrant direct the transfer to an asylum of any criminal lunatic detained in any other asylum or in any other place, and such criminal lunatic shall accordingly be received and detained in the asylum to which he is so transferred.

[*See* 23 & 24 Vict. c. 75, s. 9; 27 & 28 Vict. c. 29, s. 2; 30 Vict. c. 12, ss. 4, 5. All now repealed.]

(2.) A Secretary of State by warrant may absolutely discharge any criminal lunatic, and may also discharge any criminal lunatic conditionally, that is to say, on such conditions as to the duration of such discharge and otherwise as the Secretary of State may think fit.

(3.) Where in pursuance of this section a criminal lunatic has been discharged conditionally, if any of the conditions of such discharge appear to a Secretary of

State to be broken, or the conditional discharge is revoked, the Secretary of State may by warrant direct him to be taken into custody, and to be conveyed to some asylum named in the warrant; and he may thereupon be taken in like manner as if he had escaped from such asylum, and shall be received and detained therein as if he had been removed thereto in pursuance of the foregoing provisions of this Act.

Duty of superintendent on discharge or expiration of sentence.

6. Where a person, being a criminal lunatic, is detained in any asylum or place, and either he is absolutely discharged or the term of penal servitude or imprisonment to which he is subject determines, it shall be the duty of the superintendent of such asylum or place, unless satisfied that the said person is sane, to take all reasonable means for his being placed under the care of some relation or friend, or in some asylum or place for the reception of lunatics.

Person ceasing to be criminal lunatic and becoming pauper lunatic.

7.—(1.) Where a person being a criminal lunatic is detained in an asylum or other place, or being a prisoner in any prison is certified in manner provided by this Act to be insane, but has not been directed by the Secretary of State to be removed to an asylum, and it is made to appear to any justice of the peace having jurisdiction where such asylum or place or prison is situate, or being a member of the visiting committee of such prison, by notice in writing signed by the superintendent of such asylum or place, or by the governor of such prison, either—

(*a.*) that such person is about to be absolutely discharged, or

(*b.*) that any term of penal servitude or imprisonment to which such person is subject is about to determine,

and that in the opinion of such superintendent or governor such person is insane and unfit to be at large, the said justice shall examine such person and make any inquiry, and take any medical or other evidence which he may deem necessary respecting him.

(2.) The said justice, if satisfied on such examination and inquiry that such person is insane and a proper person to be detained under care and treatment, shall make an order for his detention as a lunatic in the asylum or place of confinement for lunatics named in the order; and if within one month after the date of the said notice such criminal lunatic is absolutely discharged, or such term of penal servitude or imprisonment determines, the

said order shall thereupon take effect, and he shall be deemed to be a pauper lunatic.

(3.) An order under this section shall be in such form as may be prescribed by a Secretary of State, and there shall be inserted in every such order, wherever it be possible, the name and address of one or more of the relations of the lunatic.

(4.) At any time before a person for whose detention an order is made under this section is detained in an asylum or place of confinement for lunatics in pursuance thereof, such order may be amended or cancelled, and a new order made by the justice who made the original order, or, if such justice is unable to act, by any other justice having jurisdiction in the same place.

Provision as to detention of person becoming pauper lunatic.

8.—(1.) Where by virtue of an order made by a justice under this Act a person becomes a pauper lunatic, such person shall for the purposes of this Act be deemed to be primâ facie chargeable to the union or parish in the United Kingdom in which it appears to the justice making the order that the ordinary residence of such person was situate at the time when the offence in respect of which he became a criminal lunatic was alleged to have been committed, and, if such residence is not shown to the satisfaction of the said justice, then to such union or parish in the United Kingdom as follows, namely:—

(*a.*) To that in which it appears to the said justice that the said offence was alleged to have been committed; or,

(*b.*) If it appears that the offence was alleged to have been committed out of the United Kingdom, to that in which it appears to the said justice that such person was first apprehended for such offence; or,

(*c.*) If such person appears to have been so apprehended out of the United Kingdom, to that in which it appears to the said justice that such person first landed in the United Kingdom:

Provided that, if such person appears to the justice making the order to have been a man in the naval or military service of Her Majesty or to have been the wife or infant child of a man in such naval, or military service, at the time when the offence was alleged to have been committed, such person shall for the purposes of this Act be deemed to be *primâ facie* chargeable to the union or

parish in the United Kingdom to which the man in such naval or military service appears to the said justice from the statements in the declaration made on his entry into the naval service of Her Majesty, or in his attestation paper on enlistment, or from other available information, to be by law chargeable for the purposes of the Acts relating to the relief of the poor.

(2.) Subject as hereinafter mentioned, an order made by a justice under this Act for the detention of a person as a lunatic shall, on such person becoming a pauper lunatic, have the same effect as an order of a justice, and medical certificate, made in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853, in the case of a lunatic found wandering at large in the union or parish to which such person is *primâ facie* chargeable, and all the provisions of the Lunacy Act, 1845, and of the Lunatic Asylums Act, 1853, and of any Acts amending those Acts or either of them shall apply accordingly in like manner as if such person had been sent from that union or parish:

[Repealed by 53 Vict. c. 5, and other provisions substituted. See Rules.]

And such person on becoming a pauper lunatic, if detained in an asylum or place of confinement to which lunatics may be sent in pursuance of the said Lunatic Asylums Act, 1853, shall be deemed to have been received therein in pursuance of the said order of detention, and if detained elsewhere shall be removed by a person named in the order, or any constable, to the asylum or place of confinement for lunatics named in the order, being one to which a justice can send a lunatic found wandering at large in the aforesaid union or parish:

Provided that if such pauper lunatic is certified by a legally qualified medical practitioner to be unfit for removal to such last-mentioned asylum or place of confinement, he may either be removed to and detained in any nearer asylum or place of confinement for lunatics willing to receive him, or may be detained in any asylum or place in which a criminal lunatic may be detained, but in either case he shall be deemed to have been sent to the asylum or place of confinement in which he is so detained, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853, and the expenses incurred in relation to such lunatic shall be defrayed, and the lunatic, when fit to be removed, may be removed accordingly, and where the lunatic is detained in any asylum or place to which lunatics cannot be sent, in pursuance of the Lunatic Asylums Act, 1853, the provisions of the above-mentioned Acts shall apply as if such asylum or

place were an asylum within the meaning of the Lunatic Asylums Act, 1853, and the council of supervision or other persons having control thereof were visitors.

(3.) Provided that in any case where the union or parish to which a person will for the purposes of this Act be deemed to be *primâ facie* chargeable is in Scotland or Ireland, the justice making an order under this Act for the detention of such person as a lunatic shall report the same to a Secretary of State, and thereupon a Secretary of State, may, by warrant, direct the removal of such person upon his becoming a pauper lunatic to Scotland or Ireland, as the case may be, and if he is unfit to be removed shall cause the expenses incurred in relation to such person to be paid and they shall be paid by the same persons and out of the same funds as if he had been actually removed.

(4.) Where such person is removed in Scotland, he shall be removed to the general prison at Perth, and may be dealt with in the same manner as if he were a person certified to be insane in pursuance of section twenty-three of the Lunacy (Scotland) Act, 1862, and had been committed to a local prison for the place to which he is *primâ facie* chargeable.

c. 54.

(5.) Where such person is removed to Ireland he shall be removed to the central criminal lunatic asylum established in pursuance of the Central Criminal Lunatic Asylum (Ireland) Act, 1845, and shall be received in the said central criminal lunatic asylum, and may be dealt with in manner provided by section twelve of the Lunatic Asylums (Ireland) Act, 1875, as if he were a person therein confined whose sentence had expired; but he shall not, by reason only that he is for the purposes of this Act deemed to be *primâ facie* chargeable to any union or parish, be deemed for the purposes of the said section to belong to the district comprising such union or parish.

8 & 9 Vict. c. 107.

38 & 39 Vict. c. 67.

Restriction on power of Secretary of State as regards lunatics not fit for ordinary asylum.

9. With respect to the transfer by warrant of a Secretary of State, and the removal by order of a justice under this Act, of a person from an asylum for criminal lunatics appointed by Her Majesty, in pursuance of the Criminal Lunatic Asylums Act, 1860, to an asylum within the meaning of the Lunatic Asylums Act, 1853, the following provisions shall have effect:

23 & 24 Vict. c. 75.

(1.) The Secretary of State or justice shall be satisfied either, by a certificate from a legally qualified medical practitioner, that the said person is in

such a state of insanity that he can be properly treated in an ordinary asylum, or that the committee of visitors to the asylum to which the said person is proposed to be transferred or removed consents to receive him;

(2.) If the said person becomes a pauper lunatic under this Act, and the consent to receive him of the committee of visitors of the asylum is required, and is not given, he may be removed to and detained in any asylum or place in which lunatics may be detained which is willing to receive him, and the costs of his removal to and maintenance in such asylum or place shall be defrayed by the said committee of visitors;

(3.) Where the said person has been transferred to any such asylum as a criminal lunatic, and the committee of visitors of the asylum satisfy a Secretary of State that the said criminal lunatic is in such a state of insanity that he cannot be properly treated in the said asylum, and request the Secretary of State to transfer him to some other asylum, the Secretary of State shall so transfer him, and the costs of that transfer shall be defrayed by the said committee of visitors;

(4.) Where a pauper lunatic under this section is removed to and detained in any asylum or place in consequence of the committee of visitors of an asylum not consenting to receive him, such pauper lunatic shall be deemed to have been sent to and to be detained in the said asylum or place, in pursuance of section sixty-eight of the Lunatic Asylums Act, 1853; 16 & 17 Vict. c. 97.

(5.) Any costs directed by this section to be defrayed by a committee of visitors shall be a simple contract debt of such committee of visitors, and shall be paid as part of the general expenses of the asylum.

Provision as to expenses of maintenance of criminal lunatic. 16 & 17 Vict. c. 97.

10.—(1.) Subject as in this section mentioned, all expenses incurred under this Act in relation to a criminal lunatic while detained in an asylum, and all expenses of removing a person on his becoming under this Act a pauper lunatic to an asylum or place of confinement for lunatics in any part of the United Kingdom, shall be defrayed out of moneys provided by Parliament, and the costs of maintenance of a criminal lunatic in any asylum within the meaning of the Lunatic Asylums Act, 1853,

shall be at the same rate as if he was a lunatic sent from a union or parish situate elsewhere than in the county or borough to which the asylum belongs.

(2.) Where a person, being a criminal lunatic, is absolutely discharged before the expiration of any term of penal servitude or imprisonment to which he is subject, or is conditionally discharged in pursuance of this Act, the Commissioners of Her Majesty's Treasury may from time to time contribute, out of moneys provided by Parliament, such sum or sums, on the recommendation of a Secretary of State, as they from time to time think fit towards the costs of the maintenance of such person, until the expiration of the said sentence, or so long as he continues to be subject to any conditions of discharge (as the case may be).

(3.) Section one hundred and four of the Lunatic Asylums Act, 1853, with respect to the application of the property of a lunatic for his maintenance and for the other charges in the said section mentioned, and the other sections of the Lunatic Asylums Act, 1853, which are ancillary to the said section one hundred and four, shall extend to a criminal lunatic wherever he may be detained, and to his property, in like manner as if the said sections were herein re-enacted and in terms made applicable thereto, and any power exerciseable by justices under the said section may, for the purposes of this section, be exercised by two justices of the county or place where such lunatic is detained.

The Lord Chancellor, or other authority having power to make orders with respect to the property of a lunatic, under sections twelve, thirteen, and fourteen of the Lunacy Regulation Act, 1862, shall, if satisfied by affidavit or otherwise that a person is or has been a criminal lunatic, and continues to be insane and to be in confinement, have power to make any such order with respect to the property of such person, and the application thereof for the maintenance or benefit of him or his family, or for carrying on his trade or business, as may be made in pursuance of the said sections of the Lunacy Regulation Act, 1862.

25 & 26 Vict. c. 86.

(4.) When the criminal lunatic was a person removed from India in pursuance of the Lunatics Removal (India) Act, 1851, all expenses attending the removal of any such person from India, and his safe custody and maintenance, shall continue to be defrayed in the same manner as if this Act had not been passed.

14 & 15 Vict. c. 81.

Recapture of escaped lunatic, and punishment for rescuing or aiding to escape.

11.—(1.) Sections eleven and twelve of the Criminal Lunatics Asylums Act, 1860, shall apply to every asylum or place in which criminal lunatics are confined so far as regards those lunatics, and to the criminal lunatics in such asylum or place, in all respects as if such asylum or place were an asylum for criminal lunatics appointed by Her Majesty in pursuance of that Act, and any officer, servant, or other person committing any such offence as is mentioned in the said section twelve shall be liable to be convicted and punished accordingly.

(2.) If a person escapes while being conveyed to an asylum or place in pursuance of this Act he may be retaken at any time, in like manner as if he had escaped from the said asylum.

Treatment of imbeciles.

12. A Secretary of State may from time to time make, and when made revoke and vary, regulations for the treatment of persons sentenced to or ordered to be kept in penal servitude or imprisonment who appear, in accordance with the said regulations, to be from imbecility of mind either unfit for penal discipline or unfit for the same penal discipline as other prisoners.

Saving of authority of Crown to make orders.

13. Nothing in this Act shall restrain or affect the authority of Her Majesty, where she may so think fit, to make any order with respect to any person for whose safe custody during Her pleasure Her Majesty is by law authorised to give order.

Provision as to existing criminal lunatics.

14.—(1.) Subject as hereinafter provided, this Act shall apply to any person who at the commencement of this Act is, in pursuance of the Acts relating to criminal lunatics, detained in an asylum or place of confinement for lunatics; provided that any such person detained in pursuance of section six of the Criminal Lunatics Act, 1867, shall on the commencement of this Act be deemed to be a person who has become under this Act a pauper lunatic. 30 & 31 Vict. c. 12.

(2.) An order under this Act for the detention of any person as a pauper lunatic may be made before the commencement of this Act, but shall not take effect until such commencement.

Making and execution of warrant of Secretary of State.

15. A warrant of a Secretary of State under this Act may be under the hand of a Secretary of State or of an Under Secretary of State, and may be executed by the person to whom it is addressed, or by any constable; and such warrant when it relates to a person not in custody may be executed in like manner as if it were a warrant

for the arrest of a person charged with an offence, and it shall be the duty of every constable to aid in the execution of every warrant of a Secretary of State under this Act.

Interpretation of terms.

16. In this Act, if not inconsistent with the context, the following words and expressions have the meanings hereinafter assigned to them respectively; that is to say,

"Criminal lunatic" means any of the following persons:—

(*a*) any person for whose safe custody during Her Majesty's pleasure Her Majesty or the Admiralty is authorised to give order; and

(*b*) any prisoner whom a Secretary of State or the Admiralty has in pursuance of any Act of Parliament directed to be removed to an asylum or other place for the reception of insane persons:

"Prison" means any prison or place of confinement to which a person may be committed whether on remand or for trial, safe custody, or punishment, or otherwise, under any other than civil process; and "prisoner" means any person so committed:

"Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"The Admiralty" means the Lord High Admiral of the United Kingdom, or any two or more of the Commissioners for executing the office of Lord High Admiral of the United Kingdom:

"Superintendent" includes any person in charge of an asylum or other place for the confinement of lunatics:

16 & 17 Vict. c. 97.

23 & 24 Vict. c. 75.

"Asylum" means an asylum within the meaning of the Lunatic Asylums Act, 1853, and an asylum for criminal lunatics appointed by Her Majesty in pursuance of the Criminal Lunatic Asylums Act, 1860, and includes a hospital registered for the reception of lunatics, but does not include a licensed house; provided that a hospital registered as aforesaid shall not be under any obligation by virtue of this Act to receive any criminal lunatic:

"Costs of maintenance" include, in relation to any lunatic, the cost of the lodging, clothing, medicine, and care of such lunatic; and "expenses incurred under this Act in relation to a criminal lunatic" shall be deemed to include the costs of his maintenance as so defined.

Repeal.

17. The Acts mentioned in the Second Schedule to this Act are hereby repealed, as from the commencement of this Act, to the extent shown in the third column of the said schedule; but this repeal shall not affect any warrant issued, or order made, or thing done in pursuance of any enactment so repealed.

Commencement and extent of Act.

18. This Act shall, save as in this Act otherwise provided, come into operation on the first day of November, one thousand eight hundred and eighty-four, which day is in this Act referred to as "the commencement of this Act."

Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

THE FIRST SCHEDULE.

Section 1.

Session and Chapter.	Title.	Short Title.
8 & 9 Vict. c. 400 .	An Act for the regulation of the care and treatment of lunatics.	The Lunacy Act, 1845.
8 & 9 Vict. c. 107 .	An Act for the establishment of a central asylum for insane persons charged with offences in Ireland; and to amend the Act relating to the prevention of offences by insane persons, and the Acts respecting asylums for the insane poor, in Ireland; and for appropriating the lunatic asylum in the city of Cork to the purposes of a district lunatic asylum.	The Central Criminal Lunatic Asylum (Ireland) Act, 1845.
14 & 15 Vict. c. 81	An Act to authorise the removal from India of insane persons charged with offences, and to give better effect to inquisitions of lunacy taken in India.	The Lunatics Removal (India) Act, 1851.
23 & 24 Vict. c. 75	An Act to make better provision for the custody and care of criminal lunatics.	The Criminal Lunatic Asylums Act, 1860.
25 & 26 Vict. c. 54	An Act to make further provision respecting lunacy in Scotland.	The Lunacy (Scotland) Act, 1862.

THE SECOND SCHEDULE.

Section 17.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
3 & 4 Vict. c. 54 .	An Act for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
6 & 7 Vict. c. 26 .	An Act for regulating the prison at Millbank.	Section twenty-one.
16 & 17 Vict. c. 96	An Act to amend an Act passed in the ninth year of Her Majesty "for the regulation of the care and treatment of lunatics."	Section thirty-eight from and including the words "save as hereinafter provided;" to the end of that section.
23 & 24 Vict. c. 75	An Act to make better provision for the custody and care of criminal lunatics.	Section two, the words "of the Acts hereinbefore mentioned, or under any other," and the words "or to be unfit from imbecility of mind for penal discipline." Sections seven, nine, and ten.
25 & 26 Vict. c. 86	The Lunacy Regulation Act, 1862.	Section fifteen.
27 & 28 Vict. c. 29	An Act to amend the Act third and fourth Victoria, chapter fifty-four, for making further provision for the confinement and maintenance of insane prisoners.	The whole Act.
29 & 30 Vict. c. 109	The Naval Discipline Act, 1866.	Section eighty, so far as relates to a person imprisoned in England.
30 & 31 Vict. c. 12	The Criminal Lunatics Act, 1867.	The whole Act.
32 & 33 Vict. c. 78	The Criminal Lunatics Act, 1869.	The whole Act.
44 & 45 Vict. c. 58	The Army Act, 1881.	In section one hundred and thirty so much of sub-section five as relates to a person imprisoned in England.
46 & 47 Vict. c. 38	The Trial of Lunatics Act, 1883.	Sub-section three of section two.

49 & 50 Vict. c. 25.

An Act for giving facilities for the care, education, and training of Idiots and Imbeciles. [*25th June*, 1886.

Whereas it is expedient to make provision for the admission into hospitals, institutions, and licensed houses of idiots and imbeciles, and for their care, education, and training therein:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title.

1. This Act may be cited as the Idiots Act, 1886.

Extent of Act.

2. This Act shall not extend to Scotland or Ireland.

Commencement.

3. This Act shall commence from and immediately after the 31st day of December, 1886.

Hospitals, institutions, and licensed houses for idiots and imbeciles.

4. An idiot or imbecile from birth or from an early age may, if under age, be placed by his parents or guardians or by any person undertaking and performing towards him the duty of a parent or guardian, and may lawfully be received into, and until of full age detained in, any hospital, institution, or licensed house, registered under this Act for the care, education, and training of idiots or imbeciles upon the certificate in writing of a duly qualified medical practitioner in the Form One in the Schedule that the person to whom such certificate relates is an idiot or imbecile, capable of receiving benefit from such hospital, institution, or licensed house, accompanied by a statement in the Form Two in the Schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

Retention and admission of idiots and imbeciles after full age.

5. Any idiot or imbecile who has while under age been received under this Act into any hospital, institution, or licensed house, registered under this Act may, with the consent in writing of the Commissioners in Lunacy, be

retained therein after he is of full age, and an idiot or imbecile from birth or from an early age may be received into any hospital, institution, or licensed house, registered under this Act after he is of full age upon the certificate in writing of a duly qualified medical practitioner in the Form One in the Schedule, accompanied by a statement in the Form Two in the Schedule signed by the parent or guardian of the idiot or imbecile, or the person undertaking or performing towards him the duty of a parent or guardian.

Order of discharge by Commissioners in Lunacy.

6. The Commissioners may at any time, by order, direct any person of full age retained in any hospital, institution, or licensed house, registered under this Act to be discharged therefrom, and such order shall specify the reason or reasons for such discharge and the date thereof.

Registration of hospitals, institutions, and licensed houses under this Act.

7. The managing committee or the principal officer of every hospital, institution, or licensed house, in which idiots or imbeciles are intended to be received under this Act shall apply to the Commissioners to have the hospital, institution, or licensed house registered in the office of the Commissioners, and the Commissioners, if satisfied upon inquiry that the hospital, institution, or licensed house, is a proper one to be registered, shall issue a certificate of registration accordingly; and no idiot or imbecile shall be received into any hospital, institution, or licensed house, under this Act, until the same hospital, institution, or licensed house has been duly registered.

Provision for existing hospitals, institutions, and licensed houses for idiots or imbeciles.

8. Any hospital, institution, or licensed house, which at the passing of this Act is devoted exclusively to the care, education, and training of idiots or imbeciles may be registered under this Act, and all idiots and imbeciles lawfully retained therein at the passing of this Act may continue to be so retained without further certification.

Notice of reception to be sent to Commissioners in Lunacy.

9. When any idiot or imbecile is first received into a hospital, institution, or licensed house, registered under this Act the superintendent or principal officer thereof shall, within fourteen days, certify in writing under his hand to the Commissioners in the Form Three in the Schedule the fact and time of his reception, specifying his name and age and the names and addresses of the persons placing him in such hospital, institution, or licensed house, and that he is alleged to be capable of deriving benefit from the treatment to be received therein.

Notice of death or discharge.

10. When any idiot or imbecile dies in any hospital, institution or licensed house, registered under this Act, or is discharged therefrom, the superintendent or principal

officer thereof shall forthwith notify in writing such death or discharge to the Commissioners.

Certain provisions of Lunacy Acts not to apply to this Act.

11. The provisions of any Act relating to the registration and regulation of hospitals, asylums, and licensed houses for the reception of lunatics, to the orders, certificates, or reports necessary for the reception, detention, or treatment of lunatics, and to the care, treatment, and visitation of lunatics, and the books to be kept and the reports to be made concerning lunatics respectively, shall not apply to any hospital, institution, or licensed house, registered under this Act, or to any idiot or imbecile received or to be received therein under the provisions of this Act.

Inspection by Commissioners.

12. The Commissioners shall at least once in every twelve months visit and inspect every hospital, institution, and licensed house, registered under this Act, and all the children and other persons under treatment therein.

Medical journal to be kept.

13. A medical journal shall be kept in every hospital, institution, and licensed house, registered under this Act, in such form as the Commissioners may from time to time direct.

Residence of medical practitioner.

14. In the case of any hospital, institution, or licensed house, registered under this Act, the Commissioners may by order in writing direct that a duly qualified medical practitioner shall reside therein.

Grants of money to guardians of the poor.

15. Nothing in this Act shall operate to deprive the guardians of the poor of any union of the power of sending pauper idiots or imbeciles to hospitals, institutions, and licensed houses, registered under this Act, or from receiving in respect of such idiots or imbeciles such sums of money as shall from time to time be granted by Parliament towards the maintenance and care of pauper lunatics, as if the same idiots and imbeciles were pauper lunatics.

Power to grant superannuation allowance.

16. The committee of management of any hospital, institution, or licensed house, registered under this Act, may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the hospital, institution, or house, for not less than fifteen years and is not less than fifty years old, such superannuation allowance, not exceeding two thirds of the salary, with the value of the lodgings, rations, or other allowances enjoyed by the superannuated person, as the committee think proper.

Definition. Commissioners.

17. In this Act, if not inconsistent with the context,—

"Commissioners" means the Commissioners in Lunacy for the time being.

"Idiots" or "imbeciles" do not include lunatics. Idiots or imbeciles.

"Lunatic" does not mean or include idiot or imbecile. Lunatic.

"Hospital" and "institution" mean any hospital or institution or part of a hospital or institution (not being an asylum for lunatics) wherein idiots and imbeciles are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients. Hospital and institution.

"Licensed house" means any house licensed by the Commissioners in Lunacy, or by the justices of any county or borough, for the reception, care, education, and training of idiots and imbeciles. Licensed house.

THE SCHEDULE.

Form 1.

Form of Medical Certificate.

I, the undersigned *A.B.*, a person registered under the Medical Act, 1858, and in the actual practice of the medical profession, certify that I have carefully examined *C.D.*, an infant [*or* of full age], now residing at , and that I am of opinion that the said *C.D.* is an idiot [*or* has been imbecile from birth, *or* for years past *or* from an early age], and is capable of receiving benefit from [the institution (describing it)], registered under the Idiots Acts, 1886.

(Signed)

Dated (full postal address).

Form 2.

Form of Statement to accompany Medical Certificate.

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

Name of patient, with Christian name at length.

Sex and age.

When and where previously under care and treatment.

In any asylum or institution.

Whether subject to epilepsy.

Whether dangerous to others.

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

(Signed) Name and full postal address.

[To be signed by the parent or guardian of the idiot or imbecile, or the person undertaking and performing towards him the duty of a parent or guardian.]

Form 3.

Form of Certifcate of Reception.

I hereby certify that aged was admitted into on the day of 18 , on the request of of and of and that he [*or* she] is alleged to be capable of deriving benefit from the treatment he [*or* she] will receive herein.

A.B.

Superintendent or Principal Officer.

Dated this day of 18 .

To the Commissioners in Lunacy.

THE LUNACY ACT, 1890.

53 VICT. c. 5.

An Act to consolidate certain of the Enactments respecting Lunatics. [29*th March*, 1890.

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SCHEDULES.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Preliminary.

Short title.

Sect. 1.—This Act may be cited as "The Lunacy Act, 1890."

Extent of Act.

Sect. 2.—Save as in this Act otherwise expressly provided, this Act shall not extend to Scotland or Ireland.

Commencement.

Sect. 3.—This Act shall come into operation, save as in this Act otherwise expressly provided, on the first day of May, 1890.

PART I.

RECEPTION OF LUNATICS.

Reception Orders on Petition.

Private patients not found lunatic by inquisition to be received only under order of judicial authority. Lunacy Act, 1889, s. 2.

Sect. 4.—(1.) Subject to the exceptions in this Act mentioned, a person, not being a pauper or lunatic so found by inquisition, shall not be received and detained as a lunatic in an institution for lunatics, or as a single patient, unless under a reception order made by the judicial authority hereinafter mentioned. A relative of the person applying for an order under this section or of the lunatic, or of the husband or wife of the lunatic, shall not be capable of making such order.

(2.) The order shall be obtained upon a private appli-

Lunacy Act, 1889, s. 2. Forms 1, 2, 8.

cation by petition accompanied by a statement of particulars and by two medical certificates on separate sheets of paper.

Petition for reception order. Form 1. Lunacy Act, 1889, s. 3.

Sect. 5.—(1.) The petition shall be presented, if possible, by the husband or wife or by a relative of the alleged lunatic. If not so presented it shall contain a statement of the reasons why the petition is not so presented and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

(2.) No person shall present a petition unless he is at least twenty-one years of age, and has within fourteen days before the presentation of the petition personally seen the alleged lunatic.

(3.) The petitioner shall in the petition undertake that he will personally, or by someone specially appointed by him, visit the patient once at least in every six months; and the undertaking shall be recited in the order.

Form 2.

(4.) The petition shall be signed by the petitioner and the statement of particulars by the person making the statement.

Procedure upon petition for a reception order. Form 3. Lunacy Act, 1889, s. 4. (1), (2), (4), (6).

Sect. 6.—(1.) Upon the presentation of the petition the judicial authority shall consider the allegations in the petition and statement of particulars and the evidence of lunacy appearing by the medical certificates, and whether it is necessary for him personally to see and examine the alleged lunatic; and, if he is satisfied that an order may properly be made forthwith, he may make the same accordingly; or, if not so satisfied, he shall appoint as early a time as practicable, not being more than seven days after the presentation of the petition, for the consideration thereof; and he may make such further or other inquiries of or concerning the alleged lunatic as he may think fit. Notice of the time and place appointed for the consideration of the petition (unless personally given to the petitioner) shall be sent to the petitioner by post in a prepaid registered letter addressed to him at his address as given in the petition.

(2.) The judicial authority, if not satisfied with the evidence of lunacy appearing by the medical certificates, may, if he thinks it necessary so to do, visit the alleged lunatic at the place where he may happen to be.

(3.) The petition shall be considered in private, and no one except the petitioner, the alleged lunatic (unless the judicial authority shall in his discretion otherwise order), any one person appointed by the alleged lunatic for that purpose, and the persons signing the medical certificates

accompanying the petition, shall, without the leave of the judicial authority, be present at the consideration thereof. (*a*)

(4.) At the time appointed for consideration of the petition the judicial authority may make an order thereon or dismiss the same, or, if he thinks fit, may adjourn the same for any period not exceeding fourteen days for further evidence or information, and he may give notice to such persons as he thinks fit of the adjourned consideration, and summon any persons to attend before him.(*b*)

(5.) Every judicial authority and all persons admitted to be present at the consideration of any petition for a reception order, or otherwise having official cognizance of the fact that a petition has been presented, except the alleged lunatic and the person appointed by the alleged lunatic as aforesaid, shall be bound to keep secret all matters and documents which may come to his or their knowledge by reason thereof, except when required to divulge the same by lawful authority.

Note 6.—(3.) (*a*) A petition for an inquiry into the state of mind of an alleged lunatic having been presented, and disputes having arisen as to the forms under which access of medical witnesses should be allowed, the Court made an order that two of the visitors in lunacy should see the alleged lunatic and report to the Court. The rule is not inflexible that an inquiry by a jury as to the state of mind of an alleged lunatic must take place near his place of residence, and there being reason to believe that a strong local feeling as to the proceedings existed in the neighbourhood where the alleged lunatic resided, the inquiry was directed to be held in London. When the medical witnesses for the alleged lunatic had seen her alone it was held that they were not entitled to be present when the medical witnesses for the petitioner saw her. (*Anon., In re*, L. R., 18 Ch. D., 26.)

(4.) (*b*) A lunatic who was illegitimate and unmarried, was resident in Lancashire, and part of her property consisted of copyholds held of the Duchy of Lancaster:—*Held*, that the Attorney-General of the Duchy of Lancaster was not entitled to attend the proceedings in the lunacy: the Queen's rights being sufficiently represented by the Queen's Attorney-General, who had leave to attend. (*Kershaw, In re*, L. R., 21 Ch. D., 613.)

Dismissal of petition. Lunacy Act, 1889, s. 7.

Sect. 7.—(1.) If the petition is dismissed, the judicial authority shall deliver to the petitioner a statement in writing under his hand of his reasons for dismissing the same, and shall send a copy of such statement to the Commissioners, and shall also, where the alleged lunatic

is detained under an urgency order, send notice by post or otherwise to the person in whose charge the alleged lunatic is, that the petition has been dismissed.

(2.) Any judicial authority making or refusing a reception order, shall, if so required by the Commissioners, give to them all such information as they may require as to the circumstances under which the order was made or refused.

(3.) The Commissioners may communicate such information as they think proper, on the dismissal of the petition or the release of the alleged lunatic, to him or to any person who may satisfy them that he is a proper person to receive the information.

(4.) If after a petition has been dismissed another petition is presented as to the same alleged lunatic, the person presenting such other petition, so far as he has any knowledge or information with regard to the previous petition and its dismissal, shall state the facts relating thereto in his petition, and shall obtain from the Commissioners at his own expense, and present with his petition, a copy of the statement sent to them of the reasons for dismissing the previous petition, and, if he wilfully omits to comply with this sub-section, he shall be guilty of misdemeanour.

Right of lunatic to be examined by judicial authority. Lunacy Act, 1889, s. 9.

Sect. 8.—(1.) When a lunatic has been received as a private patient under an order of a judicial authority, without a statement in the order that the patient has been personally seen by such judicial authority, the patient shall have the right to be taken before or visited by a judicial authority, other than the judicial authority who made the order, unless the medical officer of the institution, or, in the case of a single patient, his medical attendant, within twenty-four hours after reception, in a certificate signed and sent to the Commissioners, states that the exercise of such right would be prejudicial to the patient.

Form 5.

(2.) Where no such certificate has been signed and sent, the manager of the institution in which the patient is, or the person having charge of him as a single patient, shall, within twenty-four hours after reception, give to the patient a notice in writing of his right under this section, and shall ascertain whether he desires to exercise the right; and if he, within seven days after his reception, expresses his desire to exercise the right, such manager or person shall procure him to sign a notice of such desire, and shall forthwith transmit it by post in a prepaid registered letter to the judicial authority, who is

Form 6.

Form 7.

to exercise the jurisdiction under this section, or to the justices' clerk of the petty sessional division or borough, where the lunatic is, to be by him transmitted to such judicial authority, and the judicial authority shall thereupon arrange, as soon as conveniently may be, either to visit the patient or to have the patient brought before him by the manager or person as the judicial authority may think fit.

(3.) The judicial authority shall be entitled, if he desires so to do, to see the medical certificates and any other documents, upon the consideration of which the reception order was made, and shall after personally seeing the patient send to the Commissioners a report, and the Commissioners shall take such steps as may be necessary to give effect to the report.

(4.) For the purposes of this section the jurisdiction shall be exercised by any judicial authority having authority to act in the place where the person received is, and not being the judicial authority who made the reception order; and arrangements shall for that purpose from time to time be made amongst themselves by the persons having such authority as aforesaid.

(5.) If any manager of an institution for lunatics, or any person having charge of a single patient, omits to perform any duty imposed upon him by this section, he shall be guilty of a misdemeanour.

The Judicial Authority Defined.

Sect. 9.—(1.) The powers of the judicial authority under this Act shall be exercised by a justice of the peace specially appointed as hereinafter provided, or a judge of county courts, or magistrate having respectively jurisdiction in the place where the lunatic is. Judicial authority defined. Lunacy Act, 1889, s. 2 (1).

(2.) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration. Lunacy Act, 1889, s. 4 (3).

(3.) A judge of county courts and magistrate shall not be required to exercise any powers under this Act so as to interfere with or delay the exercise of his ordinary jurisdiction. Lunacy Act, 1889, s. 11.

Appointment of justices to make reception orders. Lunacy Act, 1889, s. 10.

Sect. 10.—(1.) The justices of every county and quarter sessions borough shall annually appoint out of their own body as many fit and proper persons as they may deem necessary to exercise within the county and borough respectively, the powers conferred by this Act upon the judicial authority. In making such appointments the justices of every county shall have regard to the convenience of the inhabitants of each petty sessional division thereof.

(2.) The annual appointments under this section shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions to be held in the month of October.

(3.) If in any year such appointments are not made, it shall be lawful for the Lord Chancellor, by writing under his hand, to make the same; and if, on any representation made to him that the number of justices so appointed for any county or borough is at any time insufficient, the Lord Chancellor is satisfied that such representation is well founded, he shall have power to appoint, by writing under his hand, any other justices of such county or borough to act, until the next Michaelmas quarter or special sessions, with the justices so appointed.

(4.) If in the case of a borough or place not having a separate quarter sessions, representation is made to the Lord Chancellor that public inconvenience is likely to result, unless power is given to the justices of such borough or place to exercise within the same the powers conferred by this Act upon the judicial authority, it shall be lawful for the Lord Chancellor, from time to time, with or without a fresh representation, to appoint, by writing under his hand, one or more of the justices of such borough or place to exercise within the same during such time as the Lord Chancellor thinks fit the powers aforesaid, together with any other specially appointed justices acting therein.

(5.) In the case of the death, absence, inability, or refusal to act of any justice appointed under this section, the justices of the county or borough, or the Lord Chancellor, as the case may be, may appoint a justice to act in his place. Such appointment may be made by justices of a county at any quarter sessions, and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

(6.) All appointments of justices under this section shall be recorded by the clerk of the peace of the county or borough, or in the case of a borough or place not

having a separate quarter sessions, by the clerk to the justices, and it shall be the duty of every such clerk to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons interested. In the case of quarter sessions boroughs, the clerk to the justices making the appointment shall forthwith notify the same to the clerk of the peace of the borough.

Urgency Orders.

Urgency orders. Lunacy Act, 1889, s. 8.

Sect. 11.—(1.) In cases of urgency where it is expedient, either for the welfare of a person (not a pauper) alleged to be a lunatic, or for the public safety, that the alleged lunatic should be forthwith placed under care and treatment, he may be received and detained in an institution for lunatics, or as a single patient upon an urgency order, made (if possible) by the husband or wife or by a relative of the alleged lunatic, accompanied by one medical certificate. Forms 4, 8, 9.

(2.) An urgency order may be signed before or after the medical certificate.

(3.) If an urgency order is not signed by the husband or wife or by a relative of the alleged lunatic, the order shall contain a statement of the reasons why the same is not so signed and of the connexion with the alleged lunatic of the person signing the order, and the circumstances under which he signs the same.

(4.) No person shall sign an urgency order unless he is at least twenty-one years of age and has within two days before the date of the order personally seen the alleged lunatic.

(5.) An urgency order may be made as well after as before a petition for a reception order has been presented. An urgency order, if made before a petition has been presented, shall be referred to in the petition, and if made after the petition has been presented, a copy thereof shall forthwith be sent by the petitioner to the judicial authority to whom the petition has been presented.

(6.) An urgency order shall remain in force for seven days from its date; or if a petition for a reception order is pending, then until the petition is finally disposed of.

(7.) An urgency order shall have subjoined or annexed thereto a statement of particulars. Form 2.

Reception after Inquisition.

Lunatics so found by inquisition. 25 & 26 Vict. c. 111, s. 22. Lunacy Act, 1889, s. 18.

Sect. 12.—A lunatic so found by inquisition may be received in an institution for lunatics or as a single patient upon an order signed by the committee of the person of the lunatic, and having annexed thereto an office copy of the order appointing the committee, or if no such committee has been appointed, upon an order signed by a Master.

Summary Reception Orders.

Lunatics not under proper care and control or cruelly treated or neglected. Lunacy Act, 1889, s. 13.

Sect. 13.—(1.) Every constable, relieving officer, and overseer of a parish, who has knowledge that any person within the district or parish of the constable, relieving officer, or overseer, who is not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall within three days after obtaining such knowledge give information thereof upon oath to a justice being a judicial authority under this Act.

(2.) Any such justice upon the information on oath of any person whomsoever, that a person within the limits of his jurisdiction, not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorise any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

(3.) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may, by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and

Form 15.

the constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order.

Notice to be given of pauper lunatic who ought to be sent to an asylum. 16 & 17 Vict. c. 97, s. 67. 25 & 26 Vict. c. 111, ss. 19.

Sect. 14.—(1.) Every medical officer of a union who has knowledge that a pauper (*a*) resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

(2.) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by notice from a medical officer or otherwise, that any pauper resident within the district or parish of the relieving officer or overseer is deemed to be a lunatic, shall, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides.

(3.) A justice, upon receiving such notice, shall by order require the relieving officer or overseer giving the notice, to bring the alleged lunatic before him or some other justice having jurisdiction in the place where the pauper resides at such time and place within three days from the time of the notice to the justice as shall be appointed by the order.

Note 14.—(1.) (*a*) It may be remarked that a lunatic, though not previously a pauper, may become so by the very circumstance of his requiring proper aid in his state of lunacy. (O. C. 1859, No. 58 (N.S.), p. 103.)

Lunatic wandering at large to be brought before a justice. 16 & 17 Vict. c. 97, s. 68.

Sect. 15.—(1.) Every constable and relieving officer and every overseer of a parish who has knowledge that any person (whether a pauper or not) wandering at large within the district or parish of the constable, relieving officer, or overseer is deemed to be a lunatic, shall immediately apprehend and take the alleged lunatic, or cause him to be apprehended and taken, before a justice.

(2.) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may by order require a constable, relieving officer, or overseer of the district or parish where the alleged lunatic is, to apprehend him, and bring him before the justice making

the order, or any justice having jurisdiction where the alleged lunatic is.

Lunatic brought before a justice may be sent to an institution for lunatics. 16 & 17 Vict. c. 97, ss. 67, 68.

Sect. 16.—The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained, and if in each of the foregoing cases the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution. (*a*)

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Form 12.

Note 16.—(*a*) On the question what constitutes a sufficient medical examination, a recent and leading case is that of *Reg.* v. *Whitfield* (54 L. J., M. C., 113). Two justices made an order under 16 & 17 Vict. c. 97, s. 68 [repealed] for the reception into an asylum as a lunatic of H., a person not a pauper and not wandering at large, but who was not under proper care and control. S. a relieving officer received notice that H. was insane. S. filled up the form required by the Act, went to the magistrate's clerk's office and arranged to meet two justices, and on meeting them swore to the correctness of the information, and stated on oath that H. was not under proper care and control, and that he himself believed he was mad. The justices consulted C., a medical man, who having at an earlier hour on that day examined H., stated he was satisfied he was insane. The justices intended to have examined H. at a library where he was, but before they could do so he left, and they being informed that he was in a carriage near his lodgings, the two justices went to the carriage and had some conversation with him during five minutes, from which they came to the conclusion that he was insane: and after some further consultation with the medical man they signed the order for the patient's reception into the county asylum, where he was received and treated as a pauper lunatic for nine days, when he was removed to a London asylum, whence after two days he was discharged as not being insane. On an application by H. for a *Certiorari* to quash the order on the ground that the statute [16 & 17

Vict. c. 97, s. 68] had not been complied with, a majority of the Court of Appeal held that there had been a sufficient examination of the alleged lunatic: that it was not necessary that the examination by the justices should be made in the presence of the medical man, or that by the medical man in the presence of the justices: that the provisions of sect. 68 had been sufficiently complied with, and that the order of the justices had not been made without jurisdiction and ought not to be quashed.

Power to examine alleged lunatic at his own abode or elsewhere. 16 & 17 Vict. c. 97, ss. 67, 68.

Sect. 17.—Where, under this Act, (*a*) notice has been given to, or an information upon oath laid before a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within the limits aforesaid, is deemed to be a lunatic, such justice may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him.

Note 17.—(*a*) See *Reg.* v. *Rhyddlan* (14 Q. B., 327), which had reference to the repealed Act 8 & 9 Vict. c. 126; also *Reg.* v. *Guardians of Carnarvon and Anglesea Union* (14 Q. B., 357; 3 N. S. C., 708). But the power of a justice to act on his own knowledge was taken away by "The Lunacy Act, 1889," Schedule III.

When lunatic may be treated as a pauper. Lunacy Act, 1889, s. 20.

Sect. 18.—A justice shall not sign an order for the reception of a person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic shall be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union, at the expense of the union, is, for the purposes of this section, to be deemed to be in receipt of relief.

Suspension of removal under reception order. 16 & 17 Vict. c. 97, ss. 67, 68. Lunacy Act, 1889, s. 13, (4), (5).

Sect. 19. (1.)—A justice making an order for the reception of a lunatic otherwise than upon petition, in this Act called a "summary reception order," may suspend the execution of the order for such period not exceeding fourteen days as he thinks fit, and in the meantime may give such directions or make such arrangements for the proper care and control of the lunatic as he considers proper.

(2.) If a medical practitioner who examines a lunatic as to whom a summary reception order has been made, certifies in writing that the lunatic is not in a fit state to

be removed, the removal shall be suspended until the same or some other medical practitioner certifies in writing that the lunatic is fit to be removed, and every medical practitioner who has certified that the lunatic is not in a fit state to be removed shall, as soon as in his judgment the lunatic is in a fit state to be removed, be bound to certify accordingly.

Removal of lunatic to workhouse in urgent cases. 48 & 49 Vict. c. 52, s. 2.

Sect. 20.—If a constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable, relieving officer, or overseer may remove the alleged lunatic to the workhouse of the union in which the alleged lunatic is, and the master of the workhouse shall, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve, and detain the alleged lunatic therein, but no person shall be so detained for more than three days, and before the expiration of that time, the constable, relieving officer, or overseer shall take such proceedings with regard to the alleged lunatic as are required by this Act.

Temporary removal of lunatic to workhouse under order of justice. 48 & 49 Vict. c. 52, s. 3.

Sect. 21.—(1.) In any case where a summary reception order might be made, any justice, if satisfied that it is expedient for the welfare of the lunatic, or for the public safety, that the lunatic should forthwith be placed under care and control, and if it appears to him that there is proper accommodation for the lunatic in the workhouse of the union in which the lunatic is, may make an order for taking the lunatic to and receiving him in that workhouse.

(2.) In any case where a summary reception order has been made, an order under this section may be made to provide for the detention of the lunatic until he can be removed.

(3.) An order under this section shall not authorise the detention of a lunatic in a workhouse for more than fourteen days, after which period such detention shall not be lawful, except in accordance with the provisions of this Act as to the detention of lunatics in workhouses.

(4.) An order under this section may be made by any justice having jurisdiction in the place where the lunatic is.

Power to allow a relation or friend to take

Sect. 22.—In the case of a lunatic as to whom a summary reception order may be made nothing in this Act shall prevent a relation or friend from retaining or taking

the lunatic under his own care if a justice having jurisdiction to make the order, or the visitors of the asylum in which the lunatic is or is intended to be placed, shall be satisfied that proper care will be taken of the lunatic.

charge of a lunatic. 16 & 17 Vict. c. 97, s. 68. Lunacy Act, 1889, s. 13 (6).

Reception Order by two Commissioners.

Sect. 23.—(1.) Any two or more Commissioners may visit a pauper lunatic or alleged lunatic not in an institution for lunatics, or workhouse, and may, if they think fit, call in a medical practitioner.

Commissioners may send pauper lunatic to an institution for lunatics. 25 & 26 Vict. c. 111, s. 32.

(2.) If the medical practitioner signs a medical certificate with regard to the lunatic, and the Commissioners are satisfied that the pauper is a lunatic, and a proper person to be detained, they may by order direct the lunatic to be received in an institution for lunatics, and the relieving officer of the district or any constable who may by them be required so to do shall forthwith convey the lunatic to such institution.

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Lunatics in Workhouses.

Sect. 24.—(1.) Except in the cases mentioned in this Act, no person shall be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing—

Lunatics in workhouses. Lunacy Act, 1889, s. 21.

(*a*) that such person is a lunatic, with the grounds for the opinion; and

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(*b*) that he is a proper person to be allowed to remain in a workhouse as a lunatic; and

(*c*) that the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

(2.) A certificate under this section shall be sufficient authority for detaining the lunatic therein named against his will in the workhouse for fourteen days from its date.

(3.) No lunatic shall be detained against his will or allowed to remain in a workhouse for more than fourteen days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate.

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(4.) The order in the last preceding sub-section mentioned may be made upon the application of a relieving

Forms 8, 10.

officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse hereinbefore mentioned.

(5.) The guardians of the union to which the workhouse belongs shall pay such reasonable remuneration as they think fit to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section.

(6.) If, in the case of a lunatic being in a workhouse, the medical officer thereof does not sign such certificate as in sub-section one of this section mentioned, or if at or before the expiration of fourteen days from the date of the certificate an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse shall forthwith give notice in writing to a relieving officer of the union to which the workhouse belongs that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum, and thereupon the like proceedings shall be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as by this Act provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum, and, pending such proceedings, the lunatic may be detained in the workhouse.

(7.) In the case of a lunatic in an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, notices to be given to and proceedings to be taken by a relieving officer shall be given to and taken by one of the officers of the asylum to be nominated for the purpose by the managers of the asylum district.

30 & 31 Vict. c. 6.

(8.) As regards every pauper in a workhouse at the date of the commencement of this Act, as to whom a certificate has been signed under section twenty of the Lunacy Acts Amendment Act, 1862, no certificate or order of a justice under this section shall be required.

25 & 26 Vict. c. 111.

Power to send discharged pauper not recovered to a workhouse.

Sect. 25. When a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer shall certify such opinion,

and the lunatic may thereupon be received and detained against his will in a workhouse without further order if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate. Lunacy Act, 1889, s. 22.

Sect. 26.—(1.) The visitors of any asylum may, with the consent of the Local Government Board and the Commissioners, and subject to such regulations as they respectively prescribe, make arrangements with the guardians of any union for the reception into the workhouse of any chronic lunatics, not being dangerous, who are in the asylum and have been selected and certified by the manager of the asylum as proper to be removed to the workhouse. Chronic lunatics may be received in workhouses in certain cases. 25 & 26 Vict. c. 111, s. 8. 26 & 27 Vict. c. 110, s. 2. 31 & 32 Vict. c. 122, s. 43.

(2.) Every lunatic received in a workhouse under this section shall, while he remains there, continue a patient on the books of the asylum for the purposes of this Act so far as it relates to lunatics removed to asylums.

Institutions in which Lunatics may be received.

Sect. 27.—(1.) Subject to the restrictions in this section mentioned, every summary reception order, and every reception order made by two or more Commissioners, may authorise the reception of the lunatic named in the order not only into an asylum of the county or borough in which the place from which the lunatic is sent is situate, but also into any other institution for lunatics. Institutions to which lunatics may be removed. 16 & 17 Vict. c. 97, ss. 72, 73, 78. 25 & 26 Vict. c. 111, s. 33.

(2.) A lunatic shall not under any such order be sent elsewhere than to an asylum of the county or borough in which the place from which he is sent is situate, unless there is no such asylum, or there is a deficiency of room, or there are some special circumstances by reason whereof the lunatic cannot conveniently be taken to such asylum, and the deficiency of room or special circumstances shall be stated in the order.

(3.) A pauper lunatic shall not be received under an order into any asylum other than an asylum belonging wholly or in part to the county or borough in which the place from which the lunatic is sent or the parish in which he is adjudged to be settled is situate, unless there is a subsisting contract for the reception of lunatics of such county or borough therein, or such borough other-

wise contributes to the asylum into which the pauper is to be received, except the order is endorsed by a visitor of that asylum.

(4.) The manager of a hospital or licensed house shall not be bound to receive any lunatic under any such order except in pursuance of a subsisting contract.

Requirements of Reception Orders and Medical Certificates.

Medical certificates.

Lunacy Act, 1889, s. 17 (1).
16 & 17 Vict. c. 96, s. 10.
16 & 17 Vict. c. 97, s. 75.

Lunacy Act, 1889, s. 17 (2).
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Lunacy Act, 1889, s. 17 (3).

Time and manner of medical examination of lunatic.

Lunacy Act, 1889, s. 3 (6).

Lunacy Act, 1889, s. 8 (2).

Sect. 28.—(1.) Every medical certificate under this Act shall be made and signed by a medical practitioner.

(2.) Every medical certificate upon which a reception order is founded shall state the facts upon which the certifying medical practitioner has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and a reception order shall not be made upon a certificate founded only upon facts communicated by others.

(3.) The medical certificate accompanying an urgency order shall contain a statement that it is expedient for the welfare of the alleged lunatic or for the public safety that he should be forthwith placed under care and treatment, with the reasons for such statement.

(4.) Every medical certificate made under and for the purposes of this Act shall be evidence of the facts therein appearing and of the judgment therein stated to have been formed by the certifying medical practitioners on such facts, as if the matters therein appearing had been verified on oath.

Sect. 29.—(1.) A reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic in the case of an order upon petition not more than seven clear days before the date of the presentation of the petition, and in all other cases not more than seven clear days before the date of the order.

(2.) Where two medical certificates are required, a reception order shall not be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other.

(3.) In the case of an urgency order, the lunatic shall not be received under the order unless it appears by the medical certificate accompanying the order that the certifying medical practitioner has personally examined the alleged lunatic not more than two clear days before his reception.

Persons disqualified for signing certificates. Lunacy Act, 1889, s. 15.

Sect. 30.—A medical certificate accompanying a petition for a reception order or accompanying an urgency order shall not be signed by the petitioner or person signing the urgency order, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of such petitioner or person.

Usual medical attendant to sign medical certificate in case of private patient, if possible. Lunacy Act, 1889, s. 3 (5).

Sect. 31.—One of the medical certificates accompanying a petition for a reception order shall, whenever practicable, be under the hand of the usual medical attendant, if any, of the alleged lunatic. If for any reason it is not practicable to obtain a certificate from such usual medical attendant, the reason shall be stated in writing by the petitioner to the judicial authority to whom the petition is presented, and such statement shall be deemed to be part of the petition.

Patients not to be received under certificates by interested persons. Lunacy Act, 1889, s. 16.

Sect. 32.—(1.) No person shall be received or detained as a lunatic in any institution for lunatics, or as a single patient, where any certificate accompanying the reception order has been signed by any of the following persons:—

(*a.*) The manager of the institution or the person who is to have charge of the single patient:

(*b.*) Any person interested in the payments on account of the patient:

(*c.*) Any regular medical attendant in the institution:

(*d.*) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant of any of the foregoing persons.

(2.) Neither of the persons signing the medical certificates in support of a petition for a reception order shall be the father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, or the partner or assistant, of the other of them.

(3.) No person shall be received as a lunatic in a hospital under an order made on the application of, or under a certificate signed by, a member of the managing committee of the hospital.

Commissioners and visitors not to sign certificates. 8 & 9 Vict. c. 100, s. 23.

Sect. 33.—A medical practitioner who is a Commissioner or a visitor shall not sign any certificate for the reception of a patient into a hospital or licensed house, unless he is directed to visit the patient by a judicial authority under this Act, or by the Lord Chancellor, or a

Secretary of State, or a committee appointed by the judge in lunacy.

Amendment of orders and certificates. Lunacy Act, 1889, s. 24.

Sect. 34.—(1.) If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, such order or certificate may, within fourteen days next after such reception, be amended by the person who signed the same. No amendment shall be allowed unless the same receives the sanction of the Commissioners, or of some one of them, and (in the case of a private patient) the consent of the judicial authority by whom the order for the reception of the lunatic may have been signed.

(2.) If the Commissioners deem any such certificate to be incorrect or defective, they may, by a direction in writing, addressed to the manager of the institution for lunatics, or to the person having the charge of a single patient, require the same to be amended by the person who signed the same, and if the same be not duly amended to their satisfaction within fourteen days next after the reception of the patient, the Commissioners, or any two of them, may, if they think fit, make an order for the patient's discharge.

(3.) Every order and certificate amended under this section shall take effect as if the amendment had been contained therein when it was signed.

Authority for reception. Lunacy Act, 1889, ss. 6, 8 (8).

Sect. 35.—(1.) A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition for the person authorised so to do by the person making the order, to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order.

(2.) In the case of a reception order made upon petition the order, together with the petition, statement of particulars, and medical certificates upon which the order was made, shall be delivered or sent by post to the person on whose petition the order was made, and shall by him or his agent be delivered to the manager of the institution for lunatics in which, or to the person by whom, the lunatic is to be received.

Fresh order and certificates not to be required in certain cases.

Sect. 36.—(1.) Where a reception order has been made, and the execution of the order has been suspended, or the lunatic named in the order has been temporarily taken to a workhouse under the provisions of this Act, he

may be received in the institution for lunatics named in the order at any time within fourteen days after the date of the reception order. Lunacy Act, 1889, s. 14.

(2.) If the removal of the lunatic has been suspended by reason of a medical certificate that the lunatic is not in a fit state for removal, the lunatic may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that the lunatic is in a fit state to be removed.

(3.) In all other cases a reception order shall cease to be of any force unless the lunatic has been received thereunder before the expiration of seven clear days from its date.

Sect. 37.—(1.) An order for the reception of a patient as a pauper shall extend to authorise his detention though it may afterwards appear that he is entitled to be classified as a private patient, and an order required for the reception of a private patient shall authorise his detention although it may afterwards appear that he ought to be classified as a pauper patient. Order and certificate to remain in force in certain cases. 25 & 26 Vict. c. 111, s. 26. 8 & 9 Vict. c. 100, s. 87.

(2.) If a patient is removed temporarily under the provisions of this Act from the place in which he is confined, or is transferred from one place of confinement to another, the original order and certificate or certificates upon which he was received shall remain in force.

Duration of Reception Orders.

Sect. 38.—(1.) Every reception order dated after or within three months before the commencement of this Act, shall expire at the end of one year from its date, and any such order dated three months or more before the commencement of this Act shall expire at the end of one year after the commencement of this Act unless such orders respectively are continued as hereinafter provided. Duration of reception orders. Lunacy Act, 1889, s. 30.

(2.) In the case of any institution for lunatics the Commissioners may by order under their seal direct that the reception orders of patients detained therein shall, unless continued as hereinafter provided, expire on any quarterly day next after the days on which the orders would expire under the last preceding subsection.

(3.) An order for the removal of a patient from one custody to another shall not be deemed to be a reception order within this section, but the patient who is removed shall after removal be deemed to be detained under the original reception order as a lunatic, and such order shall expire in accordance with the provisions of this section unless continued as hereinafter provided.

(4.) A reception order shall remain in force for a year after the date by this Act or by an order of the Commissioners appointed for it to expire, and thereafter for two years and thereafter for three years, and after the end of such periods of one, two, and three years for successive periods of five years, if at the end of each period of one, two, three, and five years respectively a special report of the medical officer of the institution or of the medical
Form 13. attendant of the single patient as to the mental and bodily condition of the patient with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment is sent to the Commissioners in manner hereinafter directed. Such report shall be sent to the Commissioners not more than one month and not less than seven days before the end of each period.

(5.) The person sending the special report shall give to the Commissioners such further information concerning the patient to whom the special report relates as they require.

(6.) If in the opinion of the Commissioners the special report does not justify the accompanying certificate, then—

(*a.*) In the case of a patient in a hospital or licensed house or under care as a single patient, the Commissioners shall make further inquiry, and if dissatisfied with the result they or any two of them may by order direct his discharge:

(*b.*) In the case of a patient in an asylum, the Commissioners shall send a copy of the report, with any other information in their possession relating to the case, to the clerk to the visiting committee of the asylum, and the committee, or any three of them, shall thereupon investigate the case and may discharge the patient or give such directions respecting him as they may think proper.

(7.) The manager of any institution for lunatics, and any person having charge of a single patient, who detains a patient after he has knowledge that the order for his reception has expired, shall be guilty of a misdemeanour.

(8.) The special reports and certificates under this section may include and refer to more than one patient.

(9.) A certificate under the hand of the secretary to the Commissioners that an order for reception has been

continued to the date therein mentioned shall be sufficient evidence of the fact.

(10.) This section shall not apply to lunatics so found by inquisition.

PART II.

CARE AND TREATMENT.

Reports after Reception.

Reports upon and visits to private patients. Lunacy Act, 1889, s. 29.

Sect. 39.—(1.) The medical officer of every institution for lunatics and the medical attendant of every single patient shall at the expiration of one month after the reception of a private patient prepare and send to the Commissioners a report as to the mental and bodily condition of the patient, in such form as the Commissioners direct.

(2.) The medical officer of every house licensed by justices shall also at the same time send a copy of such report to the clerk of the visitors of licensed houses in the county or borough where the house is situate to be by him laid before the visitors.

(3.) The Commissioners, after receiving the report upon any patient in a licensed house within their immediate jurisdiction, shall make arrangements for a visit being paid as soon as conveniently may be to the patient by one or more of the Commissioners; and the Commissioner or Commissioners so visiting shall report to the Commissioners whether the detention of the patient is or is not proper.

(4.) The visitors, after receiving the report, shall, in every case of a private patient in a licensed house in the county or borough for which the visitors are appointed, make arrangements for a visit being paid by the medical visitor (either alone or with one or more of the other visitors) to the patient therein named for such purpose as aforesaid, as soon as conveniently may be; and if on such visit there appears to be any doubt as to the propriety of the detention of the patient, such visitor or visitors shall forthwith report the same in writing to the Commissioners, who shall thereupon make all such further inquiries as may be necessary to satisfy themselves whether the patient is properly detained as a lunatic, or whether he ought to be discharged, or whether the case ought to be reported to the Lord Chancellor with a view to an inquisition.

(5.) In the case of a single patient the Commissioners,

after receiving the report, shall either make arrangements for a visit being paid as soon as conveniently may be to the patient therein named by one or more of the Commissioners, or, if no Commissioner is available, shall cause a copy of the report to be sent to a medical visitor for the county or borough in which the single patient resides, or to some other competent person, and shall direct him to visit the patient therein named as soon as conveniently may be. The Commissioner or Commissioners, or other person visiting the patient, shall report to the Commissioners whether his detention is or is not proper.

(6.) The person directed to visit a single patient under the last preceding sub-section shall for that purpose have all the powers of a Commissioner, and the Commissioners may, with the consent of the Treasury, pay to him such reasonable remuneration for his services as they think fit out of any funds which may be provided by Parliament to defray the general expenses of the Commissioners.

(7.) In the case of a private patient in an asylum or hospital the Commissioners, after receiving the report, shall either make arrangements for a visit being paid, as soon as conveniently may be, to the patient therein named by one or more of the Commissioners, who shall report to the Commissioners whether the detention of the patient is or is not proper; or the Commissioners shall send a copy of the report to the clerk to the visiting committee of the asylum or to the managing committee of the hospital, and one or more members of the committee shall thereupon, as soon as conveniently may be, visit the patient named in the report and report to the committee whether his detention is or is not proper, and the committee, or any three of them, may, upon consideration of such last-mentioned report, by writing under their hands discharge the patient or give such directions with regard to him as they think fit.

(8.) If within a month after the reception of any private patient, the institution for lunatics or house into which he was received is visited by one or more Commissioners or by any visitors, and such patient is there seen and examined by him or them, and the propriety of his detention reported on in like manner as by this section provided, no special visit shall necessarily be paid to such patient after receipt of any such report.

(9.) If the Commissioners in any case under this section determine that a patient ought to be discharged they may make an order for his discharge.

Mechanical Restraint.

Sect. 40.—(1.) Mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others. Mechanical means of restraint. Lunacy Act, 1889, s. 45.

(2.) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

(3.) The certificate shall be signed, in the case of a lunatic in an institution for lunatics or workhouse, by the medical officer thereof, and in the case of a single patient, by his medical attendant.

(4.) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates under this section shall be sent to the Commissioners at the end of every quarter.

(5.) In the case of a workhouse, the record to be kept under this section shall be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent shall be sent by the clerk to the guardians.

(6.) In the application of this section "mechanical means" shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine.

(7.) Any person who wilfully acts in contravention of this section shall be guilty of a misdemeanour.

Correspondence.

Sect. 41.—(1.) The manager of every institution for lunatics, and every person having charge of a single patient, shall forward unopened all letters written by any patient and addressed to the Lord Chancellor or any Judge in Lunacy, or to a Secretary of State, or to the Commissioners or any Commissioner, or to the person who signed the order for the reception of the patient, or on whose petition such order was made, or to the Chancery Visitors or any Chancery Visitor or to any other visitors or visitor or to the visiting committee, or any member of the visiting committee of the institution, in which any patient writing such letters may be, and may also at his discretion forward to its address any other letter if written by a private patient. (*a*) Letters of patients. Lunacy Act, 1889, s. 46.

(2.) Every manager of an institution for lunatics, and every person having charge of a single patient who makes

default in complying with the obligation imposed on him by this section shall for each offence be liable to a penalty not exceeding twenty pounds.

Note 41.—(1.) (*a*) In the House of Commons on May 1, 1890, Mr. W. Corbet asked the Secretary of State for the Home Department whether all persons having charge of single patients alleged to be mentally affected were bound by the Act of 1889 to transmit all letters of such patients to the Home Office unopened; and whether it was the custom to reply to or acknowledge the receipt of such letters, and if not, what guarantee had the writers that the requirements of the Act were observed, or how were they to know whether their communications had or had not been forwarded. Mr. Matthews, the Home Secretary, in reply said, the duty of forwarding such letters unopened to a Secretary of State is laid down by sect. 41 of the Lunacy Act, 1890. It is not the custom for the Secretary of State to reply officially to such letters. When a letter is received from any lunatic which is tolerably coherent it is at once referred to the Commissioners in Lunacy for special inquiry and report, and the action which is taken thereupon by the Commissioners is held to be a sufficient answer to the letter of the patient, and a guarantee that his complaints have been attended to.—(*Times*, May 2, 1890.)

Notices.

Notices as to letters and interviews. Lunacy Act, 1889, s. 47.

Sect. 42.—(1.) Whenever the Commissioners so direct, there shall, unless there is no private patient therein, be posted up in every institution for lunatics, printed notices setting forth—

(*a*.) The right of every private patient to have any letter written by him forwarded in pursuance of the last preceding section;

(*b*.) The right of every private patient to request a personal and private interview with a visiting Commissioner or visitor at any visit which may be made to the institution.

(2.) The notices shall be posted in the institution, so that every private patient may be able to see the same.

(3.) The visiting Commissioners or visitors may give directions as to the places in which such notices are to be posted.

(4.) If the manager of any institution for lunatics makes default in posting such notices, or does not within ten days carry out any directions as to such notices given by the visiting Commissioners or visitors, he shall for each offence be liable to a penalty not exceeding twenty pounds.

Medical Attendance.

Sect. 43. — (1.) A medical practitioner who has signed a certificate upon which a reception order in the case of a private patient has been made shall not be the regular professional attendant of the patient while detained under the order. Persons disqualified to be medical attendants of lunatic. 16 & 17 Vict. c. 96, s. 2.

(2.) A medical practitioner, who is a Commissioner or visitor, shall not professionally attend upon a patient in a hospital or licensed house, unless he is directed to visit the patient by the person on whose petition the reception order was made, or by the Lord Chancellor, or a Secretary of State, or a committee appointed by the Judge in Lunacy. 8 & 9 Vict. c. 100, s. 23.

Sect. 44.—(1.) The Commissioners may by order direct how often any single patient is to be visited by a medical practitioner. Medical attendance on single patients.

(2.) Until any such order is made, every single patient shall be visited once at least in every two weeks by a medical practitioner not deriving, and not having a partner, father, son, or brother who derives, any profit from the charge of the patient. 8 & 9 Vict. c. 100, s. 90. 16 & 17 Vict. c. 96, s. 14.

(3.) Any two Commissioners may direct that the medical attendant of a single patient shall cease to act in that capacity, and that some other person be employed in his place. Lunacy Act, 1889, s. 34.

(4.) If a person having charge of a single patient fails to give effect to any direction of the Commissioners under this section, he shall be guilty of a misdemeanour.

(5.) This section shall not apply to lunatics so found by inquisition.

Sect. 45. The Commissioners may at any time require from the medical attendant of a single patient a report in writing as to the patient, in such form and specifying such particulars as the Commissioners direct, and such report shall be in addition to any periodical reports required to be sent to the Commissioners. Special report as to single patient. 16 & 17 Vict. c. 96, s. 16.

Power to take more than one Lunatic as a Single Patient.

Sect. 46.—In the case of any person having charge of a single patient, if the Commissioners are satisfied that it is desirable, under special circumstances and for the interest of the patient that another patient or more than one other should reside in the same house, that person may, with the approval of the Commissioners, receive such other patient or patients on the same terms and conditions in all respects as if each of them were a single patient. Power to take more than one person on same conditions as a single patient. Lunacy Act, 1889, s. 34 (6).

Visits of Friends.

Admission to patients of friends, relations, and others. 8 & 9 Vict. c. 100, s. 85.

Sect. 47.—(1.) Any one of the Commissioners, as to patients confined in an institution for lunatics or other place (not being a gaol) authorised to be visited by the Commissioners, and any one of the visitors of a licensed house, as to patients confined in such house, may at any time give an order in writing under his hand for the admission to any patient of any relation or friend or of any medical or other person whom any relation or friend desires to be admitted to him.

(2.) The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times, and with or without any restriction as to the presence of an attendant or otherwise.

(3.) If the manager or principal officer of any institution or place refuses, prevents, or obstructs the admission to any patient of any person who produces an order of admission, he shall for every offence be liable to a penalty not exceeding twenty pounds.

Appointment of Substitute for Person who applied for Reception Order.

Power to appoint substitute for the person who applied for reception order. Lunacy Act, 1889, s. 37.

Sect. 48.—(1.) The Commissioners may by order substitute for the person upon whose petition a reception order was made, and either during the life of such person or after his death, any other person who is willing to undertake the duties and responsibilities of the petitioner.

(2.) As from the date of an order by the Commissioners under this section the substituted person shall be subject to all the obligations and may exercise all the powers and authorities in relation to the patient of the person for whom he is substituted.

(3.) The substitution shall not release the petitioner or his estate from any liabilities already incurred by him.

(4.) An order under this section may be made with or without the consent of the petitioner, but in the last-mentioned case the order shall not be made during his life until fourteen days after the Commissioners have given to him notice in writing of their intention to take into consideration the advisability of making an order under this section and of the name of the person proposed to be substituted.

(5.) Within fourteen days after receipt of the notice the person to whom the notice is given may lay before the

Commissioners a statement in writing of his reasons why an order under this section should not be made, or he may appear in person before the Commissioners at such time and place and subject to such restrictions as the Commissioners may appoint for the purpose of stating such reasons. The Commissioners shall, upon consideration of such statement, or, if no statement is made, at their own discretion, finally determine the matter, and make or decline to make the order, as they may think fit.

(6.) A notice under this section may be sent by post to the last known address of the petitioner.

Examination of Lunatic.

Provision for any person to apply to have patient examined. Lunacy Act, 1889, s. 38.

Sect. 49.—An order for the examination by two medical practitioners, authorised by the Commissioners, of any person detained as a lunatic in any institution for lunatics, or as a single patient, may be obtained from the Commissioners upon the application of any person, whether a relative or friend or not, who satisfies the Commissioners that it is proper for them to grant such order; and on production to the Commissioners of the certificates of the medical practitioners so authorised, certifying that after two separate examinations with at least seven days intervening between the first and the second examination, they are of opinion that the patient may, without risk or injury to himself or the public, be discharged, the Commissioners may order the patient to be discharged at the expiration of ten days from the date of the order.

Inquiries as to Property.

Inquiries as to property. 16 & 17 Vict. c. 96, s. 23.

Sect. 50.—(1.) Where any person is detained as a lunatic and the Commissioners represent to the Lord Chancellor that it is desirable that the extent and nature of his property, and its application, should be ascertained, the Lord Chancellor may, if he think fit, through the Masters, require that the person upon whose petition the reception order under which the lunatic is detained was made, or other the person paying for the care and maintenance of the lunatic or having the management of his property, shall transmit to the Lord Chancellor a statement in writing, to the best of his knowledge, of the particulars of the property of the lunatic and of its application.

(2.) The Commissioners may also, whenever they think it expedient, make inquiries as to the property of any person detained as a lunatic.

Application for a Search.

Power for a Commissioner or visitor to direct a search whether a particular person has been confined. 8 & 9 Vict. c. 100, s. 84.

Sect. 51.—(1.) If any person applies to a Commissioner in order to be informed whether any particular patient is confined in any institution for lunatics, or other place subject to the visitation of the Commissioners, the Commissioner, if he thinks fit, may sign an order to the secretary of the Commissioners, who shall search amongst the returns made to the Commissioners, whether the person inquired after is or has been within the last twelve months confined.

(2.) If it appears that the patient is or has been so confined, the secretary shall deliver to the applicant a statement in writing, specifying the situation of the institution or place in which the patient appears to be or to have been confined, and also (so far as the secretary can ascertain the same from any register or return in his possession) the name of the manager or principal officer of the institution or place, and the date of admission, and (in case of the patient's removal or discharge) the date of his removal or discharge.

8 & 9 Vict. c. 100, s. 83.

(3.) If any such application is made to a visitor as to any licensed house within his jurisdiction, the visitor may make the like order upon the clerk to the visitors, who shall make search among the returns made to him, and deliver to the applicant the like statement as to any such licensed house as the secretary of the Commissioners is by this section required to make and deliver.

(4.) The applicant shall pay to the person required to make a search under this section such sum not exceeding seven shillings as the Commissioners or visitors fix. (*a*)

Note 51.—(4.) (*a*) It seems to be implied that this sum is not only payable to the person who makes the search, but may be kept by him as a compensation for his trouble.

Diet.

Diet of patients. 8 & 9 Vict. c. 100, s. 82.

Sect. 52.—(1.) The visiting Commissioners may determine and regulate the diet of the pauper patients in any hospital or licensed house.

(2.) The visitors of a licensed house shall have the like power as to that house, subject, nevertheless, to any direction the visiting Commissioners may give.

Employment of Males in care of Females.

Males not to be employed

Sect. 53. It shall not be lawful to employ any male person in any institution for lunatics in the personal

custody or restraint of any female patient, and any person employing a male person contrary to this section shall be liable to a penalty not exceeding twenty pounds. Provided that this section shall not extend to prohibit or impose a penalty on the employment of male persons on such occasions of urgency as may in the judgment of the manager of the institution render such employment necessary, but the manager shall in each case report the employment to the visiting Commissioners or visitors at their next visit.

Restriction in personal custody of females. Lunacy Act, 1889, s. 83.

Book to be kept in Workhouse.

Sect. 54.—(1.) The visiting guardians of every union shall, once at least in each quarter, enter in a book to be provided and kept by the master of the workhouse, such observations as they may think fit to make respecting the diet, accommodation, and treatment (*a*) of the lunatics or alleged lunatics in the workhouse.

(2.) Such book shall be laid by the master before the Commissioner or Commissioners at his or their next visit.

Book to be kept in workhouse. 25 & 26 Vict. c. 111, s. 37.

Note 54.—(1.) (*a*) The Commissioners in Lunacy have expressed the opinion that in framing the original enactment upon which this section is based (viz. 25 & 26 Vict. c. 111, s. 37), the Legislature were desirous of securing a periodical and full investigation by the guardians of the mental and bodily condition of all the pauper lunatics detained by them in the workhouse; and that therefore the word "treatment" should be considered not only as having reference to the medical care of the patients, but as affecting their moral and general treatment also, and would include inquiries as to the provision made for their exercise, occupation, and amusement, as to the state of their persons, clothing, and bedding, and as to the conduct and efficiency of the attendants, whether paid or otherwise, who may be appointed to take care of them. (See Glen's *Poor Law Board Orders*, 10th edition, 1887, *passim*.)

Absence on Trial or for Health.

Sect. 55.—(1.) Any two visitors of an asylum, with the advice in writing of the medical officer, may permit a patient in the asylum to be absent on trial so long as they think fit.

(2.) The visitors may make an allowance to a pauper lunatic absent from the asylum on trial, not exceeding the charge in the asylum, and that allowance, and no more, shall be paid for him as if he were in the asylum.

Absence on trial or for health. 16 & 17 Vict. c. 97, s. 79.

(3.) The manager of any hospital or licensed house may, with such consent as hereinafter mentioned,—

(*a.*) send or take, under proper control, any private patient or two or more private patients to any specified place for such period as may be thought fit for the benefit of his or their health:

(*b.*) permit a private patient to be absent upon trial for such period as may be thought fit.

8 & 9 Vict. c. 100, s. 86. 18 & 19 Vict. c. 105, s. 17. 25 & 26 Vict. c. 111, s. 38. Lunacy Act, 1889, s. 32.

(4.) The consent required by this section shall be either that of a Commissioner, or in the case of a hospital that of two members of the managing committee, or in the case of a house licensed by justices that of two of the visitors. Any such consent may be renewed, and the place when required to be specified varied.

(5.) Before such consent is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, shall be produced, unless the consenting persons, on cause being shown, dispense with the same.

(6.) A Commissioner as regards any hospital or licensed house, and two members of the managing committee of a hospital, and two of the visitors of a house licensed by visitors, may, of their own authority, permit a pauper patient to be absent upon trial for such period as may be thought proper, and may make or order to be made an allowance to the pauper, not exceeding the charge for him in the hospital or house, which shall be payable as if he were in the hospital or house, but shall be paid over to him or for his benefit as the Commissioners or visitors may direct.

Lunacy Act, 1889, s. 32 (2).

(7.) The medical officer of a hospital or licensed house may, of his own authority, permit any patient to be absent from the hospital or house for a period not exceeding forty-eight hours.

(8.) If a person allowed to be absent on trial for any period does not return at the expiration thereof, and a medical certificate (*a*) certifying that his detention as a lunatic is no longer necessary is not sent to the visitors of the asylum or the manager of the hospital or house, he may at any time within fourteen days after the expiration of the period of trial be retaken as in the case of an escape.

Note 55.—(8.) (*a*) The General Consolidated Order of the Poor Law Commissioners, issued 24th July, 1847, contains the following article with reference to the "Duties of a Medical

Officer," viz. :—"Art. 205, No. 3. To give a certificate under his hand in every case to the guardians, or the relieving officer, or the pauper on whom he is attending, of the sickness of such pauper or other cause of his attendance, when required to do so." It appears that this Article will include a certificate as to a lunatic pauper discharged from an asylum upon trial, under 16 & 17 Vict. c. 97, s. 79, if the guardians require the medical officer to give a certificate in such a case. (See Glen's *Poor Law Board Orders*, 10th edition, 1887.)

Change of residence of single patients. 16 & 17 Vict. c. 96, s. 22. Lunacy Act, 1889, s. 32.

Sect. 56.—(1.) Any person having charge of a single patient may change his residence and remove the patient to any new residence of such person in England.

(2.) Seven clear days before a change of residence, the person having charge of a single patient shall give notice in writing thereof, and of the place of the new residence, to the Commissioners and to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made.

(3.) Any person having charge of a single patient, with the previous consent of a Commissioner, may take or send the patent, under proper control, to any specified place or places, for any definite time, for the benefit of his health.

(4.) Before any consent by a Commissioner is given, the approval in writing of the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, shall be produced to the Commissioner, unless, on cause being shown, he dispenses with the same.

Boarding-out Lunatics.

Maintenance for pauper lunatic taken charge of by relatives. Lunacy Act, 1889, s. 40 (1), (2), (5.)

Sect. 57.—(1.) Where application is made to the visiting committee of an asylum by any relative or friend of a pauper lunatic confined therein that he may be delivered over to the custody of such relative or friend, the committee may, upon being satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable or the local authority liable for his maintenance, and, in the case the proposed residence is outside the limits of such union or the area subject to such local authority, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

(2.) Where any such order is made, the authority

liable for the maintenance of the lunatic shall pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as such authority on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over thinks proper.

51 & 52 Vict. c. 41.

(3.) For the purposes of section twenty-four, subsection (2) (f), of the Local Government Act, 1888, a lunatic boarded-out, by the authorities of any asylum shall be deemed to be a lunatic maintained in an asylum.

Removal of Lunatics.

Removal of private patient by person authorised to discharge the patient. 8 & 9 Vict. c. 100, s. 72. 16 & 17 Vict. c. 96, s. 20. 16 & 17 Vict. c. 97, s. 86.

Sect. 58.—A person having authority to order the discharge of a private patient from an institution for lunatics, or of any single patient, may, with the previous consent in writing of a Commissioner, by order in writing direct the removal of the patient to any institution for lunatics or to the charge of any person named in the order.

Removal of lunatics by Commissioners. 16 & 17 Vict. c. 97, s. 82. Lunacy Act, 1889, s. 31 (2).

Sect. 59.—(1.) Any two Commissioners may by order direct the removal of a lunatic from an institution for lunatics to any other institution for lunatics.

(2.) Upon the death of a person having charge of a single patient, the Commissioners may, upon the application of the person having authority to discharge the patient, or if he does not apply within seven days after the death, upon their own motion, direct the patient to be removed to the charge of a person named in the order.

Lunacy Act, 1889, s. 31 (3).

(3.) Any two Commissioners may at any time by order direct the removal of a lunatic from the charge of any person under whose care he is as a single patient, to the charge of any other person or to any institution for lunatics.

Removal of lunatic from workhouse by Commissioners. 25 & 26 Vict. c. 111, s. 31.

Sect. 60.—(1.) Where, upon the visitation of a workhouse by any two or more Commissioners, it appears to them that a lunatic or alleged lunatic therein is not a proper person to be allowed to remain in a workhouse, they may by order direct the lunatic to be removed to an institution for lunatics, and every such order shall have the same effect as a summary reception order.

(2.) The guardians of the union to which the workhouse belongs may appeal against an order under this section within one month from the making thereof to a

Secretary of State, who shall thereupon employ a Commissioner, not being one of the Commissioners who made the order, or some other person, to make a special visitation of the workhouse and to report to him upon the matter, and the decision of the Secretary of State upon such report shall be conclusive.

Removal of lunatic in a hospital or licensed house by guardians. 8 & 9 Vict. c. 100, s. 74.

Sect. 61.—(1.) The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the removal of the lunatic, and may direct the mode of removal.

(2.) Upon production to the manager of the hospital or house of a copy of the order he shall forthwith remove the patient or suffer him to be removed.

Removal from workhouse by guardians. Lunacy Act, 1889, s. 21 (9).

Sect. 62.—The guardians of the union to which a workhouse belongs may make an order for the removal of any lunatic detained therein.

Removal of lunatic boarded out into asylum. Lunacy Act, 1889, s. 40 (4).

Sect. 63.—Where the visiting committee of an asylum has made an order for a pauper lunatic in the asylum to be delivered to the custody of a relative or friend, any two members of the committee may at any time, if they think fit, order the lunatic to be removed to the asylum.

Removal of pauper into county asylum. 16 & 17 Vict. c. 97, s. 77. 18 & 19 Vict. c. 105, s. 8.

Sect. 64.—Any two visitors of an asylum may order a pauper lunatic chargeable to any union within any county or borough to which the asylum wholly or in part belongs, or to such county or to any county for the reception of the pauper lunatics whereof into that asylum there is a subsisting contract, to be removed to that asylum from any other institution for lunatics in which he may be detained.

Removal of pauper from asylum. 16 & 17 Vict. c. 97, s. 77.

Sect. 65.—(1.) Any two visitors of an asylum may order a pauper lunatic in the asylum to be removed to some other institution for lunatics.

(2.) A lunatic shall not be removed under this section without the consent in writing of two Commissioners, except to—

(*a.*) an asylum within or belonging wholly or in part to the county within which the asylum from which the lunatic is removed is situate, or to the county in some parish of which the lunatic may have been adjudged to be settled; or

(*b.*) a hospital or licensed house within any such county as aforesaid; or

(*c.*) an institution for lunatics into which the lunatic can be received under a subsisting contract.

Directions as to execution of order for removal. 16 & 17 Vict. c. 97, s. 77.

Sect. 66.—The visitors making an order for the removal of a pauper lunatic may by the order require any relieving officer, or other officer of the union, county, or borough to which the lunatic is chargeable, or may authorise any other person, to execute the same.

Restriction upon removal of paupers by two visitors. 16 & 17 Vict. c. 97, s. 77.

Sect. 67.—A pauper lunatic shall not be removed under any order for removal made by two visitors without a medical certificate signed by the medical officer of the institution for lunatics from which the patient is to be removed, certifying that he is in a fit condition of bodily health to be removed.

Removal of lunatic from workhouse by a justice. Lunacy Act, 1889, s. 76.

Sect. 68.—Where a union is in more than one county, and the workhouse of the union is in one county, and the place from which a lunatic was sent to the workhouse is in another county, an order may be made by a justice for the county in which the workhouse is, or a justice for the county from which the lunatic was sent, for the removal of the lunatic either to the asylum of the county in which the workhouse is or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Restriction as to institution to which pauper may be removed. 16 & 17 Vict. c. 97, s. 78.

Sect. 69.—Except under the provisions of the preceding section a pauper lunatic shall not be removed under an order of removal to any institution for lunatics into which he could not have been received under a reception order.

Removal orders to be in duplicate. 16 & 17 Vict. c. 96, s. 20. 16 & 17 Vict. c. 97, ss. 77, 82, 86.

Sect. 70.—(1.) Every order for the removal of a lunatic from an institution for lunatics or from the charge of any person and the consent of the Commissioners thereto, where required, shall be in duplicate. One duplicate shall be delivered to the manager of the institution for lunatics or the person from whose care the lunatic is removed, and the other to the manager of the institution for lunatics, or the person into whose care the lunatic is removed.

(2.) Every such order, with such consent as aforesaid where required, shall be sufficient authority for the removal and reception of the lunatic, in accordance with the order.

(3.) The manager of the institution from which, or the

person from whose care the lunatic is removed under any such order, shall deliver, free of expense, a copy of the reception order and documents accompanying the same to the person executing the order for removal, to be by him delivered to the manager of the institution into which or the person into whose care the lunatic is removed.

(4.) Every such copy shall be certified under the hand of the person whose duty it is to deliver the same.

Removal of alien to his native country. Lunacy Act, 1889, s. 44.

Sect. 71.—(1.) Where an alien is detained as a lunatic, and his family or friends desire that he should be removed to the country of which he is a subject, the Commissioners, upon application by any member of the family or by a friend of the alien, may inquire into the circumstances of the case and report thereon to a Secretary of State.

(2.) A Secretary of State, if satisfied by such report that the person to whom the report relates is an alien and a lunatic, and that his removal is likely to be for his benefit, and that proper arrangements have been made for such removal and for his subsequent care and treatment, may, by warrant, direct the alien to be delivered to the person named in the warrant for the purpose of removal to the country of which he is a subject, and every such warrant shall be obeyed by the person or authority under whose charge the lunatic is.

(3.) A warrant under this section shall be sufficient authority for the master of any vessel to receive and detain the lunatic on board the vessel, and to convey him to his destination.

Discharge of Lunatics.

Discharge of private patient. 8 & 9 Vict. c. 109, ss. 72, 73. 16 & 17 Vict. c. 96, s. 17. 16 & 17 Vict. c. 97, ss. 83, 84. 25 & 26 Vict. c. 111, s. 43. Lunacy Act, 1889, s. 28.

Sect. 72.—(1.) A private patient detained in an institution for lunatics, or under care as a single patient, shall be discharged, if the person on whose petition the reception order was made by writing under his hand so directs. (*a*)

(2.) If that person is dead, or incapable by reason of insanity, absence from England, or otherwise, of signing an order for discharge, or, if a patient having been originally classified as a pauper is afterwards classified as a private patient, the person who made the last payment on account of the patient, or the husband or wife, or if there is no husband or wife, or the husband or wife is incapable as aforesaid, the father, or if there is no father, or he is incapable as aforesaid, the mother of the patient, or, if there is no mother, or she is incapable, then any

one of the nearest of kin of the patient, may give the direction for his discharge.

(3.) If there is no person qualified to direct the discharge of a patient under this section, or no person able or willing to act, the Commissioners may order his discharge.

Note 72.—(1.) (*a*) In the case of *Lowe* v. *Fox*, the plaintiff was detained in a private asylum under an order signed by her husband, the defendant being the superintendent of the asylum. In the statement annexed to the order the question "Whether first attack" was answered thus:—"For the last twenty years has been subject to what is termed hysteria." And the question, "When and where previously under care and treatment" was answered, "During this period of twenty years has been constantly under treatment." It was held that the order and statement was sufficient under 16 & 17 Vict. c. 96, s. 4, Sched. A (No. 1), [Repealed], and afforded a defence under 8 & 9 Vict. c. 100, s. 99 [= **A** 330], to an action for assault and false imprisonment. The plaintiff's husband having re-received a letter from the Commissioners, intimating that she ought to be discharged, wrote to the defendant:—"After the Commissioners' letter I suppose I must consent to Mrs. L.'s discharge, and beg you will carry out their suggestion as soon as you may think it advisable."—*Held*, that this letter was not an order of discharge within 8 & 9 Vict. c. 100, s. 72 (= **A** 72(1).) (L. R., 15 Q. B. D., 667; L. R., 12 App. Cas., 206.)

Discharge of pauper in hospital or house. 8 & 9 Vict. c. 190, s. 74.

Sect. 73. The authority liable for the maintenance of a pauper lunatic detained in a hospital or licensed house may make an order for the discharge of the lunatic, and may direct the mode of discharge, and upon production to the manager of the hospital or house of a copy of the order he shall forthwith discharge the patient, or suffer him to be discharged.

Restriction on discharge. 8 & 9 Vict. c. 100, s. 75. 16 & 17 Vict. c. 96, s. 17. 16 & 17 Vict. c. 97, s. 85.

Sect. 74. A patient shall not be discharged under the provisions of the two preceding sections if the medical officer of the institution, or, in the case of a single patient, his medical attendant, certifies in writing that the patient is dangerous and unfit to be at large, together with the grounds on which the certificate is founded, unless two of the visitors of the asylum, or the Commissioners visiting the hospital or house, or the visitors of the house, or in the case of a single patient, one of the Commissioners, after the certificate has been produced, consent in writing to the patient's discharge.

Discharge by Commissioners of patients in

Sect. 75. Two of the Commissioners, one of whom shall be a medical and the other a legal Commissioner, may visit a patient detained in any hospital or licensed

house, or as a single patient, and may, within seven days after their visit, if the patient appears to them to be detained without sufficient cause, make an order for his discharge.

hospital or licensed house, and of single patients. Lunacy Act, 1889, s. 31 (1).

Sect. 76.—(1.) The Commissioners when they have made any order of discharge shall forthwith serve the same upon the manager of the institution for lunatics where the patient is detained, or upon the person having charge of the patient as a single patient, and shall give notice of such order,—

Notice of order of discharge. Lunacy Act, 1889, s. 43.

(*a.*) In the case of a private patient, to the person on whose petition the reception order was made or who made the last payment on account of the patient:

(*b.*) In the case of a pauper, to the authority liable for his maintenance.

(2.) Any person who has been duly served with any such order of discharge and detains a patient after the date of discharge appointed thereby shall be guilty of a misdemeanour.

Sect. 77.—(1.) Any three visitors of an asylum may order the discharge of any person detained therein whether he is recovered or not.

Visitors may discharge patients in asylums. 16 & 17 Vict. c. 97, s. 79.

(2.) Any two such visitors, with the advice in writing of the medical officer, may order the discharge of any person detained in the asylum.

Sect. 78.—(1.) If after two visits by two visitors to a house licensed by justices, it appears to the visitors that any patient is detained without sufficient cause, the visitors may make such order as they think fit for his discharge.

(2.) In the case of visits under this section, one of the visitors shall be a medical practitioner.

Discharge by visitors of lunatics in licensed houses. 8 & 9 Vict. c. 100, ss. 78, 79, 80.

(3.) The two visits shall be made by the same visitors at an interval of not less than seven days.

(4.) Seven days' notice of the second visit shall be given either by post or by an entry in the patients' book to the manager of the house, who shall forthwith send by post a copy of the notice, in the case of a private patient to the person on whose petition the reception order was made, or by whom the last payment on account of the lunatic was made, and in the case of a pauper to the authority liable for his maintenance, and also to the clerk of the visitors of the house.

(5.) The visitors before making an order under this

section shall examine the medical officer of the house as to his opinion respecting the fitness of the patient to be discharged, if he tenders himself for examination.

(6.) If after such examination an order for discharge is made, and the medical officer furnishes to the visitors a statement of his reasons against the discharge, they shall forthwith send the statement to the clerk of the visitors.

(7.) This section shall not apply to a lunatic so found by inquisition.

(8.) Every order under this section shall be signed by the visitors by whom it is made.

Discharge of pauper on application of relative or friend. 16 & 17 Vict. c. 97, s. 81.

Sect. 79.—When application is made to the visiting committee of an asylum by a relative or friend of a pauper lunatic confined therein, requiring that he may be delivered over to the custody and care of such relative or friend, any two of the visitors may, if they think fit, discharge the lunatic upon the undertaking of the relative or friend, to their satisfaction, that the lunatic shall be no longer chargeable to any union, county, or borough, and shall be properly taken care of and prevented from doing injury to himself or others.

Visiting committee may send notice of intention to discharge pauper lunatic to relieving officer or clerk of local authority. 16 & 17 Vict. c. 97, s. 80.

Sect. 80.—(1.) When the visitors of an asylum order a pauper lunatic confined therein to be discharged, except on the application of a relative or friend, they may, when they think fit, send a notice in writing, signed by the clerk of the asylum, by post or otherwise, of their intention to discharge the lunatic to a relieving officer of the union to which the lunatic is chargeable, or to the clerk of the local authority liable for his maintenance.

(2.) Upon receipt of such notice, the relieving officer or clerk shall cause the lunatic upon his discharge to be forthwith removed to the workhouse of the union to which the lunatic is chargeable, or, if the lunatic is chargeable to a county or borough, to the workhouse of the union from which he was sent to the asylum.

Discharge from workhouse by guardians. Lunacy Act, 1889, s. 21 (9).

Sect. 81.—The guardians of the union to which a workhouse belongs may make an order for the discharge of any lunatic detained therein.

Copies of reception order and other documents to be furnished.

Sect. 82.—The Secretary to the Commissioners shall, upon the discharge of a person who considers himself to have been unjustly confined as a lunatic, furnish to him upon his request, free of expense, a copy of the reception order and certificate or certificates upon which he was

confined, and if the order was made upon petition, also of the petition and statement of particulars upon which the reception order was made. 8 & 9 Vict. c. 100, s. 56.

Recovery of Patient.

Sect. 83.—(1.) The manager of every hospital and licensed house, and a person having charge of a single patient, shall forthwith, upon the recovery of a patient, send notice thereof in the case of a patient not a pauper to the person on whose petition the reception order was made, or by whom the last payment on account of the patient was made, and in the case of a pauper to the guardians of his union, or if a local authority is liable for his maintenance to the clerk of the local authority. Notice to be given on recovery of a patient. 16 & 17 Vict. c. 96, s. 19.

(2.) The notice shall state that unless the patient is removed within seven days from the date of the notice he will be discharged. Lunacy Act, 1889, s. 36.

(3.) In case the patient is not removed within seven days from the date of the notice he shall be forthwith discharged.

Inquiry into Cause of Death.

Sect. 84. Every coroner shall upon receiving notice of the death of a lunatic within his district, if he considers that any reasonable suspicion attends the cause and circumstances of the death, summon a jury to inquire into the same. Coroner to inquire into death, if necessary. 16 & 17 Vict. c. 96, s. 19. 25 & 26 Vict. c. 111, s. 44.

Escape and Recapture.

Sect. 85.—If any person detained as a lunatic under this Act escapes, he may, without a fresh order and certificate or certificates, be retaken at any time within fourteen days after his escape by the manager of the institution for lunatics or the master of the workhouse in which he was detained, or any officer, or servant thereof respectively, or by the person in whose charge he was as a single patient, or by anyone authorised in writing by such manager, master, or person. Escape and recapture. 8 & 9 Vict. c. 100, ss. 87, 99. 16 & 17 Vict. c. 97, s. 88.

Sect. 86.—(1.) If any person detained as a lunatic under lawful authority in England escapes into Scotland or Ireland, notice of the escape shall as soon as practicable be given to the Commissioners, who may, by writing under their seal, authorise an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place. Escape from England into Scotland or Ireland. Lunacy Act, 1889, s. 78.

(2) Such warrant, when granted, shall in Scotland or Ireland as well as in England be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any sheriff in Scotland, or for any justice in Ireland, to countersign the same; and any such warrant so countersigned may be executed in Scotland, or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

Escape from Scotland into England or Ireland. Lunacy Act, 1889, s. 79.

Sect. 87.—(1.) If any person detained as a lunatic under lawful authority in Scotland escapes into England or Ireland, notice of the escape shall as soon as practicable be given to the General Board of Commissioners in Lunacy for Scotland, who may, by writing under the hand of one of such Commissioners, authorise an application to be made by such person as they think fit to any sheriff having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place.

(2.) Such warrant, when granted, shall in England and Ireland as well as in Scotland be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of his escape, and shall be sufficient authority for any justice in England or Ireland to countersign the same: and any such warrant so countersigned may be executed in England or Ireland, as the case may be, by retaking such lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

(3.) For the purposes of this section a writing purporting to be signed by one of the Commissioners in Lunacy for Scotland shall be deemed to have been signed by him until the contrary is proved.

Escape from Ireland into England or Scotland. Lunacy Act, 1889, s. 80.

Sect. 88.—(1.) If any person detained as a lunatic under lawful authority in Ireland escapes into England or Scotland, notice of the escape shall as soon as practicable be given, where such person has been so detained by order of the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland, to the Registrar in Lunacy, and in other cases to the Inspectors of Lunatics in Ireland, who may, by writing under the hand of the said registrar, or one of the said inspectors, as the case may be, authorise

an application to be made by such person as they think fit to any justice having jurisdiction in the place where the lunatic was so detained for a warrant authorising such person to retake the lunatic and bring him back to such place.

(2.) Such warrant, when granted, shall in England and Scotland as well as in Ireland be sufficient *primâ facie* evidence that the person stated therein to have escaped was so detained as a lunatic under lawful authority as aforesaid, and of the fact of such escape, and shall be sufficient authority for any justice in England, and for any sheriff in Scotland, to countersign the same; and any such warrant so countersigned may be executed in England or Scotland, as the case may be, by retaking the lunatic and bringing him from thence, to the intent that he may be restored to the custody from which he escaped.

(3.) For the purposes of this section a writing purporting to be signed by the Registrar in Lunacy, or one of the Inspectors of Lunatics in Ireland, as the case may be, shall be deemed to have been signed by him unless the contrary is proved.

Limit of time of retaking lunatic. Lunacy Act, 1889, s. 81.

Sect. 89.—A warrant, granted under any of the three preceding sections, shall not authorise the retaking of a lunatic after the expiration of the time during which he could have been retaken according to the law in force in the place where he was detained as a lunatic if he had remained there after his escape.

PART III.

JUDICIAL INQUISITION AS TO LUNACY.

The Inquisition.

Order for inquisition as to lunacy.

Sect. 90.—(1.) The Judge in Lunacy may upon application by order direct an inquisition whether a person is of unsound mind and incapable of managing himself and his affairs. (*a*)

Lunacy Regulation Act, 1853, s. 40.

(2.) Where the alleged lunatic is within the jurisdiction, he shall have notice of the application and shall be entitled to demand an inquiry before a jury. (*b*)

Lunacy Regulation Act, 1862, ss. 8, 9.

(3.) Upon the hearing of the application, the alleged lunatic may withdraw any demand for a jury made by him.

Note 90.—(1.) (*a*) Here may be noted the following point which arose in a suit in the Probate Court as recently as the

present year (1890). The son by a former marriage of an alleged lunatic, obtained an order from one of registrars, assigning him as guardian to his mother for the purpose of instituting a suit for the nullity of a second marriage, on the ground of her insanity at the time of the second marriage. The Judge rescinded the order after reading affidavits denying the alleged unsoundness of the lady's mind, and expressed an opinion that where there was a substantial dispute as to a party's sanity no such order should stand, and the Court of Appeal upheld the Judge's decision. (*Routh* v. *Fry*, 59 L. J., Prob., 43.)

(2.) (*b*) A notice of a petition served on an alleged lunatic by the London Agent of a County Solicitor, acting for the petitioner, is not to be deemed signed by the "petitioner's agent." (*Summerville, In re*, L. R., 31 Ch. D., 160.)

Demand of a jury by alleged lunatic. Lunacy Regulation Act, 1853, s. 41.

Sect. 91.—Where the alleged lunatic demands a jury, the Judge in Lunacy shall in his order for inquisition direct the return of a jury, unless he is satisfied, by personal examination of the alleged lunatic, (*a*) that he is not mentally competent to form and express a wish for an inquisition before a jury; and the Judge may, where he deems it necessary, and for the purpose of personal examination, require the alleged lunatic to attend him at such convenient time and place as he may appoint.

Note 91.—(*a*) As to examination of the alleged lunatic before ordering Inquiry, see *Windham, In re* (31 L. J., Ch., 723).

Cases where a jury may be dispensed with. Lunacy Regulation Act, 1853, s. 42.

Sect. 92.—Where the alleged lunatic does not demand a jury, or the Judge in Lunacy is satisfied by a personal examination that he is not mentally competent to form and express a wish in that behalf, and it appears to the Judge, upon consideration of the evidence, and of the circumstances of the case, to be unnecessary or inexpedient that the inquisition should be before a jury, and he accordingly does not in his order for inquisition direct the return of a jury, then the Masters shall, without a jury, personally examine the alleged lunatic, and take such evidence, upon oath or otherwise, and call for such information as they think fit or the Judge directs, in order to ascertain whether or not the alleged lunatic is of unsound mind, and shall certify their finding thereon.

Jury to be had, if masters certify that it is expedient.

Sect. 93.—Where the Judge in Lunacy does not in his order for inquisition direct the return of a jury, but the Masters, upon consideration of the evidence, certify that in their opinion an inquisition before a jury is expedient, they shall, without further order, issue their precept to

the sheriff, and shall proceed in like manner in all respects, and their proceedings shall be as valid and effectual as if the Judge had directed the return of a jury in the first instance. Lunacy Regulation Act, 1853, s. 43.

Sect. 94.—(1.) Wherever the Judge in Lunacy orders an inquisition before a jury, he may by his order direct an issue to be tried in the High Court, and the question in such issue shall be, whether the alleged lunatic is of unsound mind and incapable of managing himself or his affairs; and the provisions of this Act with respect to commissions of lunacy, and orders for inquisition to be tried by a jury, and the trial thereof, and the constitution of the jury, shall apply to any issue to be directed as aforesaid, and the trial thereof, and subject thereto and to the provisions of this Act such issue and the trial thereof shall be regulated by the Rules of the Supreme Court for the time being in force relating to the trial of issues of fact by a jury, and the verdict upon any such issue finding the alleged lunatic to be of unsound mind and incapable of managing himself or his affairs shall have the same effect as an inquisition under this Act. (*a*) Inquiries before a jury may be made by means of an issue in the High Court. Lunacy Regulation Act, 1862, s. 4.

(2.) On the trial of every such issue the alleged lunatic shall, if he is within the jurisdiction, be examined before the evidence is taken, and at the close of the proceedings, before the jury consult as to their verdict, unless the Judge who tries the issue otherwise directs; and such examinations shall take place either in open court or in private as such Judge directs. Lunacy Regulation Act, 1862, s. 6.

Note 94.—(1.) (*a*) When an issue is directed by an order in lunacy to try the question of the insanity of an alleged lunatic before a Judge of the High Court of Justice, under the Lunacy Regulation Act, 1862, s. 4 [repealed], it is not necessary to commence the proceedings by a writ of summons, the order for the issue being sufficient to give jurisdiction to the Judge. (*Scott, In re*, L. R., 27 Ch. D., 116.)

Sect. 95.—Where the Masters certify that the alleged lunatic is of unsound mind, and incapable of managing himself or his affairs, or that he is of sound mind, and capable of managing his affairs, the certificate shall have the same effect as an inquisition taken upon the oath of a jury. Certificate of masters without a jury to have the force and effect of an inquisition.

Lunacy Regulation Act, 1853, s. 44; Act, 1862, s. 3.

Sect. 96.—Where the alleged lunatic is not within the jurisdiction it shall not be necessary to give him notice of the application for inquisition, and the inquisition shall be before a jury. Jury to be had if lunatic out of jurisdiction.

Lunacy Regulation Act, 1853, s. 45.

Number of jury. Lunacy Regulation Act, 1853, s. 46.

Sect. 97.—The Lord Chancellor may, by order, regulate the number of jurors to be sworn, but so that every inquisition upon the oath of a jury be found by the oaths of twelve men, at least. (*a*)

Note 97.—(*a*) See *Windham, In re*, 31 L. J., Ch., 721.

Nature and limit of inquisitions. Lunacy Regulation Act, 1853, s. 47. Lunacy Regulation Act, 1862, s. 3. Lunacy Act, 1889, s. 48.

Sect. 98.—(1.) The inquisition shall be confined to the question whether or not the alleged lunatic is at the time of the inquisition of unsound mind, and incapable of managing himself or his affairs, and no evidence as to anything done or said by him, or as to his demeanour or state of mind at any time, being more than two years before the time of the inquisition, shall be receivable in proof of insanity, or on the trial of any traverse of an inquisition, unless the person executing the inquisition otherwise directs.

(2.) If upon such inquisition it appears that the alleged lunatic is of unsound mind, so as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, it may be so specially found and certified.

Power of person executing inquiry. Lunacy Regulation Act, 1853, s. 48.

Sect. 99. The person executing an inquisition with a jury shall, while so employed, have all the powers, authorities, and discretion of the Judge of the High Court. (*b*)

Note 99.—(*b*) *Langham, In re*, 1 Jur., 375.

Inquisition may be ordered on report of Commissioners. Lunacy Regulation Act, 1853, s. 54. 8 & 9 Vict., c. 100, s. 94.

Sect. 100. Where the Commissioners report to the Lord Chancellor that they are of opinion that the property of any person detained or taken charge of as a lunatic, but not so found by inquisition, is not duly applied for his benefit, or to the same effect, the report shall be filed with the Masters, and shall be deemed to be an application for inquisition supported by evidence, and the alleged lunatic shall have notice of the report from such person as the Judge in Lunacy directs, and the case shall proceed and be conducted as nearly as may be in all respects as is herein-before directed upon an application for inquisition.

Traverse and Supersedeas of an Inquisition. (*c*)

Applications for traverse to be made within a limited time.

Sect. 101.—(1.) Any person desiring to traverse an inquisition, not being a verdict upon an issue tried in the High Court, may, within three months next after the day of the return of the inquisition, apply for that purpose to the Judge in Lunacy.

(2.) The Judge shall hear and determine the application, and shall in his order upon it for a traverse limit a time, not exceeding six months from the date of the order, within which the person desiring to traverse and all other proper parties are to proceed to trial of the traverse. Lunacy Regulation Act, 1853, s. 148. Lunacy Regulation Act, 1862, s. 7.

(3.) The Judge may by the same or any other order direct that the person desiring to traverse, not being the person the object of the inquisition, shall within three weeks next after the date of the order, give sufficient security to and to the satisfaction of the Masters for all proper parties proceeding to trial within the time to be limited as aforesaid.

Note 101.—(1.) (*c*) 2 & 3 Edw. VI. c. 8, s. 3 (*ante.*)

Sect. 102. Every person who does not within the appointed time apply for a traverse, or who refuses or neglects to give such security as aforesaid, or who does not proceed to trial within the appointed time, shall be absolutely barred of the right of traverse: Provided that the Judge in Lunacy may, under the special circumstances of any particular case, extend the time upon such terms as he thinks just. Persons not proceeding to trial within limited time barred. Lunacy Regulation Act, 1853, s. 149.

Sect. 103. If the Judge in Lunacy is dissatisfied with the verdict returned upon a traverse, he may order one or more new trial or trials thereon, as he thinks fit; but no person shall be admitted to traverse oftener than once. Judge may direct new trials. Lunacy Regulation Act, 1853, s. 150.

Sect. 104. A traverse of a verdict upon an issue tried in the High Court shall not be allowed, but the Judge in Lunacy may, if he thinks fit, upon application within three months next after the trial of any such issue, or a new inquisition as to the insanity of the alleged lunatic, subject to such directions and upon such conditions as to the Judge may seem proper. New trial of an issue. Lunacy Regulation Act, 1862, s. 7.

Sect. 105. If it appears to the Judge in Lunacy that it is not expedient or for the benefit of the lunatic that the commission should be unconditionally superseded, but that the same should be superseded on terms and conditions, he may, upon the consent of the lunatic and any other persons whose consent he deems necessary, order the commission to be superseded upon such terms and conditions as he thinks proper, and the Judge may make such orders as he thinks fit for giving effect to such terms and conditions. Commission may be superseded on conditions. Lunacy Regulation Act, 1862, s. 10. Lunacy Regulation Act, 1853, s. 152.

Sect. 106.—(1.) The Judge in Lunacy, if satisfied by a report of the Commissioners, or of one of the Chancery Power to supersede inquisition

as regards commitment of person. Lunacy Act, 1889, s. 49.

Visitors, or on any other evidence, that a lunatic so found by inquisition is cured or capable of managing himself, and not dangerous to himself or others, though incapable of managing his affairs, may, if he thinks it desirable that the ordinary proceedings for a supersedeas should not be insisted on, by order supersede the inquisition, so far as the same finds that the lunatic is incapable of managing himself, and rescind or vary any order for the commitment of the person of the lunatic. (*a*)

(2.) An order under this section may be made on such terms and conditions as the Judge thinks fit.

(3.) Notice of an order under this section shall be forthwith given to the committee of the person of the lunatic, and also to the person under whose care the lunatic is.

Note 106.—(1.) (*a*) *Re* ——, a lunatic, 28 L J., Ch., 944 ; 4 De Gex & J., 103 ; *re Lady Stair*, 8 L. T., 405 ; *re Gordon*, 2 Phil. 242 ; *ex parte Loveday*, 1 De Gex, M. & G. 275 ; *re Blackmore*, 8 L. T., Ch., 264, 476 ; 32 L. J., Ch., 436. As to the nullification of the marriage of a lunatic who marries before he or she is declared to be of sane mind : See 15 Geo. II. c. 30, and 51 Geo. III. c. 37.

Transmission of Inquisition and Supersedeas to Ireland and England.

Transmission of inquisition and supersedeas to Ireland and England. Lunacy Regulation Act, 1853, s. 52.

Sect. 107. Where it is desired that an inquisition taken, or a writ of supersedeas issued in England or Ireland, should be acted upon in Ireland or England, the proper officer may, under order of the Judge in Lunacy in England, or the Lord Chancellor for the time being entrusted by the sign manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics in Ireland, as the case may be, transmit a transcript of the record of the inquisition, or of the writ, to the Registrar in Lunacy in Ireland or the High Court in England, as the case may be, which transcript shall thereupon be entered and be of record there respectively, and shall, when so entered of record, and if and so long only as the Lord Chancellor entrusted as aforesaid in Ireland and the Judge in Lunacy in England, as the case may be, thinks fit, be acted upon by them respectively, and be of the same validity and effect, to all effects and purposes, as if the inquisition had been taken or the writ issued in Ireland or England respectively. (*a*)

Note 107.—(*a*) Where an order in lunacy has been made in Ireland by the Court having jurisdiction for that purpose,

and a transcript of the record has, under the provisions of s. 52 of the Lunacy Regulation Act, 1853, been transmitted to this country, the English Court must treat the order as a binding order, and has no jurisdiction to entertain an application either for the purpose of setting aside the proceedings in Ireland, or for a *supersedeas*. Any such application must be made to the Court which originally made the order. The right of an alleged lunatic to demand a jury is confined to the original inquiry. (*Talbot, In re*, L. R., 20 Ch. D., 269.)

PART IV.

JUDICIAL POWERS OVER PERSON AND ESTATE OF LUNATICS.

The Judge in Lunacy.

Jurisdiction of judge in lunacy. 38 & 39 Vict. c. 77, s. 7. Judicature Act, 1875, s. 7.

Sect. 108.—(1.) The jurisdiction of the Judge in Lunacy under this Act shall be exercised either by the Lord Chancellor for the time being entrusted by the Sign Manual of Her Majesty with the care and commitment of the custody of the persons and estates of lunatics, acting alone or jointly with any one or more of such Judges of the Supreme Court as may for the time being be entrusted as aforesaid, or by any one or more of such Judges as aforesaid.

Lunacy Regulation Act, 1853, s. 63.

(2.) The Judge in Lunacy may make orders for the custody of lunatics so found by inquisition and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate upon the Master's certificate of completion of the committee's security.

Lunacy Act, 1889, s. 48.

(3.) Where upon the inquisition it is specially found or certified that the person to whom the inquisition relates is of unsound mind as to be incapable of managing his affairs, but that he is capable of managing himself, and is not dangerous to himself or to others, the Judge in Lunacy may make such orders as he thinks fit for the commitment of the estate of the lunatic and its management, including all proper provisions for the maintenance of the lunatic, but it shall not be necessary, unless in the discretion of the judge it appears proper to do so, to make any order as to the custody or commitment of the person of the lunatic. (*a*)

Lunacy Regulation Act, 1853, s. 15.

(4.) Any order under this section may be made notwithstanding proceedings are pending for a traverse or new trial, and any person acting upon an order so made shall be indemnified as effectually as if there had been no right of traverse or new trial. (*b*)

Note 108.—(3.) (*a*) In the case of *Bruère, In re* (L. R., 17 Ch. D., 775), it being proposed to appoint as committee a person resident out of the jurisdiction, the master in lunacy reported that, owing to the residence aforesaid of the committee, he could not approve of him. The Court, though satisfied of the expediency of appointing him, declined to do so until the master had certified that the proposed committee was a person whom he would have approved of if he had been resident within the jurisdiction.

(4.) (*b*) *Ex parte* Loveday, 1 De Gex, M. & G., 275; *re* Armstrong, 2 De Gex & J., 123; *re* Cumming, 21 L. J., Ch., 758; 23 L. J., Ch., 261; 5 De Gex, M. & G., 30.

Costs.
ss. 74, 145.
23 & 24 Vict. c. 127, s. 29.
Lunacy Regulation Act, 1862, s. 11.

Sect. 109. The costs of all proceedings for the purpose of ascertaining whether a person is lunatic, and of all proceedings in the matter of a lunatic shall be in the discretion of the Judge in Lunacy, who may order all or any of such costs to be paid by the lunatic or alleged lunatic, or to be charged upon and paid out of his estate, or such part thereof as the Judge thinks fit, or by any other party to the proceedings; and in the case of the death of the lunatic or alleged lunatic, an order for payment of costs out of his estate may be made within six years next after the right to recover the costs has accrued, and every such order shall have the effect of an order of the High Court. (*c*)

Note 109.—(*c*) An inquiry having been ordered whether or not the defendant was of unsound mind, the plaintiff, a medical man, was employed by defendant's solicitor to examine the defendant for the purpose of giving evidence at the inquiry. Notwithstanding such evidence the defendant was found to be a lunatic. The plaintiff subsequently brought an action in the County Court against the defendant for his charges in respect of the services so rendered, but was nonsuited on the ground that he could not recover without an order under the Lunacy Regulation Act, 1862, s. 11. But the Court of Appeal reversing the decision of the Queen's Bench Division to dismiss the appeal from the County Court, held that the section did not take away or affect the plaintiff's right of action, assuming the action to be in other respects maintainable, and therefore that the nonsuit was wrong, and there must be a new trial. (*Brockwell* v. *Bullock*, L. R., 22 Q. B. D., 567.)

Sect. 110. The powers and authorities given by this Act to the Judge in Lunacy shall extend to property within any British possession. (*a*)

Powers to extend to British possessions. s. 147. Trustee Act, 1850, s. 56.

Note 110.—(*a*) In the case of *Barlow's Will, In re* (L. R., 36 Ch. D. 287 (1887),) some points of interest arose in connection with the Lunacy Laws of England and of the Colony of New South Wales. A lady detained in an asylum in the colony, but not found a lunatic by inquisition, was entitled to a life interest in certain funded property arising in England. The Court held that the trustee here, or the Court as trustee, were justified in paying to the Master in Lunacy in New South Wales sufficient for maintenance, but not more.

The Masters.

Sect. 111.—(1.) There shall continue to be Masters in Lunacy as heretofore, and they shall, subject to the provisions of this Act and the Rules in Lunacy execute and perform the same powers and duties as heretofore, and shall perform such other duties for the benefit of lunatics and their estates as the Lord Chancellor may direct.

Masters in Lunacy. Lunacy Regulation Act, 1853, ss. 6, 8.

(2.) The powers and authorities of the Masters shall be joint and several, and they shall execute commissions and conduct inquiries connected with lunatics or their estates (*a*), and perform all other duties committed to them, either separately or together, and at such places, and in such manner as the Rules in Lunacy, and, subject thereto, as the Judge in Lunacy may by any special order direct.

(3.) A Master must be a barrister of not less than ten years standing, and shall be appointed by the Lord Chancellor.

(4.) A Master shall, before being capable of acting, make before the Lord Chancellor, in the manner now used, the declaration to be made by a Master set forth in the First Schedule.

(5.) The Masters shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to the number and salaries, determine.

(6.) The salaries of the Masters, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

Note 111.—(2.) (*a*) *Skingley, In re*, 3 Mac. & G., 231; *Brown, In re*, 2 Mac. & G., 207.

Sect. 112. A general commission of inquiry, with such variations as may be expedient, may from time to time

Commission of inquiry.

Lunacy Regulation Act, 1853, s. 39.

be issued in duplicate under the Great Seal, directed to the Masters by name, jointly and severally, who shall by virtue thereof proceed, in each case of alleged lunacy concerning which the Judge in Lunacy orders them to inquire, in like manner and with all the like powers and authorities (subject to the provisions in this Act contained) as heretofore.

Special Commission may issue. Lunacy Regulation Act, 1853, s. 50.

Sect. 113.—The Lord Chancellor may issue a commission specially to any person or persons alone or in addition to the Masters, or one of them, if upon any occasion he thinks it proper to do so; and the provisions of this Act so far as applicable shall extend to every commission so issued specially.

Power to summon witnesses. Lunacy Regulation Act, 1862, s. 18.

Sect. 114.—The Masters may administer any oath and take any affidavit and may summon any person to give evidence before them, and every person so summoned shall be bound to attend as required by the summons.

Expiration of Orders for the Commitment of Persons.

Order for custody of person of lunatic so found to determine unless continued. Lunacy Act, 1889, s. 50.

Sect. 115.—(1.) The medical attendant of every lunatic so found by inquisition shall, before the expiration of one, three, and six years respectively from the commencement of this Act, and before the expiration of every subsequent period of five years after the expiration of six years from the commencement of this Act, send to the Masters a report as to the mental and bodily condition of the patient, with a certificate under his hand certifying, if it is the fact, that the patient is still of unsound mind and a proper person to be detained under care and treatment.

(2.) If, before the expiration of any of the periods herein-before mentioned, such report and certificate are not sent to the Masters, they shall inquire into the omission, and unless they are satisfied that the lunatic is still of unsound mind, the order for the commitment of the person of the lunatic as to whom such report and certificate are not sent shall determine at the expiration of such period; but nothing herein contained shall affect the commitment of the estate.

(3.) A Master may, by order under his hand, extend the time within which any report and certificate under this section is to be sent to the Masters, and if the time is so extended, the order for commitment of the person of the lunatic as to whom the time is so extended shall continue in force until the expiration of the extended time, but such extended time shall not exceed six months.

(4.) Where any order for commitment of the person of

a lunatic has determined under this section, the Masters shall forthwith give notice of such determination to the committee of the person of the lunatic and to the person under whose care the lunatic is.

Management and Administration.

Extent of the administrative powers of the judge in lunacy.

Sect. 116.—(1.) The powers and provisions of this Part of this Act relating to management and administration apply :—

(*a.*) To lunatics so found by inquisition ;

(*b.*) To lunatics not so found by inquisition for the protection or administration of whose property any order has been made before the commencement of this Act ; 25 & 26 Vict. c. 86, ss. 12, 13, 15 ; Act 1882, s. 3.

(*c.*) To every person lawfully detained as a lunatic though not so found by inquisition ; (*a*) (*b*) Lunacy Act, 1889, s. 52.

(*d.*) To every person not so detained and not found a lunatic by inquisition, with regard to whom it is proved to the satisfaction of the Judge in Lunacy that such person is through mental infirmity arising from disease or age incapable of managing his affairs ;

(*e.*) To every person with regard to whom it is proved to the satisfaction of the Judge in Lunacy by the certificate of a Master, or by the report of the Commissioners, or by affidavit or otherwise, that such person is of unsound mind and incapable of managing his affairs, and that his property does not exceed two thousand pounds in value, or that the income thereof does not exceed one hundred pounds per annum ; (*c*) (*d*) (*e*) (*f*) See 8 & 9 Vict. c. 100, ss. 95, 96. 15 & 16 Vict. c. 48, ss. 4–7.

(*f.*) To every person with regard to whom the Judge is satisfied by affidavit or otherwise that such person is or has been a criminal lunatic and continues to be insane and in confinement. (*g*) 25 & 26 Vict. c. 86, s. 15.

(2.) In the case of any of the above-mentioned persons being lunatics so found by inquisition, such of the powers of this Act as are made exerciseable by the committee of the estate under order of the Judge shall be exercised by such person in such manner and with or without security, as the Judge may direct, and any such order may confer upon the person therein named authority to do any specified act, or exercise any specified power, or may confer a general authority to exercise on behalf of the lunatic, until further order, all or any of such powers without further application to the Judge. (*h*)

(3.) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the Judge as if such person were the committee of the estate of a lunatic so found by inquisition.

(4.) The powers of this Act relating to management and administration shall be exerciseable in the discretion of the Judge for the maintenance or benefit of the lunatic or of him and his family, or where it appears to be expedient in the due course of management of the property of the lunatic. (*i*) (*k*)

(5.) Nothing in this Act shall subject a lunatic's property to claims of his creditors further than the same is now subject thereto by due course of law. (*l*)

Note 116.—(1.) *c.* (*a*) The jurisdiction of the Chancery Division to give directions as to the maintenance of a person of unsound mind, not so found, is not confined to applying the income to his maintenance, but extends to the application of capital for that purpose. (*Tuer's Will Trusts, In re*, L. R., 32 Ch. D. 39 (1886).)

(1.) *c.* (*b*) The Chancery Division has not jurisdiction to appoint a *quasi* guardian, or to provide for the maintenance of a person of unsound mind, not so found, unless there be funds in Court, or the Court has control under some action, or otherwise. *Taylor, In re*, followed: *Tuer's Trusts, In re*, distinguished. (*Grimmett's Trusts, In re*, W. N., 1887, p. 37.)

(1.) *e.* (*c*) In the case of *Brice, In re* (W. N., 1888, p. 40), the lunatic was entitled to a sum of money absolutely, and to a life interest in another sum. On the reversioner's petition the Court made an order for the transfer to him of an annual charge, he undertaking to apply the proceeds towards the maintenance of the lunatic.

(1.) *e.* (*d*) An application, under the Lunacy Regulation Act, 1862, s. 12, to dispose of a lunatic's property, must show that the disposal will be for the lunatic's benefit, otherwise the application cannot be granted. It will not be granted for the purpose of enabling his creditors to obtain payment. *Price, In re*, L. R., 34 Ch. D. 603 (1887).

(1.) *e.* (*e*) In the case of a person of unsound mind, not so found, whose income was derived from a fund too small to obtain an Order in Lunacy, the Court directed the whole income to be paid to the wife, for the maintenance of the lunatic husband, without appointing a guardian. (*Silva's Trusts, In re*, W. N., 1883, p. 3.)

(1.) *e.* (*f*) The power given to the Lord Chancellor, under the Lunacy Act, 1862, as extended by the Amendment Act, 1882, to make an order for the application of the property of a person of unsound mind for his maintenance or benefit, when the property is below a specified amount, without direct-

ing any inquiry under a commission of lunacy, ought not, even if the jurisdiction extends in cases in which the alleged lunatic appears and denies unsoundness of mind, to be exercised in such cases. (*Lees, In re*, L. R., 27 Ch. D., 309.)

(1.) *f.* (*g*) As to criminal lunatics see the case of *Harvey* v. *Trenchard*, 34 Beav., 240. This subsection, it will be observed, contains no restrictions as to the amount of property.

(2.) (*h*) In a proper case the Court will, pending an application for an inquisition, appoint an interim receiver of the estate of the supposed lunatic, and if the case is urgent will do so upon an *ex parte* application. (*Pountain, In re*, L. R., 37 Ch. D., 609 (1888).)

(4.) (*i*) In the case of *Hodson* v. *Kent and Surrey Building Society* (W. N. 1888, p. 90), the Court declined to authorise a solicitor, instructed by the children of a person of unsound mind, to sue as next friend, holding that the case had no analogy to that of the wife of an imbecile who might be allowed to sue.

(4.) (*k*) The case of *Robinson, In re* (L. R., 27 Ch. D., 160), throws some light upon the position of the divorced wife of a lunatic as regards alimony. On a decree for a judicial separation an order was made for payment of £60 a year to the wife as permanent alimony. The husband was afterwards found lunatic by inquisition, and by an order in Lunacy and Chancery the dividends of a sum of stock to which he was entitled in a Chancery suit were ordered to be carried to his account in the Lunacy, and £60 a year to be paid out of them to his wife in respect of her alimony till further order. The wife assigned the annuity to a purchaser, who presented a petition in lunacy and in the suit, to have the annuity paid to her. It was held that the petition must be refused, on the ground that whether the annuity was considered as alimony or as an allowance made to the wife by the Court in lunacy, it was not assignable.

(5.) (*l*) The Court of Chancery in its ordinary jurisdiction can entertain applications relating to property under its control, belonging to persons of unsound mind not found lunatic by inquisition (*re Macfarlane*, 31 L. J., Ch., 335 ; 2 J. & H., 273) ; but cannot make an order for the maintenance of a lunatic not found so by inquisition, unless proceedings have been taken for placing the property under the administration of the Court of Chancery (*re Tayler*, 2 De Gex, F. & J., 125). It appears, also, from the decision of the Master of the Rolls in *Vane* v. *Vane* (45 L. J., Ch. 381), that the Chancery Division of the High Court of Justice has jurisdiction to make orders for the custody and maintenance of persons of unsound mind not so found by inquisition, although the property may exceed the limits fixed by the present Act ; but apparently such an order will not be made if a commission of lunacy is likely to be

issued. In that case the application was made on behalf of a lunatic who was entitled, under the marriage settlement and will of her father, to a life interest in stock producing £275 per annum, and the minutes of the judgment, after declaring that the trusts of the will and settlement ought to be executed, proceeded as follows :—" And it appearing that the plaintiff is from her state of mind incompetent to manage her affairs, and that she has not been found lunatic by inquisition—refer it to Chambers to appoint a proper person to act in the nature of a guardian of her person and estate."

Power to raise money for certain purposes. Lunacy Regulation Act, 1853, s. 116. 1862, s. 16.

Sect. 117.—(1.) The Judge may order that any property of the lunatic, whether present or future, be sold, charged, mortgaged, dealt with, or disposed of as the Judge 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 lunatic's debt or engagements; (*a*) (*b*)

(*b.*) Discharge of any incumbrance on his property; (*c*) (*d*)

(*c.*) Payment of any debt or expenditure incurred for the lunatic's maintenance or otherwise for his benefit ; (*e*) (*f*)

(*d.*) Payment of or provision for the expenses of his future maintenance. (*g*) (*h*)

(2.) In case of a charge or mortgage being made under this Act for the expenses of future maintenance, the Judge 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 he thinks expedient.

Note 117.—(1.) *a* (*a*) The case of *Whitaker, In re*, presents some remarkable points. A lunatic while sane had given a promissory note for £50,000 payable in instalments of £5000 each in discharge of what he considered was a moral obligation, he having come into a large fortune which had been intended for the payee of the promissory note. On a claim being made against his estate after he had been found lunatic, by the holder of the note for the unpaid balance of £35,000 (the next of kin consenting), the Court held that though as the gift was voluntary, the payee of the note was not entitled to claim as a creditor against the lunatic's estate, the Court in the exercise of its discretion would order payment to be made thereout by way of bounty, and as in discharge of a debt of honour on the part of the lunatic, which under the circumstances it ought to

recognise. It was also, held that the application should have been made by the Committee, and that he must be joined as co-petitioner (L. R., 42 Ch. D., 119).

(1.) *a* (*b*) In *Rhodes, In re*, it was held that the law implies an obligation on behalf of a lunatic though not so found, to pay for necessaries supplied. (59 L. J., Ch., 298.)

(1.) *b* (*c*) In the case of *Fox, In re* (L. R., 33 Ch. D., 37 (1886)), the Committee was authorised to concur with the other co-heiress in mortgaging real estate, of which one moiety belonged to the lunatic, on terms, in order to pay debts of ancestor, but was not allowed to covenant on behalf of lunatic.

(1.) *b* (*d*) In the case of *Harwood, In re* (L. R., 35 Ch. D., 470 (1887)), the Master in Lunacy having reported that it was desirable that property of which the lunatic was mortgagee should be sold under a power of sale in the mortgage, the Court declined to make an order authorising the Committee to sell and convey the estate to the purchaser, but only directed him to sell, leaving the transfer of the legal estate to be dealt with on a subsequent application under the "Trustee Act, 1850."

(1.) *c* (*e*) By an order duly made under the "Lunacy Acts," the guardians of the Northallerton Union were authorised to sell a freehold belonging to an inmate of the union, who was a person of unsound mind, and to receive the purchase money and execute a conveyance. The property was sold in May, 1885, and the sale was to be completed in November. An abstract of title was delivered, and no objection was taken to the title. The inmate died in June, 1885. The guardians presented a petition asking that the deceased might be declared a trustee within the meaning of the Trustee Act, 1850, and that their clerk might be appointed a trustee of the property, and the estate be vested in him in trust to complete the sale. The Court refused to make the order, holding that the lunatic could not be declared a trustee under the circumstances. (*Colling, In re*, L. R., 32 Ch. D., 333 (1886).)

(1.) *c* (*f*) In the case of *Horne* v. *Pountain*, a charging order, under 1 & 2 Vict. c. 110, s. 14, and 3 & 4 Vict., c. 82, s. 1, had been obtained by the judgment creditor of a debtor found lunatic by inquisition. The charging order applied to funds standing in the books of the Paymaster-General of the Chancery Division to the credit of the debtor, and the Judge at Chambers had ordered that, "So much of the defendant's interest in the fund so standing as aforesaid should stand charged with the payment of the amount due on the judgment as the Lords Justices sitting in Lunacy might deem applicable." It was held that the Acts gave no power to the judge to make the amount payable to depend on the pleasure of the Lords Justices, but that the creditor was entitled to an unconditional order on a specified amount of the fund. Per *Cave*, J. :—"A lunatic must pay his debts; and his creditors have the ordinary

rights of creditors to obtain payment of these debts. (L. R., 23 Q. B. D., 264.)

(1.) *d* (*g*) Where a lunatic has property to which he is entitled for life under a settlement, as well as property to which he is absolutely entitled, the Court will apply the life interest in the first place towards his maintenance; unless the trustees of the settled property have an absolute discretion whether to employ the whole or any part of the income for the lunatic's benefit. Therefore where property was held upon trust to pay the income in such way, at such time, and in such manner as the trustees should think fit towards the maintenance of a lunatic during her life, with power to invest any surplus not required for the purpose as capital, it was held that the trustees had no such discretion as would oust the jurisdiction of the Court to apply the whole of the income in the lunatic's maintenance in exoneration of her absolute property:—*Gisborne* v. *Gisborne* (2 App. Cas., 300) distinguished. The brother of a lunatic lady not so found by inquisition advanced money for the maintenance of his sister for several years under circumstances which left it doubtful whether he intended it for a gift or expected to be repaid. He died, and his sister was then found to be lunatic by inquisition. His executors having brought in a claim against the lunatic's estate for repayment of the advances, the Court made an allowance to the testator's estate for past maintenance, but limited it to advances made within six years before the testator's death. *Query* whether a person who supplies a lunatic with necessaries, knowing him to be lunatic, can maintain an action against him on the ground of an implied contract? (*Weaver, In re*, Q. R., 21 Ch. D., 615.)

(1.) *d* (*h*) In managing the estates of lunatics the Court will have regard to the maintenance and comfort of the lunatic in preference to the claims of his creditors, although the estate be insolvent. The Master in Lunacy made a certificate finding that the property of a lunatic produced an income of £163, and that his debts amounted to £7000, including £250 for his past maintenance in an asylum, and £374 for the maintenance of his wife and children expended by the Committee:—*Held*, on a summons taken out under Order 45 of the Lunacy Orders 1883, on which some of the ordinary creditors appeared and claimed payment of their debts, that the expenses of past maintenance of the lunatic, his wife, and children, must be paid in full; that capital producing £110 a year should be set aside for the lunatic's future maintenance; and that the residue should be divided among the ordinary creditors *pro ratâ*, who were to have a charge on the reserved capital, with liberty to apply on the lunatic's death. (*Pink, In re*, L. R., 28 Ch. D., 577.)

Charge for permanent improvements.

Sect. 118.—(1.) The Judge may order that the whole or any part of any moneys expended or to be expended

under his order for the permanent improvement, security, or advantage of the property of the lunatic, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the lunatic, but so that no right of sale or foreclosure during the lifetime of the lunatic be conferred by the charge. Lunacy Regulation Act, 1853, s. 118.

(2.) The interest shall be kept down during the lunatic's lifetime, out of the income of his general estate, as far as the same is sufficient to bear it.

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

Power to dissolve partnership. Lunacy Regulation Act, 1853, s. 123.

Sect. 119. Where a person being a member of a partnership becomes lunatic the Judge may, by order, dissolve the partnership.

Powers exercisable by committee under order of judge.

Sect. 120 (*a*).—The Judge may, by order, authorise and direct the committee of the estate of a lunatic to do all or any of the following things:—

(*a.*) Sell any property belonging to the lunatic; (*b*) (*c*)

(*b.*) Make exchange or partition of any property belonging to the lunatic or in which he is interested, and give or receive any money for equality of exchange or partition; (*d*) (*e*) (*f*) (*g*)

(*c.*) Carry on any trade or business of the lunatic;

(*d.*) Grant leases of any property of the lunatic for building, agricultural, or other purposes; (*h*) (*i*) (*k*)

(*e.*) Grant leases of minerals forming part of the lunatic's property, whether the same have been already worked or not, and either with or without the surface or other land;

(*f.*) Surrender any lease and accept a new lease;

(*g.*) Accept a surrender of any lease and grant a new lease;

(*h.*) Execute any power of leasing vested in a lunatic having a limited estate only in the property over which the power extends;

(*i.*) Perform any contract relating to the property of the lunatic entered into by the lunatic before his lunacy;

(*j.*) Surrender, assign, or otherwise dispose of with or without consideration, any onerous property belonging to the lunatic;

(*k.*) Enter into any agreement touching the patronage of augmented cures under the Act one George

the First, chapter ten, which the lunatic might have entered into if he had been of sound mind; (*l*)

s. 136. (*l.*) Exercise any power or give any consent required for the exercise of any power where the power is vested in the lunatic for his own benefit or the power of consent is in the nature of a beneficial interest in the lunatic. (*m*) (*n*) (*o*)

Note 120.—(*a*) In connection with this section reference may be made to the following cases:—*Singleton* v. *Hopkins*, 4 Jur., (N.S.) 546; 4 De Gex & J., 88; *re Bloomer*, 27 L. J., (N.S.) Ch., 173; 30 L. T., 238; *re Wheeler*, 8 Jur., (N.S.) 785; *re Trevelyan*, 31 L. J., (N.S.) Ch., 500. *In re Corbett*, 35 L. J., (N.S.) Ch., 793; 14 L. T., (N.S.) Ch., 748; L. R., 1 Ch., 516.

(*a.*) (*b*) In the case of *Bolton*, *In re* (W. N., 1888, p. 243), the facts were as follows:—The committee of a lunatic presented a petition that the lunatic might be declared, under the Trustee Act, 1850, a trustee for a purchaser in respect of all lands directed to be sold, whether sold or not; in which he was interested. But the Court would only consent to declare the lunatic to be trustee of the lands actually sold; and intimated that in similar petitions the next friend of the lunatic should join, but that the committee might be made next friend.

(*a.*) (*c*) As regards the sale of land under the Lands Clauses Act, 1845, it has been held that sec. 7 of that Act does not authorise a person of unsound mind to sell land to a company, or public body, who have statutory power to take it: the section only authorises the committee of a lunatic to sell. A public body having given notice under their statutory powers to take land belonging to a lady of unsound mind, not so found, the value of the land was ascertained by two surveyors, one appointed by an uncle of the lady, who purported to act on her behalf, and the other by the public body; the sum thus ascertained was paid into Court, and the public body took possession of the land. The lady afterwards died intestate, being still of unsound mind, and her heir-at-law petitioned for payment of the money to him:—*Held*, that the land had never been converted into personalty, and that the heir was entitled to the money. *Flamank*, *Ex parte* (1 Sim., (N.S.) 260, dissented from. *Tugwell*, *In re* (L. R., 27 Ch. D., 309).

(*b.*) (*d*) See the Partition Act, 1868 (31 & 32 Vict. c. 40), and the Partition Act, 1876 (39 & 40 Vict. c. 17).

(*b.*) (*e*) It was held in *Weld*, *In re* (L. R., 28 Ch. D., 514), that sec. 124 of the Lunacy Act, 1853, did not give jurisdiction to authorise the committee of a lunatic to sell the lunatic's undivided share of land to the owner of the other shares. But in *Gaitskell*, *In re* (L. R., 40 Ch. D., 416), the Court gave leave to the committee of a lunatic tenant in tail to take proceedings under the Settled Land Act, 1882, for the sale of his

undivided shares to the owner of the other shares. *Weld, In re* (L. R., 28 Ch. D., 514), was however considered.

(*b.*) (*f*) In the case of *Porter* v. *Porter* (L. R., 37 Ch. D., 420 (1888),) it was held that a partition action might be brought under the Partition Act, 1876, sec. 4, by a person of unsound mind, not so found, by a next friend. The case in question was an action for sale brought by two tenants in common, one of whom being stated to be of weak mind, sued by the other as his next friend. The Court being of opinion that an action in this form being *primâ facie* for his benefit could be maintained, refused to strike out his name as co-plaintiff; but intimated an opinion that, at the trial, his request for sale by his next friend, assuming that the next friend could effectually make a request, could not be acted upon in the same way as a request by a person not under disability, without the Court being satisfied that the sale would be for his benefit.

(*b.*) (*g*) By an order made in a partition suit a share of real estate belonging to a lunatic was sold, and the proceeds paid into Court to the credit of the matter of the lunacy, but they were not carried to a real estate account. The lunatic died intestate, and his administrator claimed the money as part of the lunatic's personal estate :—*Held*, that the money retained the character of real estate, and passed to the lunatic's heir-at-law. The words of sec. 23 of the Settled Estates Act, when imported into sec. 8 of the Partition Act, are not to be restricted to a sale of estates in settlement, but apply to all sales effected under the Partition Act. The payment of the money into Court to the credit of the lunacy was not a payment "to a person becoming absolutely entitled" within the meaning of sec. 23 of the Settled Estates Act. (*Barker, In re*, L. R., 17 Ch. D., 241.)

(*d.*) (*h*) In a case where a landowner granted land for building on an agreement for a lease which was to include a covenant for quiet enjoyment, and the intending lessor subsequently became lunatic, it was held that a declaration under the Trustee Act, 1850, secs. 3, 20, and 30, could not be made which would bind the lunatic or his estate as by a covenant for quiet enjoyment. (*Couper* v. *Harmer*, W. N. 1887, p. 186.)

(*d.*) (*i*) By a lease expressed to be made between a lunatic by *A. B.* and *C. D.* his two committees, and other parties, the lunatic acting by his committees demised. The testimonium clause was "in witness thereof the said parties to these presents have hereunto set their hands and seals." *A. B.* signed his name against one seal, and *C. D.* his against another, and the attestation clause was "signed, sealed, and delivered by *A. B.* and *C. D.*, in the presence," &c. :—*Held* (affirming the decision of the Court of Appeal), that the lease was well executed on behalf of the lunatic. (*Lawrie* v. *Lees*, L. R., 7 App. Cas., 19.)

(*d.*) (*k*) In the case of *Tomkins*, *In re*, a rather narrow view was taken by the Court of Appeal. A lunatic was seised in fee-simple of land on which there was a house. The house having being burnt down the committee contracted (subject to the sanction of the Court) to sell the land to a person who intended to build thereon. The Court held that as such a proposal was merely rebuilding, it was not within the scope of the section which required that any proposal should make the land "*available* for building purposes." (60 L. T., 402.)

(*k.*) (*l*) *Way*, *In re*, 30 L. J., Ch., 815.

(*l.*) (*m*) In *Lee*, *In re* (L. R., 23 Ch. D., 216), leave was given to the committee of the estate of a lunatic trader to consent to an adjudication in bankruptcy against the lunatic.

Similarly where it appears to be for the benefit of a lunatic that he should be made bankrupt, the Court will give leave to the committee in the name of the lunatic to file a declaration of insolvency, or to present a bankruptcy petition under the Bankruptcy Act, 1883, sec. 4, sub. 1 f. (*James*, *In re*, L. R., 12 Q. B. D., 332.)

(*l.*) (*n*) If a married woman who is entitled to exercise an election is of unsound mind, the Court will make an election on her behalf, it having jurisdiction to bind the equitable interests of lunatics, not so found by inquisition, when it appears to be for their benefit. *Jones* v. *Lloyd* followed. (*Wilder* v. *Pigott*, L. R., 22 Ch. D., 263.)

(*l.*) (*o*) The case of *Vavasour*, *In re* (L. R., 21 Ch. D., 306), throws some light upon the allocation of the expenses of improvements. A lunatic was tenant for life of the H. estate, and tenant in tail in possession of the D. estate. Expenses were incurred by the committee in improvements on both estates, but chiefly on the former. It was held that there was no jurisdiction to charge the D. estate with the expenses incurred on the H. estate.

Property exchanged and renewed; lease to be to same uses as before. Lunacy Regulation Act, 1853, ss. 115, 124.

Sect. 121.—Any property taken in exchange and any renewed lease accepted on behalf of a lunatic 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.

Extent of leasing power. 18 Vict. c. 13. Lunacy Regulation Act, 1853, s. 114.

Sect. 122.—(1.) The power to authorise leases of a lunatic's property under this Act shall extend to property of which the lunatic is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the lunatic and all persons entitled in remainder and reversion expectant upon the estate tail of the lunatic including the Crown, and every person to

whom from time to time the reversion expectant upon the lease belongs upon the death of the lunatic shall have the same rights and remedies against the lessee, his executors, administrators, and assigns, as the lunatic or his committee would have had.

(2.) Leases authorised to be granted and accepted by or on behalf of a lunatic under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the Judge approves.

(3.) Fines or other payments on the renewal of leases may be paid out of the lunatic's estate, or charged with interest on the leasehold property.

Lunatic's interest in property not to be altered, ss. 119, 132, 135.

Sect. 123.—(1.) The lunatic, his heirs, executors, administrators, next of kin, devisees, legatees, and assigns, shall have the same interest in any moneys arising from any sale, mortgage, or other disposition, 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, or disposition, if no sale, mortgage, or disposition had been made, and the surplus moneys shall be of the same nature as the property sold, mortgaged, or disposed of. (*a*)

(2.) Moneys received for equality of partition and exchange, or under any lease of unopened mines, 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 lunatic, shall, subject to the application thereof for any purposes authorised by this Act, as between the representatives of the real and personal estate of the lunatic, 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 property of which the lunatic was tenant for life, in which case the fines, premiums, and sums of money shall be personal estate of the lunatic. (*b*)

(3.) In order to give effect to this section the Judge may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as he thinks expedient. (*c*) (*d*) (*e*)

Note 123.—(1.) (*a*) A lunatic having died intestate, and an action having been commenced for the recovery of his real estate :—*Held*, that the defendant who produced *primâ facie* evidence of his being heir-at-law of the lunatic, was entitled to an order to inspect the documents relating to the estate which were in custody of the Registrars in Lunacy, although it was

sworn on the other side, and not contradicted, that the lands had descended to the lunatic from his mother, and that the defendant was no relation to the mother. (*Smyth, In re*, L. R., 16 Ch. D., 673.)

(2.) (*b*) *Trevelyan, In re*, 31 L. J., Ch., 500; *Wheeler, In re*, 8 Jur., (N.S.) 785.

(3.) (*c*) It is not the duty of the Court to deal benevolently or charitably with the surplus income of a lunatic, and applications for allowances out of the surplus income of a lunatic for the benefit of poor collaterals who have no legal claim on the lunatic, and for whom it is not clear that the lunatic would have provided if he were sane, are to be discouraged. (*Darling, In re*, L. R., 39 Ch. D., 208 (1888).)

(3.) (*d*) The income of a lunatic being much more than was required for his maintenance, a respectable aged clergyman, a first cousin, and one of the next-of-kin of the lunatic, who had been reduced to indigence by unavoidable misfortune, applied for an allowance out of the surplus income. It was not shown that the lunatic had ever known of the existence of the applicant, and it was not suggested that any evidence could be obtained that the lunatic, when sane, had ever done anything for him or expressed any intention in his favour:—*Held*, that the application must be refused. The practice of granting allowances out of a lunatic's property to relations for whom he is under no legal obligation to provide, is rather to be narrowed than to be extended. (*Evans, In re*, L. R., 21 Ch. D., 297.)

(3.) (*e*) A lunatic, aged 64, was tenant for life of certain real estates, of which his nephew, aged 28, was tenant in tail in remainder, producing a considerable yearly income. The nephew had been found heir-at-law and one of the next-of-kin of the lunatic. The Court, upon the nephew's petition, directed an allowance of £500 per annum to be made to him out of the surplus income of the lunatic, after providing for a yearly sum for the lunatic's maintenance, in spite of the opposition of some of the next-of-kin, upon the terms of the petitioner charging the estate with the repayment of the sums received in respect of such allowance, the Lords Justices consenting (as protector of the settlement), to the petitioner barring his estate tail, but only so far as to let in the charge. (*Sparrow, In re*, L. R., 20 Ch. D., 320.)

Power to carry orders into effect, s. 139.

Sect. 124.—The committee of the estate, or such person as the Judge approves, shall in the name and on behalf of the lunatic execute and do all such assurances and things for giving effect to any order under this Act as the Judge directs, and every such assurance 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.

Sect. 125.—Where a lunatic so found by inquisition is entitled to be admitted tenant of copyhold land, the committee of his estate may appear at one of the three next courts holden for the manor (for the holding whereof the usual notice shall be given), and there offer himself to be admitted tenant in the name and on behalf of the lunatic; and in default of his appearance, or of his acceptance of admittance, the lord or his steward may, after three courts duly holden, and proclamations thereat regularly made, at any subsequent court appoint any fit person to be attorney for the lunatic for that purpose only, and by that attorney admit the lunatic tenant of the land, according to such estate as the lunatic is legally entitled to therein. (*a*)

Admittance to copyholds. Lunacy Regulation Act, 1853, s. 108.

Note 125.—(*a*) In a case affecting copyhold property, the Court on sanctioning proceedings for carrying into effect the enfranchisement of a copyhold belonging to a lunatic, the rules of descent as to which were different from those as to the descent of freeholds, made a declaration that in the event of his dying intestate as to the enfranchised property, his heir-at-law would stand seised thereof in trust for the person who would have been entitled thereto as his heir according to the custom of the manor if it had not been enfranchised. (*H. D. Ryder, In re*, L. R., 20 Ch. D., 514.)

Sect. 126.—(1.) The lord or his steward may upon the admittance impose such fine as might have been imposed if the lunatic had been of sound mind, which fine may be demanded by the lord's bailiff or agent, by a note in writing signed by the lord or his steward, to be left with the committee of the estate, or with the tenant or occupier of the land.

Fines upon admittance. Lunacy Regulation Act, 1853, s. 109.

(2.) If the fine is not paid or tendered to the lord or his steward within three months after demand, then the lord may enter upon and hold the land, and receive the rents and profits thereof (but without liberty to fell any timber standing thereon), until he is thereby fully paid the fine, with his reasonable costs and charges of raising the same, and of obtaining the possession of the land, although the lunatic die before the fine and costs and charges have been raised.

Lunacy Regulation Act, 1853, s. 110.

(3.) The lord shall yearly, on demand by the person entitled to the surplus rents and profits, after payment of the fine and costs and charges, or by the person then entitled to the land, render an account of the rents and profits received by him or on his behalf, and shall pay the surplus, if any, to the person entitled thereto.

(4.) As soon as the fine and costs and charges have been fully paid, or if after the lord's entry, the fine and costs and charges are lawfully tendered to him, then the lunatic, by the committee of his estate or other the person entitled, may enter upon and hold the land, according to his estate or interest therein; and the lord shall deliver possession thereof accordingly, and if he refuse so to do he shall make satisfaction to the person kept out of possession for all the damages which he thereby sustains, and all his costs and charges of recovering possession.

Lunacy Regulation Act, 1853, s. 111.

(5.) If the committee pays the fine and costs and charges, then he, his executors and administrators, may enter upon and hold the land, and receive the rents and profits thereof until payment thereout of the amount disbursed upon that account, although the lunatic die before reimbursement.

Lunacy Regulation Act, 1853, s. 112.

(6.) If the fine imposed is not warranted by the custom of the manor, or is unlawful, the lunatic may controvert its legality, as if this Act had not been passed; and no lunatic so found by inquisition shall forfeit any land for his neglect or refusal to appear at any court, or to be admitted thereto, or to pay the fine imposed upon his admittance.

Where lunacy temporary money may be applied for temporary maintenance. Lunacy Regulation Act, 1853, s. 121.

Sect. 127.—(1.) Where it appears to the Judge that there is reason to believe that the unsoundness of mind of any lunatic so found by inquisition 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 the lunatic, or of the lunatic 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 lunatic, 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 Judge may allow thereout such amount as he thinks proper for the temporary maintenance of the lunatic, or of the lunatic and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money as aforesaid, or any part thereof, to such person as, under the circumstances of the case, he thinks proper to intrust with the application thereof, 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.

(2.) The receipt in writing of the person to whom payment is to be made for any moneys payable to him by virtue of an order under this section shall be a good discharge, and every person is hereby directed to act upon and obey every such order.

(3.) The person receiving any money by virtue of an order under this section shall pass an account thereof before the Masters, when required.

Committee may exercise power vested in lunatic in character of trustee or guardian. Lunacy Regulation Act, 1853, s. 137.

Sect. 128.—Where a power is vested in a lunatic in the character of trustee or guardian, or the consent of a lunatic 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 Judge to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the lunatic, under an order of the Judge, made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs. (*a*) (*b*) (*c*)

Note 128.—(*a*) *Bloomer, In re*, 27 L. J., Ch., 500; *Bowmer, In re*, 28 L. J., Ch., 618; *Park's Trusts, In re*, 8 L. T., 378.

(*b*) In the case of *Blake, In re* (W. N. 1887, p. 173), one of three trustees to a will was a person of unsound mind, and the Court held that though the appointment could be made under the Conveyancing Act, 1881, sec. 31, by the continuing trustees, yet it was better that the application should be made under the Lunacy Acts by the Committee of the lunatic.

(*c*) In *Nevill, In re* (L. R., 31 Ch. D., 161 (1885)), a marriage settlement contained a power of advancement exerciseable by the trustees after the death of husband or wife, or at any time previously if they or the survivor of them should direct. The husband being found lunatic, it was held that the Court had jurisdiction to authorise the Committee to consent on behalf of the lunatic to the exercise of the power.

Appointment of new trustees under power to have effect of appointments by High Court, and like orders may be made as under

Sect. 129.—Where under this Act the committee of the estate, under order of the Judge, exercises, in the name and on behalf of the lunatic, a power of appointing new trustees vested in the lunatic, the person or persons who shall, after and in consequence of the exercise of the power, be the trustee or trustees, shall have all the same rights and powers as he or they would have had if the order had been made by the High Court; and the Judge may in any such case, where it seems to him to be for the lunatic's benefit and also expedient, make any order

Trustee Act, 1850. Lunacy Regulation Act, 1853, s. 138.

respecting the property subject to the trust which might have been made in the same case under the Trustee Act, 1850, or any Act amending the same, on the appointment thereunder of a new trustee or new trustees. (*a* to *k*)

Note 129.—(*a*) In *Barber, In re* (L. R., 39 Ch. D., 187 (1888),), it was held that a person who is paralytic and deprived of the power of speech and unable to read and write, but is not suffering from any mental disease, is not a person of unsound mind within the Trustee Act, 1850, sec. 2. Therefore in such a case a petition for the appointment of new trustees should not be presented in Lunacy but in the Chancery Division.

(*b*) In the case of *Batho, In re* (W. N. 1888, p. 118), two new trustees of a settlement had been appointed in place of one who was a lunatic, and the other beyond the seas. Subsequently an order was made under the Trustee Act, 1850, sec. 3, vesting lands directly in the new trustees, and (under sec. 5) a mortgage and certain stock first in the trustee who was out of the jurisdiction, and then in the new trustees.

(*c*) Where a lunatic is the person whose consent is necessary to the appointment of a new trustee, the Lords Justices sitting in lunacy have no power in this case to appoint new trustees, but they can authorise the Committee to consent to the appointment on behalf of the lunatic. (*Garrod, In re*, L. R., 31 Ch. D., 164 (1885).)

(*d*) A petition for the appointment of two new trustees in the place of trustees, of whom one had died, and the survivor was a lunatic so found, and for the right to transfer a sum of stock, was held to have been properly presented in Lunacy only. (*Hoare, In re*, W. N. 1888, p. 94.)

(*e*) Here may be mentioned the decision in *Hume, In re* (L. R., 35 Ch. D., 457 (1887)). Where a new trustee is appointed in Chancery as well as in Lunacy, he taking the place of a lunatic trustee, his signature to his consent to act may be verified in manner provided by Order XXXVIII., Rule 19A, and need not be verified by affidavit according to the old practice. But it is otherwise where the order is made in Lunacy only.

(*f*) In the case of *Jones, In re* (L. R., 33 Ch. D., 414 (1886),) a question arose as to the steps to be taken where one of several mortgagees was a lunatic. The Court held that the Trustee Act, 1850, sec. 3, is not confined to a case where the lunatic or person of unsound mind is a sole trustee or mortgagee, but extends to the case where he is one of several trustees or mortgagees. And that the Court had jurisdiction to appoint a person to convey the interest of the trustee of unsound mind in a mortgage forming part of the trust estate, for the purpose of vesting the mortgaged estate in the continuing trustee and the new trustee.

(*g*) A person is of "unsound mind" within the meaning of

the Trustee Act, 1850, sec. 2, where from permanent incapacity of mind he is incapable of managing his affairs, though his state of mind is not such that he would be found a lunatic on inquisition. In this decision, *Phelps, In re* (L. R., 31 Ch. D., 351) was not followed. In an action in the Chancery Division, North, J., gave a judgment removing a trustee of unsound mind and appointing a new trustee in his place, but declined to make an Order under the Trustee Act, 1850, sec. 34, to vest the estate in the new trustee, considering that such an order ought to be applied for in Lunacy. Subsequently the Lords Justices sitting in Lunacy made the vesting order. (*Martin's Trusts, In re*, L. R., 34 Ch. D., 618 (1886–87).)

(*h*) The Lords Justices sitting in Lunacy have jurisdiction to make an order under the Trustee Relief Acts. (*Platt, In re*, L. R., 36 Ch. D., 410 (1887).)

(*i*) Where a person who has been found lunatic is entitled to a fund which has been paid into Court under the Trustee Relief Act, a petition may be presented in Chancery under the Trustee Relief Act and in Lunacy, and the Court has jurisdiction to make an immediate order for the transfer of the fund to the account of the lunatic. (*Tate, In re*, L. R., 20 Ch. D., 135.)

(*k*) In *Wilson, In re* (L. R., Ch. D., 522 (1886)), it was held that the signature of a new trustee to his consent to act must in Lunacy be verified by affidavit according to the old practice; the Order XXXVIII. R. 19A, not applying to proceedings in Lunacy.

Temporary provision for maintenance of lunatic. Lunacy Act, 1889, s. 51.

Sect. 130.—In any case where, pending the appointment of committees, it appears to the Masters desirable that temporary provision should be made for the expenses of the maintenance or other necessary purposes or requirements of the lunatic, 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 Masters shall be at liberty by certificate to authorise such banker or other person to pay to the person to be named in such certificate such sum as they certify to be proper; and may by such certificate give any directions as to the proper applications thereof for the lunatic's benefit by that person, who shall be accountable for the same as the Masters direct.

Powers as to Property in England, Scotland, and Ireland.

Power to deal with property in England, Scotland, and Ireland.

Sect. 131.—(1.) The powers of management and administration of the estates of lunatics conferred by this Act shall, without an inquisition or other proceedings in Ireland, extend to the personal property in Ireland of a lunatic so found by inquisition in England where such

Lunacy Act, 1889, s. 53.

personal property does not exceed two thousand pounds in value or the income thereof does not exceed one hundred pounds a year; and the like powers conferred by the Lunacy Regulation (Ireland) Act, 1871, shall, without an inquisition or other proceedings in England, extend to the personal property in England of a lunatic so found by inquisition in Ireland where such personal property or the income thereof does not exceed such amount as aforesaid.

(2.) Where a person has been found lunatic by inquisition in England or Ireland, and has personal property in Scotland, the committee of the estate of the lunatic shall, without cognition or other proceedings in Scotland, have all the same powers as to such property, or the income thereof, as might be exercised by a tutor at law after cognition or a duly appointed curator bonis to a person of unsound mind in Scotland.

(3.) Where a tutor at law after cognition or a curator bonis has been appointed to a lunatic in Scotland, who has personal property in England or Ireland, the tutor at law or curator bonis shall, without an inquisition or other proceedings in England or Ireland, have all the same powers as to such property, or the income thereof, as might be exercised by the committee of the estate of a lunatic, so found by inquisition in England or Ireland.

(4.) The powers of management and administration conferred by this Act in cases where the property of a person of unsound mind does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds per annum, and the powers conferred by section sixty-eight of the Lunacy Regulation (Ireland) Act, 1871, shall extend to the property in Ireland or England, as the case may be, of the lunatic where the total value of the property in England and Ireland does not exceed two thousand pounds in value, or the income thereof does not exceed one hundred pounds a year.

34 & 35 Vict. c. 22, s. 68.

Power of County Court Judge.

Power to deal with property of small amount. Lunacy Act, 1889, s. 45.

Sect. 132.—(1.) Where a reception order is made in the case of a lunatic the value of whose real and personal property is under two hundred pounds, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent, may, upon the application of the clerk of the guardians, or a relieving officer of the union from

which the lunatic is sent, authorise the clerk or relieving officer, or such other person as the Judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead; and the receipt of the person so authorised shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

(2.) The Judge, by whom such order is made, may by the same or any subsequent orders give such directions as he thinks fit as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by such guardians, or by the person acting under any such order as aforesaid, or the Judge may, if he thinks fit, order that the whole or any part of the proceeds of the lunatic's property be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the Judge directs, to be held and applied for the benefit of such lunatic, or in or towards such reimbursement as aforesaid, in such manner as the Judge directs.

(3.) The person acting under any such order shall render an account of his dealings with the lunatic's property to the Judge by whom such order was made in such manner as the Judge appoints.

Vesting Orders.

Power to transfer stock of lunatic. Lunacy Regulation Act, 1853, s. 140.

Sect. 133.—Where any stock is standing in the name of or is vested in a lunatic beneficially entitled thereto, or is standing in the name of or vested in a committee of the estate of a lunatic so found by inquisition, in trust for the lunatic, or as part of his property, and the committee dies intestate, or himself becomes lunatic, or is out of the jurisdiction of the High Court, 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 as the Judge in Lunacy directs, then the Judge may order some fit person to transfer the stock to or into the name of a new com-

mittee or into court or otherwise, and also to receive and pay over the dividends thereof in such manner as the Judge directs. (*a*) (*b*)

Note 133.—(*a*) Where in an action in the Chancery Division a trustee of unsound mind has been removed, and a new trustee appointed in his place, the application for a vesting order shall be in Lunacy under the Trustee Act, 1850, §§ 2–3. (*Martin's Trusts, In re*, L. R., 34 Ch. D., 618 (1887).)

(*b*) In *Mitchell, In re* (L. R., 17 Ch. D., 515), a debenture bond of a limited company, according to the constitution of which debentures were transferred by deed, and the deeds of transfer upon presentation to the company were registered in the company's book of mortgages, was ordered to be transferred under § 141 of the Lunacy Regulation Act, 1853. [Repealed.]

Stock in name of lunatic out of the jurisdiction. Lunacy Regulation Act, 1853, s. 141.

Sect. 134.—Where any stock is standing in the name of or vested in a person residing out of the jurisdiction of the High Court, the Judge in Lunacy, upon proof to his satisfaction that the person has been declared lunatic, and that his personal estate has been vested in a person appointed for the management thereof, according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends thereof, as the Judge thinks fit.

Power to vest lands and release contingent right of lunatic trustee or mortgagee. Trustee Act, 1850, ss. 3, 4.

Sect. 135.—(1.) When a lunatic is solely or jointly seised or possessed of any land upon trust or by way of mortgage the Judge in Lunacy may by order vest such land in such person or persons for such estate, and in such manner, as he directs.

(2.) When a lunatic is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage, the Judge may by order release such hereditaments from the contingent right, and dispose of the same to such person or persons as the Judge directs.

s. 1. (3.) An order under sub-sections (1.) and (2.) shall have the same effect as if the trustee or mortgagee had been sane, and had executed a deed conveying the lands for the estate named in the order, or releasing or disposing of the contingent right.

s. 20. (4.) In all cases where an order can be made under this section the Judge may, if it is more convenient, appoint a person to convey the land or release the contingent right, and a conveyance or release by such person in conformity

with the order shall have the same effect as an order under sub-sections (1.) and (2.). (*a*)

(5.) Where an order under this section vesting any copyhold land in any person or persons is made with the consent of the lord or lady of the manor, such land shall vest accordingly without surrender or admittance.

(6.) Where an order is made appointing any person or persons to convey any copyhold land, such person or persons shall execute and do all assurances and things for completing the assurance of the lands; and the lord and lady of the manor shall, subject to the customs of the manor and the usual payments, be bound to make admittance to the land, and to do all other acts for completing the assurance thereof, as if the persons in whose place an appointment is made were free from disability and had executed and done such assurances and things. s. 28.

Note 135.—(4.) (*a*) Where a person of unsound mind is possessed of an estate by way of mortgage, the Court can, under the Trustee Act, 1850, § 3, appoint a person to convey the estate for the purpose of effectuating a transfer of the mortgage. (*Nicholson, In re*, L. R., 34 Ch. D., 663 (1887).)

Sect. 136.—(1.) Where a lunatic is solely entitled to any stock or chose in action upon trust or by way of mortgage, the Judge in Lunacy may by order vest in any person or persons the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action. Power to vest right to transfer stock and sue for chose in action. Trustee Act, s. 5.

(2.) In the case of any person or persons jointly entitled with a lunatic to any stock or chose in action upon trust or by way of mortgage, the Judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action either in such person or persons alone or jointly with any other person or persons. Trustee Act, 1852, s. 6.

(3.) When any stock is standing in the name of a deceased person, whose personal representative is a lunatic, or when a chose in action is vested in a lunatic as the personal representative of a deceased person, the Judge may make an order vesting the right to transfer or call for a transfer of the stock, or to receive the dividends thereof, or to sue for the chose in action in any person or persons he may appoint. s. 6.

(4.) In all cases where an order can be made under this section, the Judge may, if it is more convenient, s. 20.

appoint some proper person to make or join in making the transfer.

s. 26. (5.) The person or persons in whom the right to transfer or call for a transfer of any stock is vested, may execute and do all powers of attorney, assurances, and things to complete the transfer to himself or themselves or any other person or persons according to the order, and the Bank and all other companies and their officers and all other persons shall be bound to obey every order under this section according to its tenor.

s. 26. (6.) After notice in writing of an order under this section, it shall not be lawful for the Bank or any other company to transfer any stock to which the order relates or to pay any dividends thereon except in accordance with the order.

Person to be appointed to transfer.

Sect. 137.—Where a person is appointed to make or join in making a transfer of stock, such person shall be some proper officer of the Bank, or the company or society whose stock is to be transferred. (*a*)

Note 137.—(*a*) *Ives, In re*, 32 L. J., Ch., 673.

Charity trustees. s. 45.

Sect. 138.—The powers conferred by this Act as to vesting orders may be exercised for vesting any land, stock, or chose in action in the trustee or trustees of any charity or society over which the High Court would have jurisdiction upon suit duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the High Court under its general or statutory jurisdiction.

Declarations and directions. s. 31.

Sect. 139.—The Judge in Lunacy may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under the provisions of this Act is to be exercised. (*a*)

Note 139.—(*a*) Where one of two persons acting as joint committee of a lunatic dies, the future disposal of dividends arising from a matter under the Lands Clauses Act, 1845, will be that they will be paid to the other committee until a new committee is appointed so as again to make up the full number of two. (*Ryder, In re*, L. R. 37 Ch. D., 595 (1887).) In this case the Metropolitan Board of Works, a party to the matter, were ordered to pay the costs.

Order to be conclusive evidence of allegation on which it is founded. s. 44.

Sect. 140.—The fact that an order for conveying any land or releasing any contingent right has been founded upon an allegation of the personal incapacity of a trustee or mortgagee shall be conclusive evidence of the fact alleged in any court upon any question as to the validity

of the order, but this section shall not prevent a Judge of the High Court from directing a re-conveyance of any lands or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order when the same appears to have been improperly obtained.

Power to appoint new trustees. Trustee Act, 1852, s. 10.

Sect. 141.—In every case in which the Judge in Lunacy has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, he may also make an order appointing a new trustee or new trustees.

Costs. Trustee Act, 1850, s. 51.

Sect. 142.—The Judge in Lunacy may order the costs of and incident to obtaining an order under the provisions of this Act as to vesting orders and carrying the same into effect to be paid out of the land or personal estate or the income thereof in respect of which the order is made, or in such manner as the Judge may think fit.

Saving of power of High Court.

Sect. 143.—The provisions of this Act as to vesting orders shall not affect the jurisdiction of the High Court as to any lunatic trustee or mortgagee who is an infant.

Orders of Judge in Lunacy and Certificates of Masters.

Office copies to be evidence. Lunacy Regulation Act, 1853, s. 100.

Sect. 144.—Every office copy of the whole of an order or report confirmed by fiat purporting to be signed by a Master, and sealed or stamped with the seal of the Master's office, and every office copy of a certificate in Lunacy shall at all times, and on behalf of all persons, and whether for the purposes of this Act or otherwise, be admitted as evidence of the order, report, or certificate of which it purports to be a copy, without any further proof thereof.

Money orders to be acted upon. Lunacy Regulation Act, 1853, s. 101.

Sect. 145.—Where an order relates to the payment, transfer, carrying over, or depositing of any cash, stocks, funds, annuities, securities, or other effects into or in court to the credit of the matter of a lunatic, or to the payment, transfer, or carrying over, or other disposal by the Paymaster-General of any cash, stocks, funds, annuities, securities, or other effects standing in his name or deposited in his custody to the credit of the matter of a lunatic, or of any cash, stocks, funds, annuities, securities, or other effects to or in which a lunatic is entitled or beneficially interested, and which are not standing to the credit of a cause or matter depending in the High Court, the Paymaster-General and the Bank, and all other persons, shall act upon an office copy of the order.

Transfers to be binding. Lunacy Regulation Act, 1853, s. 143.

Sect. 146.—All transfers and payments made in pursuance of this Act under an order or a Master's certificate shall be valid and binding on all persons.

Forgery of signature of master or seal of master's office. Lunacy Regulation Act, 1853, s. 102.

Sect. 147.—If any person forges the signature of a Master, or forges or counterfeits the seal of the Master's Office, or knowingly concurs in using any such forged or counterfeited signature or seal, or tenders in evidence any document with a false or counterfeit signature of a Master, or with a false or counterfeit seal, knowing the same signature or seal to be false or counterfeit, every such person shall be guilty of felony, and shall upon conviction be liable to penal servitude for a term not exceeding seven years, or to be imprisoned for a term not exceeding three years with or without hard labour.

Percentage and Fees.

Percentage and fees. Lunacy Act, 1889, s. 88. See Judicature Act, 1875, s. 26. 38 & 39 Vict. c. 77.

Sect. 148.—(1.) The Lord Chancellor, with the concurrence of the Treasury, may make rules fixing the percentage and fees payable in proceedings relating to lunatics (*a*) and their estates, and regulating the mode in which the same are to be ascertained and paid.

(2.) Save as otherwise provided by the Rules in Lunacy the percentage and fees in lunacy shall be subject to the rules contained in section twenty-six of the Supreme Court of Judicature Act, 1875.

Lunacy Regulation Act, 1853, s. 28.

(3.) The percentage, or a proper proportionate part thereof (as the case may require), shall be charged upon the estate of a lunatic, and be payable thereout, although before payment thereof he die, or the inquisition be superseded, or be vacated and discharged on a traverse; but in either of the two last-mentioned cases the Judge in Lunacy may, if he thinks fit, remit or reduce the amount of the sum to be paid.

Lunacy Regulation Act, 1853, s. 32.

(4.) Where it is made to appear to the Judge in Lunacy that the property of a lunatic does not exceed seven hundred pounds in value, or that the income thereof does not exceed fifty pounds per annum, he may order (if he thinks fit) that no fee shall be taken, or percentage levied, in relation to the proceedings in the matter or the property, as from the date of the order or such other time as he directs, during the continuance of the lunacy or until further order.

Note 148.—(1.) (*a*) See the Interpretation Clause, § 341 (*post*).

Extent of power to fix percentage and fees.

Sect. 149.—The provisions of this Act as to percentage and fees shall extend—

(*a.*) To lunatics so found by inquisition:

(*b.*) To lunatics for the administration of whose property an order has been made before the commencement of this Act, or may hereafter be made under this Act:

(*c.*) To lunatics under the protection of the Judge in Lunacy by virtue of the transmission of the record of an inquisition from Ireland, and its entry of record in the High Court:

(*d.*) To persons residing out of England, and declared lunatic according to the laws of their place of residence, where the Judge in Lunacy makes an order affecting the property of such persons or any part thereof.

Provided that in the two last-mentioned cases no percentage shall be levied except in respect of income arising from property within the jurisdiction of the Judge in Lunacy, and administered under his direction.

PART V.

THE COMMISSIONERS IN LUNACY.

Constitution of the Commission.

The Commissioners in Lunacy. 8 & 9 Vict. c. 100, s. 3.

Sect. 150.—(1.) There shall continue to be Commissioners in Lunacy, and such of them as are qualified for appointment by being medical practitioners or barristers, shall be entitled to receive salaries.

(2.) The salaries of the paid Commissioners and the expenses of the Commissioners to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

(3.) A Commissioner shall not, so long as he remains Commissioner and receives any salary in respect of his office, accept, hold, or carry on any other office or situation, or any profession or employment, from which any profit is derived.

Vacancies among the Commissioners may be filled. 8 & 9 Vict. c. 100, s. 4.

Sect. 151.—(1.) As often as a Commissioner dies, or is removed from his office, or is disqualified, or resigns, or refuses or becomes unable through illness or otherwise to act, the Lord Chancellor may appoint a person to be Commissioner in his place.

(2.) Every person appointed in the place of a medical practitioner shall be a medical practitioner, and every person appointed in the place of a barrister shall be a practising barrister of not less than five years' standing, and every person appointed in the place of any other Commissioner shall be neither a medical practitioner nor practising barrister. Provided that a medical or legal Commissioner may upon resigning his office be appointed to fill any vacancy among the unpaid Commissioners, and if so appointed he may, upon the request of any four of the Commissioners, perform any duty which he might have performed before his resignation. Provided also that the secretary for the time being of the Commissioners shall be eligible to be a Commissioner in the place of a barrister.

Lunacy Act, 1889, s. 73 (1).

16 & 17 Vict. c. 96, s. 39.

(3.) In case of the temporary illness or disability of a medical or legal Commissioner, the Lord Chancellor may, on the recommendation of the Commissioners, appoint a person qualified to be a medical or legal Commissioner to be his substitute so long as the illness or disability continues, and the substitute may exercise all the powers of the person for whom he acts.

Lunacy Act, 1889, s. 73, (2).

(4.) The Commissioners for the time being may act notwithstanding any vacancy in their body.

(5.) Every Commissioner hereafter appointed shall, before he acts as Commissioner, make before the Lord Chancellor, or before any three Commissioners qualified to act, the declaration to be made by a Commissioner set forth in the First Schedule.

8 & 9 Vict. c. 100, s. 6.

Licences and instruments to be sealed.

Sect. 152.—(1.) All licences, orders, and instruments granted or made, or issued, or authorised by the Commissioners, in pursuance of this Act, except such orders or instruments as are to be made or signed and sealed by one Commissioner or two or more Commissioners, shall be sealed with the seal of the Commission.

8 & 9 Vict. c. 100, s. 7.

(2.) All such licences, orders, and instruments, or copies thereof, purporting to be sealed with the seal of the Commission, shall be received as evidence of the same respectively, and of the same respectively having been granted, made, issued, or authorised by the Commissioners, without any further proof thereof.

(3.) A licence, order, or instrument, or copy thereof, shall not be valid, or have any force or effect, unless it is so sealed.

Appointment of permanent

Sect. 153.—(1.) There shall be a permanent chairman of the Commissioners.

(2.) If a permanent chairman dies, or declines, or

becomes incapable to act as chairman, or ceases to be a Commissioner, the Commissioners, or any five of them at a meeting specially summoned for the purpose, shall select a member of their body, not being a paid Commissioner, to be permanent chairman.

chairman and mode of voting. 8 & 9 Vict. c. 100, s. 8.

(3.) If the chairman is absent from a meeting, a majority of the members present may elect a chairman for that meeting.

(4.) Questions shall be decided by a majority of votes.

(5.) The chairman of the meeting shall have a vote, and in the event of an equality of votes he shall have a casting vote.

Sect. 154.—(1.) There shall be a secretary to the Commissioners.

The secretary to the Commissioners. 8 & 9 Vict. c. 100, s. 9.

(2.) The secretary for the time being may be removed by the Lord Chancellor on the application of the Commissioners.

(3.) If the office of secretary is vacant, the Commissioners, with the approbation of the Lord Chancellor, may fill the vacancy.

(4.) The secretary shall, in the performance of his duties, be subject to the inspection, direction, and control of the Commissioners. His salary shall be of such amount as the Treasury, with the concurrence of the Lord Chancellor, determines.

Lunacy Act, 1889, s. 75.

(5.) Every person appointed secretary shall be a barrister of at least seven years' standing, and shall for all purposes be deemed to be a permanent civil servant of the state,

Sect. 155.—(1.) The Commissioners may appoint such number of clerks as the Treasury sanctions. (*a*)

Clerks to the Commissioners. 8 & 9 Vict. c. 100, s. 11.

(2.) The clerks to the Commissioners shall be paid such salaries as the Treasury assigns. The salaries of the Commissioners, secretary, and clerks, and their expenses, to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

Expenses.

Note 155.—(1.) (*a*) As to the powers of the Commissioners to make regulations for the discharge of their own duties and of those of their officers, see § 161 (*post*).

Sect. 156.—As respects superannuation allowances, the paid Commissioners and the secretary and clerks shall be subject to the provisions of the Superannuation Act, 1859 and the Superannuation Act, 1887.

Superannuation allowances. 8 & 9 Vict. c. 100, ss. 5, 10. 22 Vict. c. 26. 50 & 51 Vict. c. 67.

Secretary and clerks to make a declaration. 8 & 9 Vict. c. 100, s. 12.

Sect. 157.—Every secretary or clerk shall, before he acts, make before any one of the Commissioners the declaration to be made by the secretary and clerks of the Commissioners set forth in the First Schedule.

Disqualification of Commissioners and their secretary and clerks. 8 & 9 Vict. c. 100, s. 23.

Sect. 158.—(1.) A person shall not be qualified to be a Commissioner or secretary or clerk of the Commissioners if he is, or within one year prior to his appointment has been, interested in a licensed house.

(2.) If any Commissioner or the secretary or any clerk of the Commissioners becomes interested in a licensed house, he shall be disqualified to hold his office.

(3.) Any disqualified person continuing to act shall be guilty of a misdemeanour.

Meetings and Procedure.

Commissioners to hold meetings for granting licences. 8 & 9 Vict. c. 100, s. 15.

Sect. 159.—(1.) The Commissioners, or some five of them, shall hold quarterly meetings at their office, or at such other place as the Lord Chancellor may direct, on the first Wednesday in the months of February, May, July, and November in every year, to receive applications for licences for houses for the reception of lunatics within the immediate jurisdiction of the Commissioners.

(2.) In case on any such occasion five Commissioners are not present, the meeting shall take place on the following Wednesday, and so on weekly until five Commissioners assemble.

(3.) The Commissioners assembled at every such meeting shall have power to adjourn the meeting from time to time and to such place as they think fit.

(4.) Any five of the Commissioners may, at any other time, at a meeting duly summoned, receive applications for licences.

Provision for calling meetings. 8 & 9 Vict. c. 100, s. 16.

Sect. 160.—(1.) If a Commissioner by writing under his hand requires the secretary to call a meeting of the Commissioners for a purpose specified in the writing, or for general business, the secretary shall call a meeting.

(2.) The secretary shall give to the Commissioners, or such of them as are in England and have an address known to the secretary, twenty-four hours' notice of the place, day, and hour of the meeting, and of the purpose for which it is to be held.

(3.) Any three Commissioners assembled at a meeting shall be a quorum, and shall constitute a board, except where by this Act five Commissioners are required to be present at any meeting.

(4.) Every meeting shall, as far as circumstances admit, be held at the office of the Commission.

Power to make orders and rules to regulate procedure. 8 & 9 Vict. c. 100, s. 70.

Sect. 161.—(1.) The Commissioners, or any five of them present at any quarterly or other meeting, may, by resolution sealed with their seal or entered in a book kept for the purpose and signed by five at least of the Commissioners present at the meeting, make orders and rules for regulating the duties of the Commissioners and of their secretary, clerks, and servants, and for the transaction of the business of the Commission.

(2.) The secretary shall give to each Commissioner, so far as circumstances admit, not less than seven days notice of a meeting for the purpose of making orders or rules, and shall state in the notice the purpose of the meeting.

Reports and Records.

Reports to be made to the Lord Chancellor. Lunacy Act, 1889, s. 74.

Sect. 162.—(1.) The Commissioners shall, at the expiration of every six months, report to the Lord Chancellor the number of visits they have made and the number of patients they have seen.

(2.) They shall also in or before the month of June in every year, make to the Lord Chancellor a report made up to the end of the preceding year of the condition of the institutions for lunatics, and other places visited by them, and of the care of the patients therein, with such other particulars as they think deserving notice.

(3.) They shall lay copies of the reports to be made under this section before Parliament within one month after the same have been made if Parliament is then sitting, and, if not, within twenty-one days after the commencement of the next session.

PART VI.

VISITORS OF LUNATICS.

The Chancery Visitors.

Appointment and qualification of Chancery Visitors. Lunacy Regulation Act, 1853, ss. 16–18.

Sect. 163.—(1.) There shall continue to be medical and legal visitors of lunatics so found by inquisition, and they are in this Act referred to as the Chancery Visitors.

(2.) The Lord Chancellor may, when a vacancy occurs in the office of medical visitor or legal visitor, appoint, by writing under his hand, a fit person, being a medical

practitioner in actual practice, to succeed a medical visitor, and a fit person, being a barrister of not less than five years' standing, to succeed a legal visitor.

(3.) The visitors shall have such clerks and officers as the Lord Chancellor may, with the concurrence of the Treasury as to number and salaries, determine.

(4.) The salaries of the Chancery Visitors, their clerks and officers, and their expenses to the amount sanctioned by the Treasury, shall be paid out of moneys provided by Parliament.

Tenure of office by Chancery Visitors. Act 1862, s. 24.

Sect. 164.—The Chancery Visitors may be removed by the Lord Chancellor in case of misconduct or neglect in the discharge of their duties, or of their being disabled from performing the same, and they shall not be engaged in the practice of their respective professions.

Visitors not to be interested in licensed houses. Act 1853, s. 18.

Sect. 165.—A person shall not be appointed a Chancery Visitor if he is or has been within the two years preceding his appointment directly or indirectly interested in any licensed house: and if any person after his appointment becomes so interested, his appointment shall become void, and thereupon his salary shall cease.

Masters to be ex-officio visitors. Lunacy Regulation Act, 1853, s. 17.

Sect. 166.—The Masters for the time being shall by virtue of their office be visitors of lunatics so found by inquisition, jointly with the Chancery Visitors.

The Visitors and Masters to form a board. Lunacy Regulation Act, 1853, s. 20.

Sect. 167.—(1.) The Chancery Visitors and the Masters, or so many of them, not being less than three in number, as may from time to time be able, consistently with the discharge of their other duties, to attend, shall from time to time form themselves into a board for their mutual guidance and direction on matters connected with the visiting of lunatics.

(2.) The board may report to the Lord Chancellor upon any matter connected with the duties of the Chancery Visitors or of the board, as they think proper.

Medical or legal visitor may appoint a substitute. Lunacy Regulation Act, 1853, s. 21.

Sect. 168.—(1.) Where a medical or a legal Chancery Visitor is temporarily prevented from discharging his duty by illness or unavoidable absence, but not otherwise, he may, with the approbation of the Lord Chancellor, appoint a medical practitioner in actual practice, or a barrister of not less than five years' standing (as the case may require), to act in his stead during his illness or unavoidable absence.

(2.) The medical practitioner or the barrister so

appointed shall, while his appointment remains in force, have, perform, and execute all the powers, duties, and authorities belonging to the office of medical or legal visitor (as the case may be) with full validity and effect to all intents and purposes.

Visiting Committees of Asylums.

Sect. 169.—(1.) For every asylum there shall be a visiting committee appointed annually by the local authority, consisting of not less than seven members. Constitution of visiting committee. 16 & 17 Vict. c. 97, s. 22.

(2.) The visiting committee of a district asylum shall be constituted of the number of members fixed by the agreement under which the asylum is provided.

(3.) Where there is more than one asylum, the local authority may appoint one committee for the management and control of all the asylums, and such committee shall appoint a sub-committee for each separate asylum, and may delegate to that sub-committee such powers and duties as the committee from time to time think fit. Local Government Act, 1888, s. 86 (6).

(4.) Where a county borough has contributed towards the cost of any county asylum, the council of the borough may, if they so desire, appoint to be members of the visiting committee of the asylum such number of members of the council as may be agreed upon, or in default of agreement be determined by the Commissioners under the Local Government Act, 1888, or after they have ceased to hold office, by arbitration under that Act. Such appointment shall be in substitution for any appointment previously made on the part of the borough. Local Government Act, 1888, s. 32 (3) (*c*). 51 & 52 Vict. c. 41.

(5.) Where a borough, not being a county borough, has contributed towards the cost of any county asylum, and the representatives of the borough on the county council are not entitled to vote for the appointment by the council of visitors of the asylum, the council of the borough may appoint two persons to be members of the committee. Local Government Act, 1888, s. 86 (3).

(6.) During the continuance of a contract for the reception of the pauper lunatics of a county borough or borough specified in the Fourth Schedule into a county asylum, the council of the borough shall appoint a visiting committee to visit the lunatics sent from such county borough or borough in the asylum. 16 & 17 Vict. c. 97, s. 7.

Sect. 170.—Unless some other day is appointed by the standing orders of the local authority, the visiting committee shall be appointed at the quarterly meeting of the local authority in November. Mode of election of visiting committee. 16 & 17 Vict, c. 97, s. 22.

Vacancies to be filled up. 16 & 17 Vict. c. 97, s. 28.

Sect. 171.—(1.) If a visitor dies or resigns, or becomes incapable or disqualified to act, the authority by whom he was appointed shall, as soon as possible, appoint in his place some qualified person, and the new appointment shall be made in the same manner as the annual election of visitors.

(2.) The continuing members of a visiting committee may act notwithstanding any vacancy in the body.

Duration of office. 16 & 17 Vict. c. 97, s. 27.

Sect. 172.—(1.) A visiting committee shall hold office until the first meeting of their successors.

(2.) If default is made in electing a visiting committee, the visiting committee last elected shall continue in office as if they had been duly re-elected.

Examination of accounts. 16 & 17 Vict. c. 97, s. 60.

Sect. 173.—The visiting committee of every asylum shall, previously to the month of June in every year, examine the accounts of the treasurer and clerk of the asylum, and shall report the same to the next meeting of the local authority, or of each local authority to whom the asylum wholly or in part belongs.

Members of visiting committee not to be interested. 16 & 17 Vict. c. 97, s. 44.

Sect. 174.—(1.) A member of a visiting committee shall not be interested either in his own name or in the name of any other person in any contract entered into or work done for the committee, and shall not derive any profit or emolument whatsoever from the funds of the asylum.

(2.) This provision shall not extend to any interest which a member of a visiting committee may have by reason of his being a shareholder of a company which has entered into any contract with or done any work for the visiting committee, but he shall not be entitled to vote in respect of such contract or work.

Meetings of visiting committee. Local Government Act, 1888, s. 86 (8). 16 & 17 Vict. c. 97, ss. 24, 25.

Sect. 175.—(1.) The provisions of section eighty-two of the Local Government Act, 1888, with respect to the proceedings of committees of county councils shall apply to the proceedings of every visiting committee appointed wholly or partly by a county council, and the chairman of such committee may be elected accordingly.

(2.) To other visiting committees the following provisions shall apply :—

(*a.*) The members of the committee shall within one month after their election meet at some convenient place, to be named in a notice in writing given by two or more of such members, or by the clerk of the outgoing committee by the direction of two or more of such members ;

(*b.*) Notices of meetings shall be given to each member personally, or left at his place of abode, or sent

by post seven days at least before the time appointed for the meeting;

(*c.*) The members shall at the first meeting elect one of their number to be chairman of the committee;

(*d.*) The chairman shall preside at all meetings at which he is present. In case of his absence from any meeting the members present shall elect one of their number to be chairman of the meeting;

(*e.*) Any meeting may be adjourned from time to time and from place to place;

(*f.*) The committee shall meet as often as they may think fit;

(*g.*) A meeting may be adjourned by two members; for all other purposes three members shall be a quorum;

(*h.*) Every question shall be decided by a majority of the votes of the members present, and in the event of an equality of votes the chairman shall have a second or casting vote;

(*i.*) The clerk of the committee shall, whenever required in writing by the chairman or any two members of the committee, or by the manager of the asylum, and the chairman may, whenever he thinks fit, summon a meeting of the committee.

Clerk to visiting committee. 16 & 17 Vict. c. 97, ss. 26, 115.

Sect. 176.—(1.) Every visiting committee shall appoint a clerk (who may also be the clerk to the asylum) at such salary as the committee think fit, and a clerk so appointed may be discharged, and in the event of a vacancy in the office a new clerk may be appointed. The clerk to the visiting committee shall, unless he be sooner discharged, continue in office so long as the committee continue in office.

(2.) A visiting committee may sue and be sued in the name of their clerk, and an action by or against a visiting committee shall not abate by the death or removal of the clerk, but the clerk for the time being shall always be deemed the plaintiff or defendant in the action.

Visitors of Licensed Houses.

Justices to appoint visitors. 8 & 9 Vict. c. 100, s. 17.

Sect. 177.—(1.) The justices of every county and quarter sessions borough not within the immediate jurisdiction of the Commissioners shall, whether there is a licensed house within the county or borough or not, annually, appoint three or more justices, and also one

Lunacy Act, 1889, s. 57, (1). medical practitioner, or more, to act as visitors of licensed houses within the county or borough and otherwise for the purposes of this Act.

(2.) The visitors shall at their first meeting make before a justice the declaration required by this Act to be made by a Commissioner, with the necessary modification.

8 & 9 Vict. c. 100, s. 23. (3.) A person shall not be qualified to be a visitor or clerk, or assistant clerk to any visitor, who is or within one year prior to his appointment has been interested in a licensed house.

(4.) If a visitor or a clerk or assistant clerk to any visitors becomes interested in a licensed house he shall be disqualified to hold his office.

(5.) Any disqualified person continuing to act shall be guilty of a misdemeanour.

8 & 9 Vict. c. 100, s. 18. (6.) In case of the death, inability, disqualification, resignation, or refusal to act of any visitor, the justices of the county or borough may appoint a visitor in his place.

(7.) The annual appointment of visitors shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions, to be held in the month of October; other appointments may be made by justices of a county at any quarter sessions and by justices of a borough at special sessions to be held at the same time as any quarter sessions.

Lunacy Act, 1889, s. 57 (2). (8.) In any county or borough in which no appointment of visitors has been made before the commencement of this Act the first appointment shall be made, in the case of a county, at the quarter sessions next after the commencement of this Act, and in the case of a borough, at special sessions to be held at the same time as the next quarter sessions.

(9.) The clerk to the justices of a quarter sessions borough shall forthwith notify to the clerk of the peace of the borough the names, places of abode, and occupations or professions of all visitors appointed by the justices.

(10.) A list of the names, places of abode, and occupations or professions of all visitors of licensed houses shall, within fourteen days from the date of their appointment, be published by the clerk of the peace of the county or borough for which they are appointed in a local newspaper, and shall, within three days from the date of their appointment, be sent by the clerk of the peace to the Commissioners.

(11.) Every clerk of the peace making default in publishing and sending to the Commissioners the list of visitors within the time hereby limited, shall for every default be liable to a penalty not exceeding two pounds. 8 & 9 Vict. c. 100, ss. 19, 20.

(12.) Every visitor, being a medical practitioner, shall be entitled to such remuneration for services rendered under this Act as the justices of the county or borough may approve. Lunacy Act, 1889, s. 57 (3).

Sect. 178.—(1.) The clerk of the peace or some other person to be appointed by the justices (*a*) for the county or borough shall act as clerk to the visitors. Clerk to visitors; his duties and remuneration.

(2.) The clerk to the visitors shall, at the first meeting of the visitors, make the declaration required by this Act to be made by the secretary of the Commissioners with the necessary modification, such declaration to be made before one of the visitors, being a justice. 8 & 9 Vict. c. 100, s. 21.

(3.) The name, place of abode, occupation, and profession of the clerk to the visitors (whether he is the clerk of the peace or any other person), shall within fourteen days after the appointment, be published by the clerk of the peace for the county or borough in some local newspaper, and shall within three days from the date of the appointment be communicated by the said clerk of the peace to the Commissioners.

(4.) Every clerk of the peace making default in either of the respects aforesaid shall for every such default be liable to a penalty not exceeding two pounds.

(5.) Every clerk to the visitors shall be allowed such salary or remuneration for his services as the justices for the county or borough direct.

Note 178.—(1.) (*a*) It will be observed that this appointment is to be made by the justices and not by the visitors, although the latter and not the former will be brought into contact with him.

Sect. 179.—(1.) If the clerk to any visitors at any time desires to employ an assistant in the execution of the duties of his office, he shall certify his desire and the name of the assistant to one of the visitors, being a justice. Provision for assistants to the clerk of the visitors. s. 22.

(2.) If the visitor approves of the assistant, the assistant shall make before the visitor the declaration to be made by assistants to the clerk to the visitors in the First Schedule.

(3.) Thereafter the clerk may, at his own cost, employ the assistant.

Consent of recorder. s. 31.

Sect. 180.—A visitor or clerk shall not be appointed by the justices of a borough without the consent in writing of the recorder of the borough.

Meetings of visitors. 8 & 9 Vict. c. 100, s. 21. Lunacy Act, 1889, s. 57 (5).

Sect. 181.—(1.) The visitors shall meet at such times and places as they may think proper.

(2.) The clerk to the visitors shall, upon the direction of any two visitors, call a meeting of the visitors at such time and place as the two visitors may appoint.

(3.) The times and places of meetings shall be kept secret, and each meeting shall be held privately and so that no manager or person interested in or employed about or connected with any house to be visited shall have notice of any intended visit.

Payment of expenses of visitors of licensed houses. 8 & 9 Vict. c. 100, s. 109.

Sect. 182.—The expenses incurred by or under the order of any visitors of licensed houses in proceedings under this Act shall be paid out of the county or borough fund.

PART VII.

VISITATION.

Duties of Chancery Visitors.

Duties of Chancery Visitors. Lunacy Regulation Act, 1862, s. 19. Act of 1882, s. 4.

Sect. 183.—(1.) The Chancery Visitors shall visit lunatics so found by inquisition at such times, and in such rotation and manner, and make such inquiries and investigations as to their care and treatment and mental and bodily health, and the arrangements for their maintenance and comfort, and otherwise respecting them, as the Rules in Lunacy, or as any special order of the Judge in Lunacy in any particular case, shall from time to time direct.

(2.) Provided that every lunatic shall be personally visited and seen by one of the Chancery Visitors twice at least in every year, and such visits shall be so regulated as that the interval between successive visits to any such lunatic shall in no case exceed eight months.

(3.) Provided also, that every lunatic resident in a private house shall, during the two years next following inquisition, be visited at least four times in every year.

Chancery Visitors to visit alleged lunatics.

Sect. 184.—(1.) The Chancery Visitors shall also visit such persons alleged to be lunatics, and shall make such inquiries and reports in reference to them as the Judge in Lunacy directs, and at the expiration of every six months they shall report to the Lord Chancellor the number of visits made, the number of patients seen, and

the number of miles travelled during such months, and shall on the first of January in each year make a return to the Lord Chancellor of all sums received by them for travelling expenses, or upon any other account. Lunacy Regulation Act, 1862, s. 21.

(2.) A copy of every report and return under this section shall be laid before Parliament on or before the first of February in each year, if Parliament be then sitting, and if not, within twenty-one days next after the commencement of the next session.

Sect. 185.—The Chancery Visitors shall respectively, within a convenient time after each visit, make a report in writing of the state of mind and bodily health and of the general condition and also of the care and treatment of each person visited, which reports shall, annually or oftener, as the Lord Chancellor directs or the board of visitors think expedient, be submitted to the Lord Chancellor. Chancery Visitors to report to Lord Chancellor. Lunacy Regulation Act, 1853, s. 106.

(2.) The Chancery Visitors respectively shall make separate or special reports on any case to the Lord Chancellor as and when they or the board of visitors think expedient, and in particular shall report to him, without delay, any instance in which, on proceeding to visit, they have been unable to discover the residence of or have been by any other circumstance prevented from actually seeing on that occasion the lunatic whom they intended to visit.

Sect. 186.—(1.) The reports of the Chancery Visitors shall be filed and kept secret in their office, and shall not be open to the inspection of any person save the members of the board of visitors, and the Judge in Lunacy and such persons as he specially appoints. Reports to be kept secret. Lunacy Regulation Act, 1853, s. 107.

(2.) All the reports relating to any particular patient shall be destroyed on his death, and shall also be destroyed on the inquisition in his case being superseded, or being vacated and discharged on a traverse, unless the Judge in Lunacy, within fourteen days after the supersedeas, or the vacating and discharge on a traverse, specially orders that the same be not destroyed until the lunatic's death.

Lunatics in Asylums.

Sect. 187.—(1.) Two or more Commissioners, of whom one shall be a medical practitioner and one a barrister, shall once at least in each year visit every asylum and shall inquire— Visits by Commissioners. 8 & 9 Vict. c. 100, s. 110. 25 & 26 Vict. c. 111, s. 30.

(*a.*) Whether the provisions of the law have been carried out;

(i.) As to the construction of the building;
(ii.) As to visitation;
(iii.) As to management;
(iv.) As to the regularity of the admission and discharge of patients;

(*b.*) Whether divine service is performed;
(*c.*) Whether any system of coercion is practised, and its result;
(*d.*) As to the classification of patients and the number of attendants on each class;
(*e.*) As to the occupations and amusements of the patients, and their effects;
(*f.*) As to the bodily and mental condition of the pauper patients when first admitted;
(*g.*) As to the dietary of pauper patients;
(*h.*) As to such other matters as to the visiting Commissioners seem fit.

(2.) Any one or more of the Commissioners may at any time visit any asylum with the like powers as are by this section given to two or more Commissioners.

Visits by visiting committee. 16 & 17 Vict. c. 97, s. 61.

Sect. 188.—At least two members of the visiting committee shall together, once at least in every two months, inspect every part of the asylum, and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint, and examine the order and certificate or certificates for the admission of every lunatic admitted since the last visitation and the general books kept in the asylum; and shall enter in the visitors book any remarks they think proper in regard to the condition and management of the asylum and the lunatics therein, and shall sign the book upon every visit.

Visits to lunatics received under a contract. 16 & 17 Vict. c. 97, s. 7.

Sect. 189.—(1.) During the continuance of a contract for the reception of the pauper lunatics of a county borough or other borough in a county asylum not less than two members of the visiting committee of the borough appointed for the purpose shall together, at least once in every six months, visit the asylum and see and examine the lunatics received under the contract, and shall report the result of their visit to the council of the borough.

(2.) The visitors may, if they think fit, be accompanied by a medical practitioner who is not an officer of the asylum, and they may by order direct payment to such medical practitioner of such a sum as they think fit for his services, and such sum shall upon the production of the order be paid to the medical practitioner by the treasurer of the borough.

(3.) Every report under this section shall be entered among the records of the council of the borough, and may be inspected by the Commissioners, and the Commissioners may, if they think fit, require the town clerk of the borough to transmit to them a copy of any such report.

Reports by visiting committee. 16 & 17 Vict. c. 97, s. 62.

Sect. 190.—(1.) The visiting committee of every asylum shall in every year lay before each local authority to which the asylum belongs, at their quarterly meeting in November, or at such other time as the local authority appoints, a report in writing of the state and condition of the asylum, and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein.

(2.) The committee may in the report make such remarks in relation to any matters connected with the asylum as they think fit.

Lunatics in Hospitals and Licensed Houses.

Visits of the Commissioners to licensed houses and hospitals. 8 & 9 Vict. c. 100, ss. 61, 71; 25 & 26 Vict. c. 111, s. 29.

Sect. 191.—(1.) Every hospital and licensed house may at any time, by day or night, be visited by any one or more of the Commissioners.

(2.) Every licensed house within the immediate jurisdiction of the Commissioners shall be visited six times a year (namely)—

(*a.*) Four times by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister; and

(*b.*) Twice by one or more of the Commissioners.

(3.) Every licensed house not within the immediate jurisdiction of the Commissioners shall be visited twice a year by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister.

(4.) Every hospital shall be visited once a year by not less than two Commissioners, of whom one shall be a medical practitioner and one a barrister.

(5.) The visits of the Commissioners shall be made without previous notice.

(6.) Every visit shall be made on such day or days, and at such hours, and for such length of time, as the visiting Commissioners or Commissioner may, subject to any direction of the Commissioners, think fit.

(7.) The Lord Chancellor, on a representation by the Commissioners setting forth the expediency of the alteration, may by writing under his hand direct that during a

specified period, or until the direction is revoked, the Commissioners shall not be required—

(*a.*) To visit a house licensed by justices more than once a year;

(*b.*) To visit a house licensed by the Commissioners and not receiving pauper patients (*a*) more than twice a year.

Note 191.—(7.) *b* (*a*) It will be observed from this, that the number of visits to institutions receiving pauper patients cannot be diminished.

Inspection of licence. 8 & 9 Vict. c. 100, s. 61.

Sect. 192.—The visiting Commissioners at their first visit to a house licensed by justices after the grant or renewal of the licence shall examine the licence, and if the same is in conformity with this Act shall sign the same, or if it is informal shall enter in the visitors book in what respect it is informal.

Visits of visitors to licensed houses. 8 & 9 Vict. c. 100, s. 62; 25 & 26 Vict. c. 111, s. 29.

Sect. 193.—(1.) Every licensed house within the jurisdiction of visitors appointed by justices may at any time, by day or night, be visited by one or more of the visitors.

(2.) Every such house shall be visited—

(*a.*) Four times a year by not less than two of the visitors, of whom one shall be a medical practitioner; and

(*b.*) Twice a year by one or more of the visitors.

Inspections and inquiries. 8 & 9 Vict. c. 100, ss. 63, 64.

Sect. 194.—(1.) The visiting Commissioners and visitors shall, at every visit to a hospital and licensed house which they are by this Act required to make, and any one or more of the Commissioners or visitors may at any other visit do all or any of the following things:

(*a.*) Inspect any or every part of the building where lunatics are received, and every building communicating therewith or detached therefrom, but not separated by ground belonging to any other person, and every part of the ground and appurtenances held, used, or occupied therewith:

(*b.*) See every patient and inquire whether any patient is under restraint, and why:

(*c.*) Inspect the order and certificates or certificate for every patient received since the last visit:

(*d.*) Consider the observations made in the visitors book:

(*e.*) Enter in the visitors book a minute of the condition of the house, of the patients therein, and the number of patients under restraint, with the reasons thereof:

(*f.*) Inquire—

When divine service is performed, and to what number of patients, and its effect;
What occupations and amusements are provided for the patients, and the results thereof;
How the patients are classified;
As to the condition of the pauper patients when first admitted;
As to the diet of the pauper patients; 25 & 26 Vict.
As to the moneys paid to the manager on account of any lunatic under his care; c. 111, s. 35.
As to such other matters as may in their opinion require investigation.

(2.) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the visitors book. 8 & 9 Vict. c. 100, s. 66.

(3.) Each visiting Commissioner or visitor may at any visit enter in the patients book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificates, and also whether the suggestions (if any) made at any previous visit have been attended to, and any observations which may be thought proper.

Managers of hospitals and licensed houses to show every part and every patient to the visiting Commissioners and visitors.

Sect. 195.—(1.) The manager of every hospital or licensed house shall show to each Commissioner and visitor visiting the same every part thereof, and every person therein detained as a lunatic.

(2.) Every manager of a hospital or licensed house who conceals (*a*) or attempts to conceal, or refuses or wilfully neglects to show, any part of the building, or any building communicating therewith or detached therefrom, but not separated as aforesaid, or any part of the ground or appurtenances held, used, or occupied therewith, or any person detained, or being therein, from any one or more of the visiting Commissioners or visitors, or from any person authorised under this Act to visit and inspect the hospital or house, or the patients therein or any of them, or who does not give full and true answers to the best of his knowledge to all questions which any visiting Commissioner or visitor asks in the execution of his office, shall be guilty of a misdemeanour. 8 & 9 Vict. c. 100, s. 63. *Ib.* s. 64.

Note 195.—(2.) (*a*) As to a case in which the instruments of restraint having been removed and concealed at the time of the visits of the justices and Commissioners, and false entries having been made in the medical visitation book, so as to conceal the fact of mechanical restraint being in use in the establishment, the proprietor and medical attendant were indicted for the latter offence and pleaded guilty, see *Sixth Report* of the Commissioners (1851), p. 19.

Books and documents to be produced to visiting Commissioners and visitors. *Ib.* s. 65.

Sect. 196.—(1.) The manager of every hospital or licensed house shall lay before the visiting Commissioners or Commissioner, or the visitors or visitor, at each visit—

(*a.*) A list of all the patients then in the hospital or house (distinguishing pauper patients from other patients, and males from females, and specifying such as are deemed curable);

(*b.*) The several books by this Act or any Rules under this Act required to be kept by the manager and by the medical officer of a hospital or licensed house;

(*c.*) All orders and certificates relating to patients admitted since the last visit;

(*d.*) In the case of a licensed house the licence then in force;

(*e.*) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the hospital or licensed house which may be required to be produced.

(2.) Each visiting Commissioner or visitor shall sign the said books as having been produced.

Entries in the patients books as to doubtful patients. *Ib.* s. 68.

Sect. 197.—(1.) Every Commissioner visiting a house licensed by justices shall carefully consider and give special attention to the state of mind of any patient, as to the propriety of whose detention there is a doubt or as to whose sanity their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, and the propriety of his detention requires further consideration, make and sign a minute thereof in the patients book.

(2.) A copy of every such minute shall, within two clear days after the same has been made, be sent by the manager of the house to the clerk of the visitors of the house, and the clerk shall forthwith communicate the same to the visitors or some two of them (of whom one shall be a medical practitioner), and the visitors shall thereupon immediately visit the patient and act as they think fit.

(3.) Every manager who omits to send a copy, as herein-before directed, of every such last-mentioned minute, and every clerk who neglects to communicate the same to two of the visitors as aforesaid, shall be guilty of a misdemeanour.

Visits to Single Patients.

Annual visit to single patients.

Sect. 198.—One or more of the Commissioners shall once at least in every year visit every unlicensed house in which a single patient is detained as a lunatic and inquire

into and report to the Commissioners on the treatment and state of bodily and mental health of the patient. Lunacy Act, 1889, s. 34 (3).

Sect. 199.—(1.) Any one Commissioner, on the direction of the Commissioners, or of any two of them (of whom the one Commissioner may be one), may at all reasonable times visit a single patient, and inquire into and report to the Commissioners or the Lord Chancellor on the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account. Power to visit single patients, and report. 8 & 9 Vict. c. 100, ss. 90, 92; 16 & 17 Vict. c. 96, s. 15; 25 & 26 Vict. c. 111, s. 35.

(2.) Any one or more of the visitors appointed for any county or borough shall, upon the request in writing of the Commissioners, or any two of them, have the like power as regards any single patient detained in an unlicensed house in such county or borough.

(3.) Upon every visit under this section the medical journal (*a*) shall be produced to the person making the visit, and he shall sign the same.

(4.) Every report under this section shall be kept by the secretary of the Commissioners, and a copy thereof shall, if the Commissioners think it expedient, be laid before the Lord Chancellor.

Note 199.—(3.) (*a*) The form in which this journal is to be kept is prescribed in Rule 3 (2), Form 3.

Sect. 200.—(1.) Any Commissioner visiting an unlicensed house may inspect any part of the house and the grounds belonging thereto. Power to inspect. Lunacy Act, 1889, s. 34 (4), (5).

(2.) If the person having charge of a single patient refuses to show to any Commissioner, at his request, any part of the house wherein the single patient resides, or any part of the grounds belonging thereto, he shall be guilty of a misdemeanour.

Visits to Paupers in certain Cases.

Sect. 201.—(1.) A medical practitioner appointed by the guardians of a union, (*a*) and also the guardians of any union shall be permitted, (*b*) whenever they see fit, between eight in the morning and six in the evening, to visit and examine any pauper lunatic chargeable to the union confined in any institution for lunatics, unless the medical officer of the institution delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the lunatic. Visits to paupers in institutions for lunatics. 16 & 17 Vict. c. 97, s. 65.

(2.) The medical officer shall forthwith enter in the

medical journal the reasons set forth in the statement, and shall sign the entry.

Note 201.—(1.) (*a*) If the medical man appointed for this purpose be the medical officer of the union or parish, he will be entitled to special remuneration for the visit, as the service is not one which he is bound by the duties of his office to perform. By express agreement, however, the remuneration for such visits can be included in his salary.

(1.) (*b*) It does not appear that the consent of the visitors need be obtained. The statute confers the right to visit, by providing that the visit "shall be permitted," subject to the opinion of the medical officer of the asylum. Where the guardians of any union or parish appoint their medical officer or any other medical man to visit the asylum, they should do so by express resolution, an authenticated copy of which should be supplied to him, to be produced to the superintendent of the asylum.

Visits to pauper lunatics not in an institution for lunatics.

16 & 17 Vict. c. 97, s. 66; 25 & 26 Vict. c. 111, s. 21.

Sect. 202.—(1.) Every pauper lunatic (*a*) not in an institution for lunatics shall once in every quarter of a year (reckoning the several quarters as ending on the thirty-first of March, the thirtieth of June, the thirtieth of September, and the thirty-first of December) be visited, if not resident in a workhouse, by the medical officer of the union, or district in which the lunatic is resident, (*b*) and, if resident in a workhouse, by the medical officer of the workhouse.

(2.) The guardians of every union shall from time to time furnish to every medical officer of the union forms for the prescribed returns relating to pauper lunatics not in an institution for lunatics.

(3.) Where a pauper lunatic has, by order of the visiting committee, been delivered over to the custody of a relative or friend to whom an allowance is made for the maintenance of the lunatic, the medical officer of the union or district in which the lunatic resides shall, within three days after each quarterly visit, send to the visiting committee a report stating whether in his opinion the lunatic is properly taken care of, and may properly remain out of an asylum.

Lunacy Act, 1889, s. 40 (3).

(4.) Each medical officer shall be paid (*c*) two shillings and sixpence for each quarterly visit to a pauper not in a workhouse, (*d*) and in addition two shillings and sixpence for every report sent to a visiting committee under this section, and those sums shall be paid by the same persons and be charged to the same account as the relief of the pauper. (*e*)

(5.) Nothing in this section shall relieve any medical

officer from any obligation under this Act to give notice to a relieving officer or overseer when it appears to such medical officer that a pauper lunatic ought to be sent to an asylum.

Note 202.—(1.) (*a*) The Poor Law Board expressed their opinion that every pauper lunatic who has received relief at some time during any quarter of the year should be visited by the medical officer and included in his return for that quarter; and that it makes no difference in that respect whether such relief is merely medical relief, or relief of a more general character. (Off. Cir., 1857, No. 55 (N.S.), p. 59.) It is not necessary that the lunatic should be actually chargeable at the time of the visit, but it will be sufficient if he have been chargeable, at any time, previously, in the course of the quarter during which the visit is made. (O. C. 1859, No. 58 (N.S.), p. 103.) The Board, however, did not think that a chargeability which has ceased prior to the commencement of that quarter will be sufficient to constitute the lunatic a "pauper lunatic" within the meaning of the enactment (*ibid.*) The Board also expressed their opinion that patients who have been discharged from an asylum, as cured, are not to be visited and included in the quarterly return, unless, being chargeable, there is reason to believe that they are still labouring under such an unsoundness of mind as is contemplated by the Interpretation Clause, s. 132. (O. C. 1856, No. 52 (N.S.), p. 4.) Idiots, whether adults or children, are to be included in the return (*ibid.*), as well as other classes of lunatics; but it will be observed that the return is limited to such pauper lunatics as are not confined in an asylum or other establishment. If relief is granted to a parent for a lunatic child, or for the parent and the children including a lunatic child, such child appears to be a "pauper lunatic" within the meaning of this enactment; but if relief be granted for the parent alone, or not for the lunatic child, then such child would not seem to come within the terms of the section.

(1.) (*b*) In the case of a pauper lunatic receiving non-resident relief, the visit should be made, and reported in his quarterly return, by the medical officer of the district of the union or parish in which the lunatic is resident; but the fee payable to the medical officer for such visit should be paid by the guardians of the union or parish granting the relief, according to the subsequent direction of the Act, which requires that the fee "shall be paid by the same persons and charged to the same account as the relief of the pauper." (**A** 202 (4).)

(4.) (*c*) Disputes have sometimes arisen between the guardians and the medical officers, as to the payment of these fees. The Poor Law Board pointed out that whether any particular pauper visited by the medical officer is a lunatic or not, is a question of fact, on the determination of which the

medical officer's claim to the fee depends; and that consequently it is not a question which is to be conclusively determined by the medical officer himself. If any pauper, when so visited, is not in fact a lunatic, the mere circumstance of his being included in the quarterly return of the medical officer will neither make the pauper a lunatic within the meaning of the statute, nor entitle the medical officer to the fee. If the guardians entertain a substantial doubt as to the lunacy of any pauper included in the return, they are justified in ascertaining the fact for themselves, and in refusing to pay the fee claimed if they find that the pauper is not in fact a lunatic. Of course they should not refuse without adequate ground; and if the medical officer should take steps to recover the fee, they should be prepared with sufficient proof to show that the pauper in question was not a lunatic and was therefore not properly included in the return. (O. C. 1858, No. 57 (N.S.), p. 85.) The Commissioners in Lunacy have expressed their opinion "that all persons receiving parochial relief on account of mental infirmity or imbecility should be brought under the notice of the medical officer, visited by him, and included in his list." (See their *Thirteenth Report*, p. 75.)

(*d*) The pauper lunatics in workhouses are to be visited, and the proper officer to visit and report is the medical officer of the workhouse, whether he be or be not the medical officer of the district in which the workhouse is locally situated. (See the Poor Law Board's Circular of 3rd January, 1854.) In their *Sixth Annual Report* (1853), p. 9, the Poor Law Board stated as follows:—"Some doubt having arisen with reference to the obligation cast upon the workhouse medical officer with reference to his duties under this clause [16 & 17 Vict. c. 97, s. 66], we consulted the Commissioners in Lunacy upon the subject, who informed us that they considered that the workhouse medical officer was required by this section to report upon the state of the lunatics in the workhouse, and that the practice under the previous Act was conformable to this view. We have since communicated this opinion to the several unions and parishes having workhouse medical officers." No fee, however, is to be paid for such visits; and the Commissioners in Lunacy have expressed an opinion that this exception was made advisedly, it being considered that no fee was called for, as the medical officer would constantly visit the workhouse in the course of his ordinary duty. (O. C. 1856, No. 52 (N.S.), p. 4.)

(*e*) The Poor Law Board expressed their opinion that these fees should not be paid by the relieving officers, and charged in their accounts; but that they should be paid by the guardians by whom the relief is granted, directly to the medical officers, at the close of each quarter, after the returns have been received. They recommended that in unions a separate account of such payments should be opened in the

union ledger, so as to show the entire cost. (O. C. 1856, No. 52 (N.S.), p. 4.) As each fee is to be charged in the same manner as the relief of the pauper who is visited, the charge will not be affected by the provisions of 24 & 25 Vict. c. 55, s. 6, *ante*, which, it will be seen, do not apply to pauper lunatics who are not in any asylum, hospital, or licensed house; but as all relief in unions is now chargeable to the common fund, under 28 & 29 Vict. c. 79, s. 1, the fees referred to are likewise so chargeable.

Visitation of workhouses. 16 & 17 Vict. c. 96, s. 28. 30 Vict. c. 6. See definitions.

Sect. 203.—Any one or more of the Commissioners shall, on such day or days, and at such hours in the day, and for such length of time as he or they may think fit, visit all such workhouses in which there is or is alleged to be any lunatic, as the Commissioners by any resolution direct, and shall inquire whether the provisions of the law have been carried out, and also as to the dietary, accommodation, and treatment of the lunatics, and shall report in writing thereon to the Commissioners, and the Commissioners shall forward a copy of every such report to the Local Government Board.

Special Visits.

Power to appoint a person to inquire into cases requiring immediate investigation. 16 & 17 Vict. c. 96, s. 29.

Sect. 204.—(1.) If, for reasons to be entered on the minutes of the board, any case appears to the Commissioners to call for immediate investigation, they may by order direct any competent person or persons to visit and report upon the mental and bodily condition of any lunatic or alleged lunatic in any institution for lunatics or workhouse, or under the charge of any person as a single patient, and to inquire into and report upon any matters into which the Commissioners are authorised to inquire.

(2.) Every such person shall, for the special purposes mentioned in the order, have all the powers of a Commissioner.

(3.) The Commissioners may allow to any such person a reasonable sum for his services and expenses.

Visits to lunatics so found, and other lunatics. 8 & 9 Vict. c. 100, ss. 112, 113. 16 & 17 Vict. c. 96, s. 33.

Sect. 205.—(1.) The Lord Chancellor in the case of a lunatic so found by inquisition, and the Lord Chancellor or a Secretary of State in any other case, may at any time, by an order in writing under the hand of the Lord Chancellor or the Secretary of State, as the case may be, directed to the Commissioners or any of them, or to any other person, require the persons or person to whom the order is directed to visit and examine a lunatic or alleged lunatic and to inspect any place in which a lunatic or alleged lunatic is detained, and to report to the Lord

Chancellor or to a Secretary of State upon such matters as in the order are directed to be inquired into.

(2.) Every person (not being a Commissioner) employed under this section may be paid such sum of money for his services as the Lord Chancellor or a Secretary of State thinks reasonable.

(3.) Every person so employed, whether a Commissioner or not, shall be allowed his reasonable travelling or other expenses while so employed.

(4.) Sums payable under this section shall be paid out of moneys provided by Parliament.

Lunatics in Private Families and Charitable Establishments.

Lunatics in private families and charitable establishments. Lunacy Act, 1889, ss. 42, 76 (2).

Sect. 206.—(1.) If it comes to the knowledge of the Commissioners that any person appears to be without an order and certificates (*a*) detained or treated as a lunatic or alleged lunatic by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution for lunatics), they may require the person by whom the patient is detained, or the superintendent or principal officer of the establishment, to send to them, within or at such time or times as the Commissioners may appoint, a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they think fit.

(2.) Any one or more of the Commissioners may at any time visit any such patient and report the result of the visit to the Commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in any institution for lunatics, or as single patients.

(3.) The Commissioners may, if they think fit, transmit any reports received by them, or may report the results of any inquiries made by them under this section, to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect and of maintaining the patient if so removed shall, if the order so directs, be paid by the guardians of the union in which the patient was found, until the authority legally liable for his maintenance has been ascertained; and such guardians shall have the

same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

(4.) Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is may exercise all the authorities conferred upon a justice by this Act, for the purpose of making the lunatic's property applicable to his maintenance and for maintaining him as a pauper.

(5.) All reports and particulars sent to the Commissioners under this section shall be kept by them, and shall be open to inspection only by the Commissioners and the Lord Chancellor, and by such persons as the Lord Chancellor directs.

Note 206.—(1.) (*a*) This enactment, taken from the Lunacy Act, 1889 (§ 42), is in effect an extension of the earlier enactments, which contemplated a lunatic being not under proper care before intervention in his behalf took place.

PART VIII.

LICENSED HOUSES AND HOSPITALS.

Restrictions on New Licences.

Restrictions on new licences. Lunacy Act, 1889, s. 56.

Sect. 207.—(1.) If the Commissioners in the case of a house within their immediate jurisdiction, or in the case of a house licensed by justices the justices, are of opinion that a house licensed for the reception of lunatics has been in all respects well conducted by the licensees, the Commissioners or justices may upon the expiration of the licence renew the licence for that house to the former licensees, or any one or more of them, or to their successors in business.

(2.) If on the twenty-sixth of August, one thousand eight hundred and eighty-nine, the licensees of any house had made arrangements to establish a new house for the reception of lunatics in the place of an existing house, and the Commissioners, or if the existing house was within the jurisdiction of justices the justices, are of opinion that such new house will be as well suited for the purpose as the existing house, and are also of opinion that the existing house has been in all respects well con-

ducted, the Commissioners or justices may grant to the licensees of the existing house, or any one or more of them, a licence for the new house, and may renew the same to the original licensees, or any one or more of them, or to his or their successors in business.

(3.) If at any time it is shown to the satisfaction of the Commissioners or the justices, as the case may be, that it would be for the comfort and advantage of the patients in any licensed house that another house should be substituted in place thereof, the Commissioners or justices may grant to the licensees of such first-mentioned house a licence in respect of such other house upon and subject to the same conditions and restrictions as may have existed in respect of the first-mentioned house.

(4.) In the case of joint licensees or proprietors who desire to carry on business apart from one another, if, in the opinion of the Commissioners or of the justices, as the case may be, the establishment conducted by them jointly, and also any new house which any of them desires to conduct, answers the conditions hereinbefore required for granting renewed licences, the Commissioners or justices, as the case may be, may grant to each of such licensees or proprietors renewed licences for such number of patients (not exceeding in the aggregate the number allowed by the joint licence) as such joint licensees or proprietors agree upon, or, failing their agreement, as the Commissioners or justices determine.

(5.) Where the licensee of a house is a medical man in the employment of the proprietor of such house as his manager, the licence shall be transferable or renewable to such licensee so long as he continues manager of the house, or to the proprietor, or to any other medical manager while employed by the proprietor in the place of the former manager.

(6.) Save as in this section provided, no new licence shall be granted to any person for a house for the reception of lunatics, and no house in respect of which there is at the passing of this Act an existing licence shall be licensed for a greater number of lunatics than the number authorised by the existing licence.

Jurisdiction of Commissioners and Justices.

Places within immediate jurisdiction of Commissioners.

Sect. 208.—(1.) The Commissioners shall exercise the licensing jurisdiction under this Act as regards the places mentioned in the third schedule which are to be deemed within their immediate jurisdiction.

(2.) In all places not within the immediate jurisdiction of the Commissioners the justices for every county and quarter sessions borough shall be the licensing justices, and shall at quarter (*a*) or special sessions respectively have the same authority within their counties and boroughs to license houses for the reception of lunatics as the Commissioners within their immediate jurisdiction. 8 & 9 Vict. c. 100, s. 14. 8 & 9 Vict. c. 100, s. 17.

(3.) A person shall not act in granting any licence if he is, or within one year next preceding has been, interested in a licensed house. 8 & 9 Vict. c. 100, s. 23.

Note 208.—(2.) (*a*) As to the times for holding the quarter sessions in counties, see 11 Geo. IV. and 1 Will. IV. c. 70, sec. 35, which enacts that "the justices of the peace in every county, riding, or division, for which quarter sessions of the peace by law ought to be held, shall hold their general quarter sessions of the peace in the first week after the 11th day of October, in the first week after the 28th day of December, in the first week after the 31st day of March, and in the first week after the 24th day of June;" and the 4 & 5 Will. IV. c. 47, which allows the justices a discretionary power to fix the time for holding the spring quarter sessions, but so that it shall not be earlier than the 7th day of March, nor later than the 22nd day of April.

Sect. 209.—For the purposes of this Part of this Act the justices of every borough shall assemble in special sessions at such times as the quarter sessions for the borough are held. Borough justices to hold special sessions. 8 & 9 Vict. c. 100, s. 135.

Conditions on which Licences granted.

Sect. 210.—Before a licence is in any case provided for by this Act granted for a house not within the immediate jurisdiction of the Commissioners and not previously licensed, one or more of the Commissioners shall by inspection ascertain whether the house and its appurtenances are suitable for the reception of lunatics, and the Commissioners shall report thereon to the clerk of the peace of the county or borough, and the report shall be received and considered by the justices. Before grant of a new licence by justices Commissioners to inspect and report. 25 & 26 Vict. c. 111, s. 14.

Sect. 211.—A licence shall not be granted unless the licensee or one of the licensees undertakes to reside in the house. Licensee to reside. 16 & 17 Vict. c. 96, s. 2.

Sect. 212.—In the case of a licence granted to two or more persons, if before the expiration of the licence any of such persons dies leaving the others surviving, and one of the survivors has undertaken or within ten days after Licence to joint licensees. Lunacy Act, 1889, s. 57 (6).

the death gives to the Commissioners or the justices who granted the licence a written undertaking to reside on the licensed premises, the licence shall remain in force and have the same effect as if granted to the survivors.

Notice of additions and alterations. 8 & 9 Vict. c. 100, s. 26. 25 & 26 Vict. c. 111, s. 15.

Sect. 213.—No addition or alteration shall be made to any licensed house or the appurtenances without the previous consent in writing of the Commissioners, and also of two of the visitors in the case of a house within the jurisdiction of visitors.

Untrue statement a misdemeanour. 8 & 9 Vict. c. 100, s. 27.

Sect. 214.—If any person, for the purpose of obtaining a licence or the renewal of a licence for a house for the reception of lunatics, wilfully supplies to the Commissioners or justices any untrue or incorrect information, plan, description, statement, or notice, he shall be guilty of a misdemeanour.

A copy of licence granted by justices to be sent to the Commissioners. 8 & 9 Vict. c. 100, s. 28.

Sect. 215.—(1.) Within seven days after the grant of a licence by the justices of a county or borough the clerk of the peace of the county or borough shall send a copy thereof to the Commissioners.

(2.) Any clerk of the peace omitting to send such copy within such time shall for every such omission be liable to a penalty not exceeding forty shillings.

Stamps on licences. 8 & 9 Vict. c. 100, s. 30.

Sect. 216.—Licences and renewed licences shall be stamped with a ten shilling stamp, and shall be under the seal of the Commissioners, if granted by them, and if by any justices under the hands of three or more of them in quarter or special sessions assembled, and shall be granted for such period, not exceeding thirteen months, as the Commissioners or justices, as the case may be, think fit.

Charge for licences. 8 & 9 Vict. c. 100, s. 32.

Sect. 217.—(1.) For every licence there shall be paid to the secretary of the Commissioners, or to the clerk of the peace, according as the licence is granted by the Commissioners or justices, (exclusive of the stamp,) the sum of ten shillings for every patient not being a pauper, and the sum of two shillings and sixpence for every patient being a pauper.

(2.) If the total amount of such sums of ten shillings and two shillings and sixpence does not amount to fifteen pounds, then so much more shall be paid as makes up fifteen pounds.

(3.) If the period for which a licence is granted is less than thirteen months, the Commissioners or the justices may reduce the payment to any sum not less than five pounds.

s. 40. (4.) The payment for a licence for a new house granted

upon the transfer of patients from a licensed house shall be not less than one pound (exclusive of the stamp). (*a*)

(5.) No licence shall be delivered until the sum payable for the same has been paid.

Note 217.—(4.) (*a*) The stamp will be 10*s.* as in sec. 216.

Sect. 218.—(1.) If a person to whom a licence has been granted becomes by sickness or other sufficient reason incapable of keeping the licensed house, or dies before the expiration of the licence, the Commissioners or any three justices (*a*) for the county or borough, as the case may be, may, if they think fit, by writing endorsed on the licence under the seal of the Commissioners or under the hands of such three justices, transfer the licence, (*b*) with all the privileges and obligations annexed thereto, for the term then unexpired, to such person as the Commissioners or justices approve.

Incapacity or death of the person licensed. 8 & 9 Vict. c. 100, s. 39.

(2.) Where a licence is transferred by justices of a county or borough under this section, the clerk of the peace of the county or borough shall within three days after the date of the instrument of transfer send a copy thereof to the Commissioners.

Lunacy Act, 1889, s. 57 (7), (8).

(3.) A clerk of the peace who makes default in performing the duty imposed upon him by this section, shall, for each day during which the default continues, be liable to a penalty not exceeding forty shillings.

Note 218.—(1.) (*a*) It will be observed that this act is not required to be done either by the quarter sessions or by the visitors, but that it may be done by any three justices.

(*b*) This transfer does not appear to be subject to any stamp or fee.

Sect. 219.—In cases in which under this Act a house not previously licensed is to be substituted for a licensed house, unless the substitution is occasioned by fire or tempest, seven clear days' notice of the intended substitution shall be sent to the person on whose petition the reception order of each private patient was made, or to the person by whom the last payment on account of the patient was made and to the authority liable for the maintenance of each pauper patient.

Notice on change of house. 8 & 9 Vict. c. 100, s. 40.

Sect. 220.—If a licensee receives into his licensed house any patients beyond the number specified in the licence, or fails to comply with the regulations of the licence as to the sex of the patients or the class of patients, he shall for each patient received contrary to his licence forfeit fifty pounds.

Penalty for infringing licence. 25 & 26 Vict. c. 111, s. 17.

Power of revocation and prohibition of renewal of licences. 8 & 9 Vict. c. 100, s. 41.

Sect. 221.—(1.) If a majority of the justices of a county or quarter sessions borough in quarter or special sessions assembled recommend to the Lord Chancellor that any licence granted by the justices for such county or borough be revoked, or if the Commissioners recommend to the Lord Chancellor that any licence granted either by them or by any justices be revoked or if granted by any justices be not renewed, the Lord Chancellor may, by an instrument under his hand and seal, revoke or prohibit the renewal of the licence.

(2.) A revocation of a licence shall take effect at a date to be named in the instrument of revocation, not more than two months from the time when a copy or notice thereof has been published in the *London Gazette*.

8 & 9 Vict. c. 100, s. 42.

(3.) A copy or notice of the instrument of revocation shall be published in the *London Gazette*, and shall, before publication, be transmitted to the manager of the licensed house, or shall be left at the licensed house.

(4.) In case of any such revocation or prohibition to renew being recommended to the Lord Chancellor, notice thereof in writing shall, seven clear days previously to the transmission of such recommendation to the Lord Chancellor, be given to the manager, or left at the licensed house. (*a*)

Note 221.—(4.) (*a*) With regard to the prohibition of renewal, it must be observed that the extent of its application is not distinctly expressed in the section. It is not quite clear whether the prohibition must be permanent, or may be limited to a definite period; whether it must be absolute, or may be in any way conditional; and whether it must comprise both the person and the premises, or may apply to either without the other, so as to allow the same person to obtain a licence for other premises, or another person to obtain a licence for the same premises. The licence according to the prescribed form (Sched. II., Forms 18, 19, 20), includes both; as it empowers "the said *A. B.* to use the said house and premises."

Detention of lunatics after expiration or revocation of a licence a misdemeanour. 18 & 19 Vict. c. 105, s. 18.

Sect. 222.—If after the lapse of two months from the expiration or revocation of the licence of any house, there are in the house two or more lunatics, every person keeping the house or having the care or charge of the lunatics therein, shall be guilty of a misdemeanour.

Powers to continue so long as any lunatics detained.

Sect. 223.—The powers of the Commissioners and visitors with reference to any licensed house and the patients therein, and all powers and provisions of this

Act having reference to the discharge, removal, and transfer of the patients, shall, after the expiration or revocation of the licence, continue in force so long as any patients are detained therein as lunatics. 18 & 19 Vict. c. 105, s. 9.

Application of Fees for Licences.

Sect. 224.—(1.) All moneys received for licences granted by any justices shall be paid by the clerk of the peace for the county or borough into the county or borough fund. Application of moneys received for licences by clerks of the peace.

(2.) The clerk of the peace for every county or borough shall keep an account of all moneys received and paid by him as aforesaid, and of all moneys otherwise received or paid by him in the execution of this Act. 8 & 9 Vict. c. 100, ss. 36, 37.

(3.) Such account shall be made up to the thirty-first day of March in each year, or to such other date as the Local Government Board appoint, and shall be signed by two at least of the visitors for the county or borough; and in the case of the clerk of the peace of a county, shall be audited by the same person, in the same manner, and with the same incidents and consequences as the accounts of officers of the county council under the Local Government Act, 1888. 51 & 52 Vict. c. 41.

Sect. 225.—(1.) The justices of every county or borough (*a*) in quarter or special sessions may order such sums as may be reasonable for payment of the remuneration or salary of the visitors and their clerk, and of all other expenses incurred by or under the authority of the justices or visitors in the execution of this Act, to be paid to the clerk of the peace of the county or borough out of the county or borough fund. Balance of payments over receipts may be paid out of the funds of the county or borough.

(2.) Every such sum shall be paid out of the county or borough fund by the treasurer thereof, and shall be allowed in his accounts, on the authority of the order by the justices for the payment thereof.

(3.) Every sum ordered to be paid by justices of a county under this section shall be subject to the sanction of the standing joint committee of the county council and quarter sessions as provided by section sixty-six of the Local Government Act, 1888. 51 & 52 Vict. c. 41, s. 66.

Note 225.—(1.) (*a*) It will be observed that in "quarter sessions boroughs," the order for payment is to be made by the Borough Justices, and not by the Town Council.

Management of Licensed Houses.

Commissioners may make regulations for the government of licensed houses. 16 & 17 Vict. c. 96, s. 31.

Sect. 226.—The Commissioners with the sanction of a Secretary of State, may make regulations for the government of any licensed house; and such regulations of the Commissioners, or a copy thereof, shall be transmitted by their secretary to the manager of every licensed house to which the same relate, and shall be observed therein.

Plans to be hung up. 8 & 9 Vict. c. 100, s. 66.

Sect. 227.—There shall be hung up in some conspicuous part of every licensed house a copy of the plan given to the Commissioners or justices on applying for the licence.

Provision for residence and visits of medical attendants. 8 & 9 Vict. c. 100, s. 57.

Sect. 228.—(1.) In every house licensed for one hundred patients, or more, there shall be resident as the manager and medical officer thereof a medical practitioner.

(2.) Every house licensed for less than one hundred and more than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited daily by a medical practitioner.

(3.) Every house licensed for less than fifty patients (in case the house is not kept by or has not a resident medical practitioner) shall be visited twice a week by a medical practitioner.

(4.) The visitors of any licensed house may direct that such house, and the Commissioners may direct that any licensed house shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

8 & 9 Vict. c. 100, s. 58.

(5.) When a house is licensed to receive less than eleven lunatics, any two of the Commissioners or any two of the visitors of such house may, if they think fit, by any writing under their hands, permit the house to be visited by a medical practitioner at such intervals more distant than twice a week as the Commissioners or visitors appoint, but not at a greater interval than once in every two weeks.

Boarders in licensed houses. Lunacy Act, 1889, s. 39.

Sect. 229.—(1.) The manager of a licensed house may, with the previous consent in writing of two of the Commissioners, or, where the house is licensed by justices, of two of the justices, receive and lodge as a boarder for the time specified in the consent any person who is desirous of voluntarily submitting to treatment; after the expiratiom of which time (unless any further consent is in like manner given for the extension thereof) he

shall be discharged. The manager of a licensed house may also, with such previous consent as aforesaid, receive and lodge as a boarder, for the time specified in the consent, any relative or friend of a patient.

(2.) The consent of the Commissioners or justices, as the case may be, shall be given only upon application to them by the intending boarder.

(3.) The total number of patients and boarders in a licensed house shall at no one time exceed the number of patients for which the house is licensed.

(4.) Every boarder shall, if required, be produced to the Commissioners and visitors respectively on their respective visits.

(5.) A boarder may leave the licensed house in which he is a boarder upon giving to the manager thereof twenty-four hours notice in writing of his intention so to do.

(6.) If any person is not allowed to leave the licensed house in which he is a boarder after the expiration of twenty-four hours notice to the manager thereof of his intention so to do, he shall be entitled to recover from the manager ten pounds as liquidated damages for each day or part of a day during which he is detained.

Hospitals.

Hospitals to have a resident medical attendant. 8 & 9 Vict. c. 100, s. 43.

Sect. 230.—Every hospital for the reception of lunatics shall have a medical practitioner resident therein as the superintendent and medical officer thereof.

Provisions for registration of hospitals in which lunatics are received. Lunacy Act, 1889, s. 58.

Sect. 231.—(1.) When application is made for the registration of a hospital for the reception of lunatics, the Commissioners may depute any one or more members of their body, or may employ such person or persons as they think fit, to inspect the hospital and report to them thereon.

(2.) If the Commissioners are of opinion that the hospital ought not to be registered for the reception of lunatics, they shall make a written report to a Secretary of State, stating the reasons for such opinion, and the Secretary of State shall thereupon finally determine whether the hospital ought to be registered or not.

(3.) If the Commissioners are of opinion or a Secretary of State determines that the hospital ought to be registered, the Commissioners shall issue a provisional certificate of registration.

(4.) A provisional certificate shall be valid for six months from the date of its issue, and for such extended time as the Commissioners allow, unless before its expiration it is superseded by a complete certificate of registration.

(5.) Within three months from the date of the provisional certificate, the managing committee of the hospital shall frame regulations for the hospital, and shall submit the same to a Secretary of State for approval.

(6.) Upon approval of the regulations by a Secretary of State, the Commissioners shall issue a complete certificate of registration, and shall specify therein the total number of patients of each sex who may be received in the hospital.

(7.) As from the date of a provisional certificate lunatics may be received in the hospital, but if no complete certificate of registration is granted, then no lunatic shall be received or detained in the hospital after the expiration of the provisional certificate.

Lunacy Act, 1889, s. 39 (3).

(8.) The total number of patients and boarders, if any, in a hospital shall at no one time exceed the number of patients for which the hospital is certified.

(9.) No lunatic shall be received in any hospital unless the same has been registered before the passing of this Act, or is registered under a provisional or complete certificate by virtue of this Act.

(10.) The superintendent of any hospital who receives or detains any lunatic in the hospital contrary to the provisions of this Act, or to the terms of the complete certificate of registration, shall be guilty of a misdemeanour.

Regulations. 8 & 9 Vict. c. 100, s. 43. 15 & 17 Vict. c. 96, s. 30.

Sect. 232.—(1.) The regulations for the time being in force in a hospital shall be observed.

(2.) Such regulations shall be printed, and a copy thereof shall be sent to the Commissioners, and another copy hung up in the visitors room in the hospital.

(3.) If the regulations are not so sent and hung up, the superintendent shall be liable to a penalty not exceeding twenty pounds.

Buildings not shown on plans not to be used for accommodation of lunatics. Lunacy Act, 1889, s. 59.

Sect. 233.—(1.) No building in the occupation of the managing committee of a registered hospital not shown on the plans sent to the Commissioners pursuant to any rules made by them shall be deemed part of the hospital for any purpose connected with the reception or the care and treatment of lunatics.

(2.) If the superintendent of a registered hospital

knowingly permits any lunatic to be detained or lodged in any building not shown on the plans of the hospital sent to the Commissioners, he shall be deemed guilty of a misdemeanour.

Accounts to be audited and printed. Lunacy Act, 1889, s. 60.

Sect. 234.—(1.) The accounts of every registered hospital which does not submit its accounts to the Charity Commissioners shall be audited once a year by an accountant or other auditor to be approved by the Lunacy Commissioners, and shall be printed.

(2.) The Lunacy Commissioners may, if they think fit, prescribe the form in which the accounts of any registered hospital are to be kept, and the day of the year to which they are to be made up.

Superannuation allowance of officer of hospital. Lunacy Act, 1889, s. 61.

Sect. 235.—The managing committee of any hospital may grant to any officer or servant who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the hospital for not less than fifteen years and is not less than fifty years old, such superannuation allowance, not exceeding two-thirds of the salary of the superannuated person, with the value of the lodgings, rations, or other allowances enjoyed by him, as the committee think fit.

Persons disqualified to be members of managing committee of hospital. Lunacy Act, 1889, s. 62.

Sect. 236.—The following persons shall be disqualified from being members of the managing committee of a registered hospital:

(*a.*) Any medical or other officer of the hospital:

(*b.*) Any person who is interested in or participates in the profits of any contract with or work done for the managing committee of the hospital, but so that this disqualification shall not extend to a person who is a member of an incorporated company which has entered into a contract with or done any work for the managing committee.

Powers for enforcing regulations of hospitals. Lunacy Act, 1889, s. 63.

Sect. 237.—(1.) The Commissioners may require the superintendent or any other officer of a registered hospital to give them such information as the Commissioners think fit as to the mode in which the regulations of the hospital are carried out.

(2.) If the Commissioners are of opinion that the regulations are not properly carried out, they may give to the superintendent and any two members of the managing committee of the hospital notice stating the particulars in which the regulations are not properly carried out, and requiring such things to be done as the Commissioners think proper for carrying out the same.

(3.) If at the expiration of six months from the date of

the notice the requirements of the notice have not, in the opinion of the Commissioners, been complied with, the Commissioners, with the consent in writing of a Secretary of State, may make an order directing the hospital to be closed as from the date named in the order, so far as the reception and detention of lunatics is concerned.

(4.) If any lunatics are detained or kept in the hospital after the date appointed by the order for closing the hospital, the superintendent of the hospital shall be guilty of a misdemeanour.

(5.) Before an order is made under this section, the Commissioners shall send to the superintendent and any two members of the managing committee of the hospital notice in writing requiring them to state in writing within fourteen days the reasons why the requirements of the first notice have not been complied with; and such statement, if any, shall be laid before the Secretary of State.

PART IX.

COUNTY AND BOROUGH ASYLUMS.

Obligation to provide Asylums.

Local authorities to provide asylums.

16 & 17 Vict. c. 97, s. 30. Lunacy Act, 1889, s. 67 (2).

Sect. 238.—(1.) Every local authority, as defined by this Act, shall provide and maintain an asylum or asylums for the accommodation of pauper lunatics.

(2.) Where the asylum accommodation of a local authority appears to the local authority to be insufficient, the local authority may supply the deficiency by exercising the powers by this Act conferred for providing asylum accommodation, or by rebuilding or enlarging any existing asylum.

s. 91.

(3.) For the purpose of providing asylum accommodation, a local authority may purchase any licensed or other houses and land.

(4.) For the purpose of providing asylum accommodation a local authority not being a county council shall have the same powers as are by section sixty-five of the Local Government Act, 1888, conferred upon a county council.

51 & 52 Vict. c. 41.

Powers to be exercised by a visiting committee.

Sect. 239.—A local authority shall exercise the powers conferred by this Act for providing asylum accommodation by a visiting committee, subject, if the local authority thinks fit, to their directions as to which

of the methods of providing asylum accommodation authorised by this Act shall be adopted. 16 & 17 Vict. c. 97, ss. 2, 11, 12.

Local Authority defined.

Sect. 240.—The council of every administrative county and county borough respectively constituted under the Local Government Act, 1888, and the council of each of the boroughs specified in the Fourth Schedule, or in the case of the City of London the common council, shall be a local authority for the purposes of this Act. Local authority defined. 51 & 52 Vict. c. 41.

Powers for providing Asylums.

Sect. 241.—A local authority may provide asylum accommodation for pauper and private patients, together or in separate asylums, and may provide separate asylums for idiots or patients suffering from any particular class of mental disorder. Power to provide asylums for pauper and private patients. Lunacy Act, 1889, s. 67.

Sect. 242.—(1.) For the purpose of providing asylum accommodation, a local authority may do all or any of the following things:— Modes in which asylum may be provided. 16 & 17 Vict. c. 97, s. 3. 18 & 19 Vict. c. 105, s. 1.

(*a.*) Provide and maintain an asylum alone;

(*b.*) Agree to unite in providing and maintaining a district asylum with any other local authority or local authorities;

(*c.*) Agree to unite with any other local authority or local authorities upon such terms as to payment and otherwise as may be thought proper for the joint use as a district asylum of any existing asylum, and, if they think fit, for the enlargement of the same.

(2.) Where an agreement to unite has been entered into, an agreement for further union may be entered into between all or any of the local authorities concerned, and for all the purposes of this Act an agreement for further union shall deemed to be an agreement to unite.

(3.) An agreement to unite shall not be carried into effect without the approval of a Secretary of State.

Sect. 243.—(1.) The council of a county borough may contract with the visiting committee of an asylum for the reception of the pauper lunatics of the borough into the asylum. Contract between council of county borough and visiting committee. 16 & 17 Vict. c. 97, s. 7.

(2.) Any such contract may be made for such consideration and upon such terms as to duration, determination, and otherwise as may be agreed between the

council of the borough and the visiting committee of the asylum.

(3.) While a contract under this section is in force, making adequate provision for the pauper lunatics of the borough, the council of the borough shall not be required to provide an asylum alone or in union.

(4.) A contract under this section shall not be carried into effect until approved by a Secretary of State.

Provision for case where a county borough has contributed to the cost of a county asylum. Local Government Act, 1888, s. 32 (3) (c).

Sect. 244.—(1.) Where a county borough has contributed to the cost of building and furnishing a county asylum, the existing liability of the borough council shall continue until a new arrangement is made under this section, and the county council shall provide accommodation for and maintain pauper lunatics sent from the borough on the same terms as hitherto.

(2.) Any new arrangement may be made between the county council and all the borough councils concerned, with respect to any such asylum; and if any such new arrangement is made, the borough and county councils may carry into effect any adjustment of property, debts, and liabilities which is the subject of such arrangement. If any council desires to make a new arrangement, and any or all of the other councils refuse to agree to the same, the matter shall be referred to the Commissioners under the Local Government Act, 1888, or, after they have ceased to hold office, to arbitration under that Act.

51 & 52 Vict. c. 41.

Borough contributing to county asylum exempt. 16 & 17 Vict. c. 97, s. 8. See Local Government Act, 1888, s. 32 (3) *c*.

Sect. 245.—(1.) Where any borough specified in the Fourth Schedule contributes to a county asylum, such borough shall, so long as it continues to contribute, be deemed to satisfy the requirements of this Act with respect to asylum accommodation.

(2.) The council of the borough may resolve for the purpose of providing asylum accommodation to separate from the county to which it contributes.

(3.) Notice of the resolution to separate shall be given to the clerk of the county council, and upon the expiration of six months from the date of the notice, the council of the borough shall be subject to the obligations imposed by this Act of providing asylum accommodation.

(4.) Notwithstanding a notice to separate, the council of the borough shall continue liable to contribute to the county asylum, until all the pauper lunatics therein belonging to the borough have been removed.

Where borough contracts

Sect. 246.—Where any borough specified in the Fourth Schedule has contracted for the reception of the lunatics of the borough in the asylum of the county

in which the borough is situate, the borough shall, on the determination of the contract, cease to be a local authority under this Act, and subject to the enactments providing for an additional charge for the maintenance of lunatics in cases where no contribution has been made towards the cost of building and furnishing an asylum, shall be liable to contribute to the county rate of the county in respect of such lunatic asylum in like manner as the rest of the county.

with county powers of borough to provide an asylum to cease on determination of contract. Local Government Act, 1888, s. 86 (4).

Power of Secretary of State to enforce Act.

Sect. 247.—If the Commissioners report to a Secretary of State that any local authority has failed to satisfy the requirements of this Act as regards asylum accommodation, the Secretary of State may require the local authority to provide such accommodation in such manner as he may direct, and the local authority shall forthwith carry the requisition into effect.

Default by county or borough in providing asylum. 16 & 17 Vict. c. 97, ss. 29, 30.

Agreements to unite.

Sect. 248.—(1.) Agreements to unite shall state—

(*a.*) The number of visitors to be chosen by each contracting party;

(*b.*) The proportion in which the expenses of providing the asylum are to be borne by each contracting party, and the basis upon which such proportion is fixed;

(*c.*) Where the agreement provides for the joint user of an existing asylum, the sum to be paid by each contracting party towards expenses already incurred.

Provisions to be contained in agreements to unite. 16 & 17 Vict. c. 97, s. 14.

Form 21.

(2.) Provisions in any agreement to unite, subjecting the visiting committee to any control not provided for by this Act, except the control of the Secretary of State, shall be of no effect.

Sect. 249.—The proportion in which the expenses of providing a district asylum are to be borne, as between the uniting counties and boroughs, may be fixed either according to the extent of the accommodation required for each county and borough, or in proportion to the respective population of each county or borough according to the last census for the time being.

Apportionment of expenses. 16 & 17 Vict. c. 97, s. 14. 18 & 19 Vict. c. 105, ss. 2, 3.

Sect. 250.—An agreement to unite may with the consent in writing of a majority of the visitors of each contracting local authority and with the sanction of the Secretary of State be altered or varied, but not so as

Power to vary agreement to unite.

16 & 17 Vict. c. 97, s. 16.

to contain any provision which might not have been contained in an agreement to unite in the first instance.

Agreement to unite to be reported and delivered to clerk of local authority. 16 & 17 Vict. c. 97, s. 19.

Sect. 251.—(1.) Every agreement to unite shall as soon as possible be reported to the local authorities interested.

(2.) The original of every agreement to unite, and of every agreement varying an agreement to unite, shall be delivered to the clerk of the local authority within whose administrative area the asylum to which the same relates is situate or is intended to be situate, and shall be kept by him among the records of the local authority.

(3.) The original agreement so delivered may be inspected without payment by any Commissioner and by any member of the council of any of the contracting local authorities.

(4.) The clerk of a local authority to whom any such agreement is delivered shall cause copies to be made thereof, and shall within twenty days after delivery to him of the original send one copy to the Commissioners and another copy to each of the contracting local authorities.

Application of money paid for expenses already incurred. 16 & 17 Vict. c. 97, s. 18.

Sect. 252.—Where under an agreement to unite a sum is to be paid towards the expenses already incurred by a local authority in relation to an existing asylum, the sum shall be paid to the treasurer of the local authority as part of the county or borough fund and shall be applied to purposes for which capital is properly applicable.

Visitors to be chosen. 16 & 17 Vict. c. 97, s. 20.

Sect. 253.—When an agreement to unite has been reported, each local authority shall elect out of their body the number of visitors agreed to be chosen by them, and the visitors so chosen shall carry the agreement into effect and shall be the visiting committee of the asylum until the election of a visiting committee in their place.

Purchase of Land and other incidental Powers.

Powers of committee to provide asylum. 16 & 17 Vict. c. 97, ss. 31, 45.

Sect. 254.—(1.) (*a*) A visiting committee authorised to provide asylum accommodation may agree upon plans and estimates, and contract for the purchase of lands and buildings with or without fittings and furniture, and for the erection, restoration, enlargement, and furnishing of buildings, and for the supply of clothing, and for all the matters necessary for carrying into effect the authority conferred upon them.

(2.) Plans and contracts agreed upon by a visiting

committee shall not be carried into effect until approved by a Secretary of State.

(3.) A visiting committee shall report to the local authority or local authorities by whom they were elected, all plans, estimates, and contracts agreed upon, and also the amount to be paid by each local authority, and such plans, estimates, and contracts shall be subject to the approval of the local authority, to whom they are to be reported, except where the amount to be expended does not exceed an amount previously fixed by the local authority.

(4.) In the event of a difference between any local authorities as to whether any plan, estimate, or contract ought to be approved, the local authority withholding approval shall, within four months after the plan, estimate, or contract has been reported to them, send to a Secretary of State a statement in writing of their objections, and the Secretary of State may direct the plan, estimate, or contract to be carried into execution, with or without any alterations, or he may direct such other plan, estimate, or contract, as he thinks fit, to be carried into execution, and the decision of a Secretary of State under this section shall be final. 25 & 26 Vict. c. 111, s. 4.

Note 254.—(1.) (*a*) *Moffat* v. *Dickson*, 13 C. B., 543; *Kendal* v. *King*, 17 C. B., 483; *Devenish* v. *Brown*, 26 L. J., Ch., 23.

Sect. 255.—The visiting committee of an asylum, with the consent of each local authority by whom the asylum is provided, and with the approval in writing of a Secretary of State, may make such alterations in or additions to the asylum either by way of detached buildings or blocks of buildings or otherwise as they think fit for the purpose of providing accommodation for private lunatics. Additions to asylums for private patients. Lunacy Act, 1889, s. 66.

Sect. 256.—(1.) Every person entering into a contract with a visiting committee shall give sufficient security for due performance of the contract. Contracts. 16 & 17 Vict. c. 97, s. 31.

(2.) Every such contract and all orders relating thereto shall be entered in a book to be kept by the clerk of the visiting committee, and when the contract is completed the book shall be deposited and kept among the records of the local authority, or, when more than one local authority is interested, then among the records of the local authority which contributes the largest proportion of the expenses of the contract.

(3.) Every such book may be inspected at all reasonable

times by any person contributing to the rates of the local authority interested in the contract.

(4.) A copy of every such book shall be kept at the asylum to which the contract relates.

Enlargement of district asylum. 16 & 17 Vict. c. 97, s. 30.

Sect. 257.—A district asylum shall not be enlarged or improved without the consent of all the parties to the agreement under which the same is provided.

Burial grounds. 18 & 19 Vict. c. 105, ss. 12, 13. 25 & 26 Vict. c. 111, s. 9.

Sect. 258.—(1.) The visiting committee of an asylum, with the consent of the local authority by whom they are appointed and of a Secretary of State, may provide for the burial of lunatics dying in the asylum, and of the officers and servants belonging thereto—

(*a.*) By appropriating any land already belonging to them or acquiring any land, not exceeding in either case two acres, for enlarging an existing burial ground, or for providing a new burial ground;

(*b.*) By agreeing with any corporation or persons or body of persons willing to provide for the burial of such lunatics and other persons as aforesaid.

(2.) The committee may procure the consecration of a new or enlarged burial ground, and in the case of a new burial ground, may provide for the appointment of a chaplain therein.

(3.) The incumbent of the parish in which a new or enlarged burial ground provided by a visiting committee is situate, shall not be entitled to any fee for the interment of any person buried therein by direction of the committee.

Burial of lunatics. 18 & 19 Vict. c. 105, s. 11.

Sect. 259.—Where a visiting committee undertakes the burial of any pauper lunatic, and the public burial ground of the parish where the death took place is closed or inconveniently crowded, the burial may take place in a public burial ground of some other parish, with the consent of the minister and churchwardens of that parish; and in that case the visiting committee shall pay to the person entitled thereto the burial fees payable under any Act or according to the custom of the place of burial.

Incorporation of Lands Clauses Acts. 25 & 26 Vict. c. 111, s. 10.

Sect. 260.—(*a*) For the purpose of the purchase of lands by visiting committees the Lands Clauses Acts are hereby incorporated with this Act, except the provisions relating to the purchase of land otherwise than by agreement, the sale of superfluous lands, the recovery of forfeitures, penalties, and costs and access to the special Act, and the expression "promoters of the undertaking"

wherever used in the Lands Clauses Acts shall mean a visiting committee, and the expression "special Act" shall mean this Act.

Note 260.—(*a*) *Devenish* v. *Brown*, 26 L. J., Ch., 23.

Power to take land on lease. 16 & 17 Vict. c. 97, s. 33. 25 & 26 Vict c. 111, s. 11.

Sect. 261.—(1.) A visiting committee, instead of purchasing any land or buildings which they are authorised to purchase, may take a lease thereof for any term not less than sixty years at such rent and subject to such covenants as the committee think fit.

(2.) A visiting committee, with the sanction of each local authority for whom they are authorised to act, may hire or take on lease from year to year, or for any term of years, at such rent and subject to such covenants as they think fit, any land or buildings for the employment of the patients in the asylum, or for the temporary accommodation of any pauper lunatics for whom the accommodation in the asylum is inadequate.

(3.) Lands and buildings hired or taken on lease under this section shall be deemed part of the asylum, and be subject to all existing provisions as to the asylum.

Situation of asylum. 16 & 17 Vict. c. 97, s. 34.

Sect. 262.—The asylum to be provided by any local authority either solely or jointly, may be situate without the limits of the administrative area of the local authority, and if the asylum or any part thereof is so situate, the council and justices of the county, county borough, or borough to which the asylum wholly or in part belongs shall have full power and authority to act in the county or borough in which the asylum is situate, so far as concerns the regulation of the asylum and the powers conferred by this Act, as if the asylum were situate within the proper jurisdiction of such council and justices.

Rating of asylums. Lunacy Act, s. 69.

Sect. 263.—Lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district and other rates made after the commencement of this Act on the same basis and to the same extent as other lands and buildings in the same parish, township, or district. (*a*) (*b*) (*c*)

Note 263.—(*a*) The justices of a county were assessed to income-tax in respect of such parts of a County Lunatic Asylum as were occupied by officers having incomes exceeding £150 per annum. On a case stated, it was held by the Queen's Bench Division that the premises were not in the occupation of the Crown, or of persons using them exclusively in the service of the Crown, and were therefore not exempt,

but the Court declined to suggest who were the parties to be charged, whether the justices or the occupiers. (*Bray* v. *Lancashire JJ.*, L. R., 22 Q. B. D., 484.)

(*b*) An institution for the insane, which is wholly self-supporting, is not exempt as a "hospital" from payment of Inhabited House duty, either under 5 & 6 Vict. c. 35, sec. 61, Rule vi., or 48 Geo. III. c. 55, Sched. B., Case iv. The exemptions must be restricted to hospitals maintained wholly or in part by charity. (*Needham* v. *Bowers*, L. R., 21 Q. B. D., 436 (1888).)

(*c*) Profits made by taking in wealthy patients and applied to the purposes of a hospital, held not entitled to exemption under Sched. D. as payments "applied to charitable purposes only," within the Income-Tax Act, 1842, sec. 105. (*St. Andrew's Hospital, Northampton* v. *Shearsmith*, L. R., 19 Q. B. D., 624 (1887).)

How lands to be conveyed. 16 & 17 Vict. c. 97, s. 36. 34 & 35 Vict. c. 14, s. 2. Lunacy Act, 1889, s. 72.

Sect. 264.—Any lands acquired for the purposes of this Act may be conveyed to the local authority being a county council, or in cases where the local authority is the council of a borough to the municipal corporation of the borough, or, where more than one local authority is interested, to the local authorities interested as joint tenants.

Power to retain land unsuitable or not required for asylum purposes. Lunacy Act, 1889, s. 68.

Sect. 265.—Any lands or buildings which have been used for the purposes of an asylum, and have been found unsuitable, or are otherwise not required for such purposes, may, with the consent of a Secretary of State, and subject to such conditions as he thinks fit to impose, be retained by the local authority, and appropriated for any purposes for which the local authority is empowered to acquire land.

Repairs, alterations, improvements. 16 & 17 Vict. c. 97, s. 38.

Sect. 266.—(1.) The visiting committee of an asylum may, of their own authority, order all necessary and ordinary repairs. They may also, of their own authority, order all necessary and proper additions, alterations, and improvements (*a*) which the asylum may require, to an amount not exceeding four hundred pounds in any one year.

(2.) An order for repairs, additions, alterations, or improvements to an amount exceeding one hundred pounds shall not be given, unless the order is approved and signed by at least three visitors at a meeting of the visiting committee duly summoned upon notice that the proposed expenditure is to be considered thereat.

(3.) Any expenditure incurred, except for repairs, shall be reported by the visiting committee to the local authority on whose behalf the expenditure was incurred.

(4.) In the case of a district asylum, the visiting com-

mittee shall apportion expenses incurred under this section in the proportion in which each local authority has contributed to the erection of the asylum, or where any other proportion is fixed by an agreement to unite then in the proportion so fixed; and where any such agreement only provides in what proportion the expense of repairs shall be borne, the expense of additions, alterations, and improvements shall be borne in the same proportion.

(5.) The visiting committee shall make an order for payment of the expenses incurred under this section upon the treasurer of the local authority, or, in the case of a district asylum, shall make an order upon the treasurer of each local authority concerned for payment of the expenses apportioned to that local authority, and the treasurer upon whom the order is made shall pay the amount mentioned in the order out of the county or borough fund.

Note 266.—(1.) (*a*) As to the duty of the committee of visitors to prevent nuisance from discharge of asylum sewage on adjoining lands, see *Attorney-General* v. *Lunatic Asylum, Colney Hatch*, L. R., 4 Ch., 147; 38 L. J., Ch., 265; 19 L. T., 44 and 708. As to nuisances in connection with an asylum, see the Public Health Act, 38 & 39 Vict. c. 55, *passim*.

Dissolution of Agreement to unite.

Power to dissolve a union. 16 & 17 Vict. c. 97, s. 39.

Sect. 267.—(1.) A visiting committee, with the consent of a Secretary of State, may by a resolution passed by a majority of the whole number of the members of the committee at a meeting summoned upon notice that the resolution is to be proposed thereat dissolve an agreement to unite.

18 & 19 Vict. c. 105, s. 5.

(2.) Every local authority interested under an agreement to unite shall, before a dissolution of the agreement takes effect, elect a committee to provide asylum accommodation in accordance with the provisions of this Act.

(3.) In case an agreement to unite is dissolved between any local authority not having an asylum and a local authority which has an asylum and is in receipt of an annual fixed payment as remuneration for any expenses incurred for the benefit of the local authority making the payment, such last-mentioned local authority may raise such a sum of money for compensation to the local authority receiving the payment as may be agreed upon and approved by the visiting committee by whom the union is dissolved.

16 & 17 Vict. c. 97, s. 39.

(4.) Upon the dissolution of an agreement to unite the visiting committee may divide the real and personal property held for the purposes of the agreement among the several local authorities, between whom the agreement existed, in the proportion in which they contributed thereto or are interested therein, or in such proportions as the visiting committee, with the consent of a Secretary of State, think fit. And a sum of money of such amount, and to be raised by any of the local authorities parties to the agreement in such proportions as the committee, with the consent of a Secretary of State, approve, may be awarded to any local authority instead of a share or part of a share in such property.

(5.) Any money to be raised under this section may be raised in the same manner and by the same means as other moneys appointed to be raised for the purposes of this Part of this Act.

Cancellation of Contracts.

Power to cancel contract. 16 & 17 Vict. c. 97, s. 41.

Sect. 268.—(1.) Where any lands contracted to be purchased or taken in exchange by a visiting committee are found unsuitable, or are not required, the committee, or any committee appointed in their place, may, with the consent of a Secretary of State, and upon payment of such sum, if any, as a Secretary of State approves, procure a release from the contract and execute a release to the other contracting party.

(2.) The consideration, if any, for such release, and all expenses in relation to the contract and release, shall be raised in the same manner as if the same were payable in respect of the purchase money of lands for the purposes aforesaid.

Admission of Pauper Lunatics from other Counties or Boroughs.

Power to contract for reception of lunatics. 16 & 17 Vict. c. 97, s. 42.

Sect. 269.—A visiting committee (in this section called the contracting committee) may contract with the manager of a licensed house, or subject as in this section provided with any other visiting committee (in this section called the receiving committee), for the reception into that house, or into the asylum of the receiving committee, of all or any of the pauper lunatics of the local authority for which the contracting committee is acting, or for the use and occupation of the whole or any part of the house, upon such terms as may be agreed.

(2.) Where a contract between a visiting committee and the subscribers to a hospital for the reception of pauper patients into the hospital was subsisting on the twenty sixth of August one thousand eight hundred and eighty-nine, such contract shall continue in force, and on its expiration a new contract may be entered into with such subscribers subject to the provisions of this section. Lunacy Act, 1889, s. 64.

(3.) A contract between a visiting committee and any other visiting committee or the manager of a licensed house or the subscribers to a hospital for the reception of the lunatics of the local authority for which the contracting committee is acting (herein-after called a reception contract) shall not be made for more than five years, but such contract may be renewed subject to the provisions of this section. 18 & 19 Vict. c. 105, s. 10.

(4.) Where a reception contract has been made, whether before or after the passing of this Act, on behalf of a borough with the visiting committee of an asylum, and the contract is determinable by the parties thereto, or either of them, the contract shall not be determined without the consent of a Secretary of State. Lunacy Act, 1889, s. 71.

(5.) A reception contract shall not be carried into effect until approved by a Secretary of State, and any reception contract may be determined by a Secretary of State.

(6.) A reception contract with the manager of a licensed house shall determine if the house ceases to be licensed.

(7.) A reception contract shall not exempt the local authority for which the contracting committee is acting from the requirements of this Act as regards asylum accommodation if a Secretary of State determines the contract, although the term for which the contract was entered into has not expired.

(8.) Except as in this section provided a visiting committee shall not after the commencement of this Act enter into a reception contract with subscribers to a hospital. Lunacy Act, 1889, s. 64.

(9.) Where a reception contract has been made by a visiting committee, the local authority for whom the visiting committee acts shall, while the contract subsists, defray out of the county or borough fund so much of the weekly charge agreed upon for each pauper lunatic as in the opinion of the visiting committee represents the sum due for the accommodation, not exceeding one-fourth of the entire weekly charge, in exoneration to that extent of the union to which the maintenance of any such pauper lunatic is chargeable. 25 & 26 Vict. c. 111, s. 7.

(10.) Where a reception contract has been entered into by the visiting committee of an asylum with the subscribers to a hospital or the manager of a licensed house, the hospital or house may be visited by any members for the time being of the committee of the asylum.

Cases where asylum is more than sufficient for pauper lunatics. 16 & 17 Vict. c. 97, s. 43.

Sect. 270.—(1.) Where it appears to the visiting committee of an asylum that the asylum is more than sufficient for the pauper lunatics who for the time being can be lawfully received, the committee may by resolution permit any other pauper lunatics to be received into the asylum.

(2.) A resolution under this section may require that no pauper lunatic be admitted thereunder without an undertaking by the minute of the guardians of the union to which the lunatic is chargeable for the payment of the expenses of maintenance of the lunatic, and of his burial if he dies in the asylum, as well as for his removal within six days after notice from the manager of the asylum.

(3.) A resolution under this section may be rescinded or varied.

Admission of Private Patients.

Provisions as to private patients in asylums. Lunacy Act, 1889, s. 65.

Sect. 271.—(1.) Private patients may be received into any asylum upon such terms as to payment and accommodation as the visiting committee think fit. All enactments as to the conditions on which such lunatics may be received into hospitals or licensed houses shall be applicable to private patients received into such asylums.

(2.) An account of the amount, by which the sums charged for private patients received in the asylum exceed the weekly charges for pauper lunatics sent from or settled in any place, parish, or borough which has contributed to provide the asylum, shall be made up to the last day of each year, and the surplus, if any, after carrying to the building and repair funds such sums, and providing for such outgoings and expenses as the visiting committee consider proper, shall be paid to the treasurer of the local authority to which the asylum belongs, or in the case of an asylum belonging to several local authorities, to their respective treasurers in the proportions in which such local authorities or the justices of the counties and boroughs whose powers have been transferred to them have contributed to the asylum, and shall be applied as part of the county or borough fund.

Approval of Secretary of State.

Mode of obtaining approval of Secretary of State. 16 & 17 Vict. c. 97, s. 45. 25 & 26 Vict. c. 111, s. 5.

Sect. 272.—For the purpose of procuring the approval of a Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the Commissioners, and to the Secretary of State, and the Commissioners shall make such inquiries as they think fit, and shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

Provisions for raising Expenses.

Payment of expenses. 16 & 17 Vict. c. 97, s. 46.

Sect. 273.—The expenses to be paid and contributed by a local authority for the purposes of this Act shall be paid by the treasurer of the local authority out of the county or borough fund as the case may be to the treasurer of the asylum to which such local authority either alone or jointly pays or contributes.

Borrowing Powers.

Power to borrow. 16 & 17 Vict. c. 97, ss. 47, 52.

Sect. 274.—(1.) For the purpose of paying any money payable under this Act, or for repaying any moneys borrowed under this Act or any former Act, authorising borrowing for purposes of asylum accommodation, the local authority may with the consent of the Local Government Board, and subject to the provisions of the Local Government Act, 1888, and the Municipal Corporations Act, 1882, according as the same respectively are applicable to the local authority, borrow on the security of the county or borough fund, and of any revenue of the local authority, or on either such fund or revenues or on any part of the revenues, such money as the local authority requires.

16 & 17 Vict. c. 97, s. 48.

(2.) The Public Works Loan Commissioners may, if they see fit, make any loan for the purposes of this Act to the local authority upon the security of any fund or revenues applicable to the purposes of this Act.

Rules and Regulations.

General rules and regulations to be framed.

Sect. 275.—(1.) The visiting committee of an asylum shall within twelve months after the completion of the asylum prepare and submit to a Secretary of State general rules for the government of the asylum, and such rules

16 & 17 Vict. c. 97, ss. 53, 124.

when approved by a Secretary of State shall be printed and observed.

(2.) The general rules of every asylum may be altered and varied with the approval of a Secretary of State.

(3.) The visiting committee shall also make regulations (not inconsistent with the general rules) setting forth the number and description of officers and servants and their respective duties and salaries.

(4.) The regulations may provide that any number of beds in such part of the asylum as the committee think fit shall be reserved for the cases specified in the regulations, and in that case the asylum shall for the purposes of this Act, as respects the admission of cases not within the class for which beds are reserved, be deemed full when there are no vacant beds except those so reserved, but the committee may, if they think fit, fill any reserved beds.

(5.) The regulations may also provide for the exclusion of any persons afflicted with any malady which the visiting committee deem contagious or infectious or coming from a place in which such a malady may be prevalent, and for the absence for a period not exceeding four days of a patient from the asylum by permission of the manager.

(6.) The committee shall also determine the diet of the patients.

Officers of Asylums. (*a*)

Officers of asylums. 16 & 17 Vict. c. 97, s. 55.

Sect. 276.—(1.) The visiting committee of every asylum shall appoint:—

(*a.*) A chaplain, (*b*) who shall be in priest's orders, and shall be licensed by the bishop of the diocese;

(*b.*) A medical officer, (*c*) who shall reside in the asylum and shall not be the clerk or treasurer of the asylum;

(*c.*) A superintendent of the asylum, or, if there is more than one division, a superintendent of each division of the asylum, who shall be the resident medical officer or one of the resident medical officers of the asylum, or of the division of which he is appointed superintendent, unless a Secretary of State authorise the committee to appoint some other person than a medical officer to be superintendent;

(*d.*) A clerk;

(*e.*) A treasurer;

(*f.*) Such other officers and servants as they think fit.

(2.) The visiting committee may appoint a minister of any religious persuasion to attend patients of the religious persuasion to which the minister belongs. Lunacy Act, 1889, s. 77.

(3.) The committee may remove any person appointed under this section, and if the office of chaplain, medical officer, superintendent, clerk, or treasurer becomes vacant, the committee shall appoint a person to fill the vacancy subject to the restrictions affecting the original appointment, and they may in their discretion fill any vacancies among other officers and servants of the asylum.

(4.) The committee may also appoint a visiting physician or surgeon to the asylum.

(5.) The salaries, wages, and remuneration of every person appointed under this section shall be fixed by the committee.

Note 276.—(*a*) By the Juries Act, 1870, 33 & 34 Vict. c. 77, Schedule, "keepers in public lunatic asylums" are exempt from serving on juries. The word "keeper," does not occur in any of the Lunacy Acts; but probably the word "attendant" may be regarded as synonymous with the word "keeper." The expression, "public lunatic asylums" appears to be confined to county and borough asylums, and not to include either registered hospitals or licensed houses.

(1.) *a.* (*b*) The chaplain is not required by the statute to reside in the asylum; and if he do so reside, his residence will be rateable in the ordinary manner. See *Congreve* v. *Upton Overseers* (9 L. T., 684; 33 L. J., M. C., 83; 4 B. & S., 857). It seems, however, that a residence within the asylum may very properly be provided for the chaplain. In the case just cited, Blackburn, J., observed: "I think that the gentlemen who have the management of the asylum have done very right in having a chaplain upon the spot, and that it is not a misapplication of the funds to provide a house for him." See also the 34 & 35 Vict. c. 66, "An Act to amend and define the law relating to private chapels, and to chapels belonging to colleges, schools, hospitals, asylums, and other public institutions."

(1.) *b.* (*c*) The Medical Act, 21 & 22 Vict. c. 90, sec. 36, enacts that no person shall hold any appointment as a physician, or surgeon, or other medical officer, in any lunatic asylum, unless he be registered under that Act.

Sect. 277.—(1.) The licence of the chaplain of an asylum shall be revocable by the bishop. The chaplain.

(2.) The chaplain, or his substitute approved by the committee, shall perform in the chapel of the asylum, or in some other convenient place belonging to the asylum, divine service according to the rites of the Church of England on every Sunday, Christmas-day, and Good- 16 & 17 Vict. c. 97, s. 55.

Friday. He shall also perform divine service, and such other services according to the rites of the Church of England as the committee direct, at such times as they appoint.

(3.) If a patient is of a religious persuasion differing from that of the established Church, a minister of his persuasion, at the request of the patient or his friends, may, with the consent of the medical officer and under such regulations as he approves, visit the patient.

Books and accounts. 16 & 17 Vict. c. 97, s. 58. Local Government Act, 1888, ss. 71, 86 (1).

Sect. 278.—(1.) The clerk of the asylum shall keep all books and documents which the visiting committee are required to keep or direct to be kept.

(2.) He shall also keep an account of the receipts and expenditure on account of the asylum.

(3.) Before the thirtieth day of September in each year, or such other date as the Local Government Board appoint, he shall send an abstract of the account for the previous year, ending on the thirty-first day of March, or such other date as the Local Government Board appoint, to the Local Government Board, and to the Commissioners.

(4.) The abstract shall contain such particulars and be in such form as the Local Government Board direct.

(5.) Within one month from the receipt of the abstract a copy thereof shall be laid before both Houses of Parliament, if Parliament is then sitting, and if not, within one month from the commencement of the next session.

16 & 17 Vict. c. 97, s. 59.

(6.) The treasurer and every officer of an asylum who receives or expends money or goods on account of the asylum shall keep accounts of his receipts and expenditure.

(7.) This section shall not affect any order made by the Local Government Board before the commencement of this Act.

Accounts of county asylums. Local Government Act, 1888, s. 86 (1).

Sect. 279.—The accounts of every asylum belonging wholly or in part to a county council and of the visiting committee and officers thereof shall be subject to the provisions of the Local Government Act, 1888, relating to the accounts of county councils.

Pensions.

Pensions to officers. 16 & 17 Vict. c. 97, s. 57. 25 & 26 Vict. c. 111, s. 12.

Sect. 280.—(1.) The visiting committee may grant to any superintendent, chaplain, matron, or other officer or servant of the asylum, who is incapacitated by confirmed illness, age, or infirmity, or who has been an officer or servant in the asylum for not less than fifteen years (*a*) and

is not less than fifty years old, such superannuation allowance as the committee think fit.

(2.) Where the offices of superintendent and matron are held by man and wife, and a superannuation allowance has been granted to the superintendent, the committee may, if the matron has been an officer of the asylum for not less than twenty years, grant her such superannuation allowance as they think fit, although she is not incapacitated by illness, age, or infirmity: Provided that, if any such matron is appointed to a public office or to any office under this Act in respect of which she receives a salary, her superannuation allowance shall, so long as she receives such salary, be suspended or diminished by the amount of the salary according as the salary is or is not greater than the allowance. 25 & 26 Vict. c. 111, s. 13.

(3.) A superannuation allowance shall not exceed two-thirds of the salary paid to the superannuated person at the date of superannuation and such further sum (if any) as the visitors think fit to grant, having regard to the value of the lodgings, rations, and other allowances enjoyed by the superannuated person.

Note 280.—(1.) (*a*) This period has been fixed in accordance with the following recommendation:—"It would further seem desirable to reduce the time at which committees of visitors may grant superannuation allowances to their medical officers. Their duties are so peculiar, and such painful consequences are known to result from incessant intercourse with the various forms of this distressing disease, when prolonged for many years, that your committee believe it would tend to greater efficiency of service, if the period which stands at present at twenty years were reduced to fifteen." ('Report from the Select Committee of the House of Commons on Lunatics,' 27th July, 1860; Sess. Papers, No. 495, p. vi.)

Sect. 281.—(1.) A superannuation allowance shall not be granted unless seven clear days' notice of the meeting at which the same is to be granted, and of the intention to determine thereat the question of such grant, has been given, nor unless three visitors concur in and sign the order granting the same. Mode in which pension to be granted.

(2.) A superannuation allowance granted under this Act shall be paid out of the county or borough fund as the case may be.

(3.) A superannuation allowance payable out of the county fund shall not be paid until the grant thereof has been confirmed by the county council.

Sect. 282.—When any officer is transferred from one asylum to another, wholly or in part belonging to the Service in several asylums of

the same local authority. Lunacy Act, 1889, s. 70.

same local authority, his service in all such asylums shall be counted for the purpose of computing his pension, superannuation allowance, or gratuity for length of service, as if all such asylums had constituted only one asylum.

PART X.

EXPENSES OF PAUPER LUNATICS.

Weekly Expenses.

Weekly sum to be fixed. 16 & 17 Vict. c. 97, s. 54.

Sect. 283.—(1.) Every visiting committee shall fix a weekly sum, not exceeding fourteen shillings, for the expenses of maintenance and other expenses of each pauper lunatic in the asylum, and of such amount that the total of such weekly sums shall be sufficient to defray such expenses and also the salaries of the officers and attendants of the asylum, and such weekly sum may from time to time be altered.

(2.) If fourteen shillings a week is found insufficient for the purposes aforesaid, the local authority to whom the asylum belongs, may by order direct such addition to be made to the weekly sum as to the local authority seems necessary, and every such order shall be signed by the clerk of the local authority, and forthwith published in a local newspaper.

25 & 26 Vict. c. 111, s. 6.

(3.) A committee may fix a greater weekly sum, not exceeding fourteen shillings, to be charged in respect of pauper lunatics other than those sent from or settled in a parish or place within the county or borough to which the asylum belongs.

(4.) Any excess created by the payment of such greater weekly sum may, if the visiting committee think fit, be paid over to a building and repair fund, to be applied by the committee to the altering, repairing, or improving the asylum, and the committee shall annually submit to the local authority a detailed statement of the manner in which such fund has been expended.

Uniform charge where more than one asylum. Local Government Act, 1888, s. 86 (7).

Sect. 284.—Where there is more than one asylum under the management and control of a visiting committee, the committee may, subject to any direction given by the local authority, provide that a uniform charge shall be made for the maintenance of lunatics in the several asylums, and that for that purpose any surplus arising on the accounts of one asylum shall be

applied to meet the deficit arising on the accounts of another asylum.

Medical Fees and other Expenses.

Payment of medical fees and other expenses. Lunacy Act, 1889, s. 25.

Sect. 285.—(1.) Whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of this Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination and the inquiry, whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also if an order is made for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper.

(2.) The guardians upon whom an order is made under this section may recover any sums paid thereunder against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance under this Act.

Liability for Expenses of Maintenance.

Chargeability of pauper lunatic. 16 & 17 Vict. c. 97, s. 95. Lunacy Act, 1889, s. 33.

Sect. 286.—(1.) Where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution for lunatics becomes a pauper, he shall be deemed to be chargeable to the union from which he was sent, until it has been established, as by this Act provided, that the lunatic is settled in some other union, or that it cannot be ascertained in what union the lunatic was settled, and the manager of the institution shall forthwith give to the authority liable for his maintenance notice that the lunatic has become destitute.

(2.) Every pauper lunatic who is chargeable to a union shall, while he resides in an institution for lunatics be deemed for the purposes of his settlement to be resident in the union to which he is chargeable.

Orders for maintenance of lunatics. 16 & 17 Vict. c. 97, s. 96.

Sect. 287.—(1.) The justice by whom any pauper lunatic is sent to any institution for lunatics under this Act, or any two justices of the county or borough in which the institution for lunatics where any pauper lunatic is confined is situate, or from any part of which

any pauper lunatic has been sent, or any two justices, being visitors of such institution, may make an order upon the guardians of the union to which the lunatic is chargeable, for payment to the treasurer, or manager of the institution, of the reasonable charges of the lodging, maintenance, medicine, clothing, and care (in this Act referred to as the expenses of maintenance) of such lunatic.

(2.) Any such order may be retrospective or prospective, or partly retrospective and partly prospective.

(3.) An order under this section shall not be subject to appeal.

Inquiry into settlement. 16 & 17 Vict. c. 97, s. 97.

Sect. 288.—Any two justices for the county or borough in which an institution for lunatics where a pauper lunatic is or has been confined is situate, or to which such institution being an asylum wholly or in part belongs, or from any part of which any pauper lunatic is or has been sent for confinement, may, at any time, inquire into the settlement of the pauper lunatic.

Adjudication as to settlement. 16 & 17 Vict. c. 97, s. 97.

Sect. 289.—If satisfactory evidence can be obtained as to such settlement in any union, such justices (*a*) shall, by order, (*b*) adjudge the settlement, and order the guardians of the union to pay (*c*) to the guardians of any other union the expenses incurred in or about the examination (*d*) of the lunatic and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics (in this Act referred to as the incidental expenses), and all moneys paid by such last-mentioned guardians to the treasurer or manager of the institution for the expenses of maintenance of the lunatic, and incurred (*e*) within twelve months (*f*) previous to the date of such order, and, if the lunatic is still in confinement, also to pay to the treasurer or manager of the institution the reasonable expenses of the future maintenance of such lunatic. (*g*)

Note 289.—(*a*) See sec. 292.

(*b*) *Reg.* v. *Tyrrwhitt*, 17 L. J., M.C., 141; *Reg.* v. *Rhyddlan*, 19 L. J., M.C., 110 (under 8 & 9 Vict. c. 126); *Reg.* v. *Liverpool*, 23 L. J., M.C., 137.

(*c*) As to statement of sums to be paid: *Reg.* v. *Cornwall, JJ.* 14 L. J., M.C., 46 (under 9 Geo. IV. c. 40); *Reg.* v. *Hatfield Peverel*, 14 Q. B., 298, 18 L. J., M.C., 225 (under 8 & 9 Vict. c. 100 and c. 126).

(*d*) The Poor Law Board expressed an opinion that this word refers solely to the "examination" as to the alleged lunacy and propriety of confinement, and does not include any

inquiry into the settlement ("Official Circular," 1856, No. 53 (N.S.) p. 25).

(*e*) *Reg.* v. *Minster*, 14 Q. B., 349 (under 8 & 9 Vict. c. 126).

(*f*) This limitation of time applies only to the moneys paid and incurred for the lodging, maintenance, &c., and not to the expenses previously mentioned. (*Reg.* v. *Wolverhampton*, 14 Q. B., 318; *Reg.* v. *Winster*, 14 Q. B., 344 (under 8 & 9 Vict. c. 126).)

(*g*) The following are some of the cases which have been decided under sect. 97 of the Act 16 & 17 Vict. c. 97, which is more or less the foundation of sec. 289 of the Lunacy Act, 1890:—

Jurisdiction of Justices:—A justice of a borough not having a quarter session has no jurisdiction under sec. 67 of 16 & 17 Vict. c. 97, to send a pauper lunatic to an asylum, and this by reason of the meaning assigned to the word "borough" by the interpretation clause, sec. 132. The jurisdiction of justices under sec. 97, to adjudge the settlement of a pauper lunatic and make an order for his maintenance, attaches where he is *de facto* confined in an asylum; and their order is not invalidated by the fact he was sent there by a justice who had no jurisdiction.—*Per* Wightman and Mellor, JJ.; Crompton, J., *dissentiente*. (*Reg.* v. *Faversham*, 31 L. J., M.C., 116; 6 L. T., 415; 2 B. & S., 275.)

Direction of Order:—An order of justices directed to the guardians and their clerk, but ordering the clerk to pay, is a sufficient order on the guardians under this section. An order adjudicating the settlement of a pauper lunatic, under 16 & 17 Vict. c. 97, sec. 97, cannot be objected to on the ground of an insufficient recital of an order sending the lunatic to an asylum. The jurisdiction of the justices attaches on the *de facto* confinement of the individual as a pauper lunatic; and the order for admission to the asylum will be presumed to be good until it is shown to be bad. (*Reg.* v. *Crediton*, 31 L. T. (O.S.) 114; 1 E. B. & E., 231; 4 Jur. (N.S.) 926; 27 L. J., M.C., 265.)

Unemancipated Son in Asylum—Father afterwards breaking his Residence.—A boy, eighteen years of age, having resided, unemancipated, with his father for more than five years in A., a parish in the S. Union, became insane, and was removed as a pauper lunatic to an asylum, the expense of his maintenance, &c., being paid by the S. Union. After three years, the lunatic still being in the asylum, the father removed altogether from A., upon which an order of justices was made under section 97 of 16 & 17 Vict. c 97, adjudging the lunatic to be settled in the parish of G. (the place of his father's settlement), and directing that parish to pay the cost of his maintenance, &c.; but it was held that the order was invalid, and that the cost of maintenance ought still to be borne by the S. Union, under section 102. (*Reg.* v. *St. Giles-in-the-Field*, 30 L. J., M.C., 12; 3 L. T., 292.)

Lunatic Wife living apart from her Husband.—Where a woman who is residing separate from her husband, and in a different parish, is sent to an asylum as a pauper lunatic under 16 & 17 Vict. c. 97, the order for her maintenance is properly made on the parish of her husband's settlement under section 97, and ought not to be made under section 102 on the union comprising the parish from which the husband may be irremovable. (*Reg.* v. *East Redford*, 3 B. & S., 122; 32 L. J., M.C., 17.)

Lunatic Wife—Order of Maintenance.—The maintenance of a wife in a lunatic asylum at the cost of a parish is relief to her husband under 4 & 5 Wm. IV. c. 76, sec. 56; and the time during which she is so maintained must therefore be deducted in computing the period of the husband's residence, under 9 & 10 Vict. c. 66, sec. 1. Where, therefore, a man had resided for more than five years in a parish not in a union, but less than five years after deducting the time during which his wife had been confined in an asylum, it was held that he was not irremovable by reason of residence, and that, consequently, on her being sent again to the asylum, the order for her maintenance could not lawfully have been made on the parish of his residence under sec. 102 of the present Act, but was properly made on the parish of his settlement under sec. 97.—(*Reg.* v. *St. George, Bloomsbury*, 32 L. J., M.C., 217; 4 B. & S., 108.)

Irremovability—Breach of Residence.—A domestic servant, who had acquired a status of irremovability by residence, having become insane, was taken from her master's house to the residence of her parents, in another union. Her wages were paid in full, and her master had no intention of receiving her back. After staying with her parents for one night, she was sent to the workhouse of the union in which they were residing, and thence to the asylum:—*Held*, that the removal of the lunatic from the parish in which she had been residing in her master's house did not constitute a break in her residence in that parish, so as to deprive her of her status of irremovability, and that the order for her maintenance in the asylum ought, therefore, to have been made, under sec. 102, on the union comprising that parish, and not under sec. 97, on the union comprising the parish of her settlement.—*Reg.* v. *Whitby Union*, L. R., 5 Q. B., 325; 39 L. J., M.C., 97; 22 L. T., 336.

Unemancipated Child of Irish Parents—Birth Settlement.—A legitimate child whose parents have no settlement, though unemancipated, has a settlement in the parish in which it was born. Where a legitimate child, born in England, is removed under 16 & 17 Vict. c. 97, to an asylum as a pauper lunatic, being then above the age of sixteen, but unemancipated, and living with his parents (the father being an Irishman, having no settlement in England, and the mother being an Englishwoman, not having any known settlement), an order for his

maintenance is properly made under sec. 97 on the parish of his birth, and ought not to made under sec. 98 on the county, as for a pauper whose place of settlement cannot be ascertained. (*Reg.* v. *Newchurch*, 3 B. & S., 107 ; 9 Jur., (N.S.) 536 ; 7 L. T., 271 ; 32 L. J., M.C., 19.)

If settlement cannot be ascertained a pauper lunatic may be made chargeable to a borough or county. 16 & 17 Vict. c. 97, s. 98. 25 & 26 Vict. c. 111, s. 45. Lunacy Act, 1889, s. 33 (2).

Sect. 290.—(1.) If a pauper lunatic is not settled in the union from which he was sent to an institution for lunatics, and his settlement cannot be ascertained, (*a*) and the lunatic was sent from a quarter sessions borough which is free from contributing to the payment of the expenses of pauper lunatics chargeable to the county in which the borough is situate, or from a place not in such a borough, then the relieving officer of the union shall give to the clerk of the local authority within whose area the lunatic is found, ten days' notice to appear before two justices having jurisdiction within such area, at a time and place to be appointed in the notice. (*b*)

(2.) Upon the appearance of the clerk of the local authority, in person or by deputy, or in case of non-appearance upon proof of due service of the notice, any two or more such justices may inquire into the circumstances of the case, and adjudge the pauper lunatic to be chargeable to the local authority, and may order the treasurer of the local authority to pay to the guardians of any union the incidental expenses of the lunatic, and all moneys paid by such guardians to the treasurer or manager of the institution for lunatics for the expenses of maintenance of the lunatic, and incurred within twelve months previous to the date of the order, and if the lunatic is still in confinement, to pay to such treasurer or manager the expenses of the future maintenance of the lunatic.

(3.) Such justices may direct such further inquiries as they think fit to ascertain the union in which any pauper lunatic is settled, and delay their adjudication until after such further inquiries.

(4.) Every local authority to whom a pauper lunatic is adjudged to be chargeable may at any time thereafter inquire as to the union in which the lunatic is settled, and may procure him to be adjudged to be settled in any union.

Note 290.—(1.) (*a*) This will include the case of a person born in Ireland, or Scotland, or the Channel Islands, or any foreign country, and not having gained any settlement in England. (*Clerk of the Peace for Somersetshire* v. *Shipham*, 32 L. J., M.C., 83 ; 9 Jur., (N.S.) 869 ; 7 L. T., 673.

(1.) (*b*) When a pauper prisoner without a settlement becomes

insane during confinement in a prison to which the Prison Act, 1877, applies, the expenses of inquiring into his insanity and of removing him to a county lunatic asylum and of his maintenance during the currency of his sentence are, by secs. 4 and 57 of that Act to be defrayed out of moneys provided by Parliament; and the effect of those sections is to repeal the provisions of 3 & 4 Vict. c. 54, sec. 2, which made the county liable. (*Reg.* v. *Mews*, L R., 8 App. Cas., 339.)

Provision for reimbursement of expenses of a lunatic afterwards adjudged to be settled in a union. 16 & 17 Vict. c. 97, s. 99.

Sect. 291.—If after a pauper lunatic has been sent to an institution for lunatics, and has been adjudged chargeable to a local authority, the local authority procure the lunatic to be adjudged to be settled in a union, any two justices of the county or borough in which the institution where the lunatic is confined is situate, or from any part of which the lunatic was sent for confinement, or any two justices, being visitors of the institution, may make an order upon the guardians of the union for payment to the treasurer of the local authority of all expenses of maintenance of the lunatic paid by such treasurer to the treasurer or manager of the institution, and incurred within twelve months previous to the order, and, if the lunatic is still in confinement, also for payment to such treasurer or manager of the expenses of the future maintenance of the lunatic. (*a*)

Note 291.—(*a*) A pauper lunatic having died seised of a small amount of real estate, it was held that the amount of sums paid by guardians of the union to which the pauper was chargeable (though not the union in which he died), in respect of his maintenance at a lunatic asylum, was a debt recoverable in a creditor's action against his personal and real representatives, though no steps to recover payment of expenses incurred in respect of such maintenance were taken by the guardians in the pauper's lifetime. (*Webster, In re, Guardians of Derby Union* v. *Sharratt*, L. R., 27 Ch. D., 710.)

Orders as to lunatic paupers. 16 & 17 Vict. c. 97, s. 100. 24 & 25 Vict. c. 55, s. 7.

Sect. 292.—(1.) Justices by this Act authorised to make orders for payment of expenses upon guardians of unions, may make such orders, although the union is not within the jurisdiction of the justices.

(2.) Orders as to the settlement or chargeability of pauper lunatics and for payment of expenses may be obtained by the guardians of any union.

Order for maintenance to extend to any place where the lunatic is. 16 & 17 Vict. c. 97, s. 101.

Sect. 293.—An order for payment of the future expenses of maintenance of a lunatic shall extend to the payment of such expenses to the treasurer or manager of any institution for lunatics to which he is removed or in which he is for the time being confined.

Sect. 294.—All incidental expenses and expenses of maintenance of a lunatic removed to an institution for lunatics who would at the time of his removal have been exempt from removal to the parish of his settlement or the country of his birth by reason of some provision of the Poor Removal Act, 1846, as amended by subsequent Acts, shall be paid by the guardians of the union wherein the lunatic has acquired such exemption, and no order shall be made in respect of such lunatic under any provision contained in this or any other Act upon the guardians of the union in which the lunatic is settled while the above-mentioned expenses are to be paid and charged as herein provided.

The costs of pauper lunatics who are irremoveable. 16 & 17 Vict. c. 97, s. 102. 9 & 10 Vict. c. 66.

Sect. 295.—The guardians upon whom an order might be made under this Act for the payment of any money may pay the same without an order, and may charge the same to such account as they could have done if an order had been made.

Charges may be paid without orders of justices. 16 & 17 Vict. c. 97, s. 103.

Sect. 296.—The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic. (*a*)

The liability of relations of pauper not to be affected. 16 & 17 Vict. c. 97, s. 105.

Note 296.—(*a*) 43 Eliz. c. 2, sec. 6, in the Revised Edition of the Statutes; 59 Geo. IV. c. 12, sec. 26; 4 & 5 Wm. IV. c. 76, secs. 56, 57, 58, 59, 78; 7 & 8 Vict. c. 101, sec. 25; 11 & 12 Vict. c. 110, sec. 8; and 33 & 34 Vict. c. 93, sec. 14. See also 13 & 14 Vict. c. 101, sec. 5, *ante*.

Sect. 297.—The necessary expenses attending the removal, discharge, or burial of a pauper lunatic in any institution for lunatics shall be borne by the union to which the lunatic is chargeable, or the local authority liable for his maintenance, and shall be paid by the guardians of the union or by the treasurer of the local authority.

Expenses of removal, discharge, and burial. 16 & 17 Vict. c. 97, s. 120.

Sect. 298.—The provisions of this Act for the payment of expenses in relation to pauper lunatics shall be applicable with respect to persons confined as pauper lunatics sent to any institution for lunatics under any other Act authorising their reception therein as pauper lunatics, and (save as herein otherwise provided concerning any lunatic who shall appear to have any real or personal property applicable to his maintenance) with respect to all other lunatics sent to any institution for lunatics under any order of a justice or justices made

Provisions of this Act as to expenses to extend to pauper lunatics sent to asylums under any other Act. 16 & 17 Vict. c. 97, s. 118.

before the commencement of this Act, or under a summary reception order made by a justice under this Act, or under an order made by two or more commissioners before or after the commencement of this Act, as if such last-mentioned lunatics were at the time of being so sent actually chargeable to the union from which they are sent.

Application of Lunatic's Property.

Power to recover expenses against lunatic's estate. Lunacy Act, 1889, ss. 26, 76 (2).

Sect. 299.—(1.) If it appears to any justice (*a*) that a lunatic, chargeable (*b*) to any union, or local authority, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union, or the treasurer or some other officer of the local authority, to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land (*c*) of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic. (*d*)

(2.) If any trustee, or the Bank, or any other society or person (*e*) having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union, or to the treasurer or other officer of the local authority to which respectively a lunatic is chargeable, any money or other property of the lunatic, to repay the charges in this section mentioned, whether pursuant to an order under this section, or without an order, the receipt of such relieving officer, treasurer, or officer shall be a good discharge. (*f*)

Note 299.—(1.) (*a*) The application as to this on behalf of the guardians should be made by their clerk.

(1.) (*b*) This section can only be acted upon during the lifetime of a lunatic.

(1.) (*c*) Sec. 104 of the Lunatic Asylums Act, 1853, on which this 299th section is founded, contained here the words "and tenements," "and other income of such lunatic."

(1.) (*d*) Where a person of unsound mind had been maintained in a lunatic asylum by his parish, a portion of a capital of a fund belonging to him, which had been paid in under the Trustee Relief Act, was ordered by the Court of Chancery to be applied in defraying the past charges of the parish. The Court has a discretion to order such repayment or not, as it may think most for the benefit of the lunatic. *Query:* Whether, under the above circumstances, justices have jurisdiction to order seizure of capital, or only of income? (*Re Buckley's Trust*, 1 Johnson, 700.)

J. F. died intestate, and a widow, leaving a daughter, the only person entitled to distribution of her effects. The daughter had been for some years in the county asylum, maintained at the charge of Mile End Old Town, and no committee of person or estate had been appointed, but an order of two justices, to seize and sell, had been obtained under 16 & 17 Vict. c. 97, sec. 104. The mother left a sum of money, principally in the funds, in the name of her late husband, under whose will she was entitled to it. After the proper citations, the Court of Probate, under sec. 73 of the Probate Act, granted administration of the goods of J. F. to the clerk to the guardians of Mile End Old Town, for the use and benefit of the lunatic, limited to the period of her lunacy. An inventory and justified security to be required. (*Mile End Old Town* v. *Findlay*, 9 L. T., 346; 9 Jur., (N.S.) 1253; 33 L. J., Prob., 21.)

The Vice-Chancellor, in ordering the dividends of a fund in Court to be paid for the future benefit of a lunatic not so found by inquisition, refused to allow a claim made by the City of London Union for past maintenance of the lunatic in the workhouse of that union. (*Re Coleman's Trust*, 1 W. N., 209; 14 L. T., 587.)

(2.) (*e*) As, for instance, the trustees or stewards or other officers of any savings bank, or any friendly or benefit society. This provision is discretionary.

(2.) (*f*) It seems that this section, in both its clauses, can only be acted upon during the lifetime of the lunatic. The language throughout contemplates that the lunatic will be living at the time; and, indeed, after his death, the property is no longer his. No proceedings, therefore, can be taken under this enactment after the lunatic's death; but as to the property of deceased paupers, see the last clause of sec. 16 of 12 & 13 Vict. c. 103, *ante*.

Order by county court judge. Lunacy Act, 1889, s. 76 (3).

Sect. 300.—An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them under this Act in relation to a lunatic, and such order may be enforced against any property of the lunatic in the same way as a judgment of the county court. (*a*)

Note 300.—(*a*) Under the Lunatic Asylums Act, 1853, sec. 10, the guardians of the poor of a parish to which a pauper lunatic is chargeable, are only entitled in the event of his becoming entitled to property, to recover six years' arrears in respect of the sums paid by them for his maintenance in an asylum. (*Newbegin's Estate, In re*, L. R., 36 Ch. D., 477 (1887).)

Appeals.

Persons aggrieved by refusal of an order may appeal to the sessions. 16 & 17 Vict. c. 97, s. 106.

Sect. 301.—(1.) Any person aggrieved by the refusal of an order by any justice or justices as to any matter within the jurisdiction of a justice or justices under this Part of this Act, may appeal to a court of quarter sessions upon giving to the justice or justices against whom the appeal is made fourteen clear days' notice of appeal.

(2.) The determination of the court upon the appeal shall be final.

Party obtaining order of adjudication to send copy thereof and statement of grounds. 16 & 17 Vict. c. 97, s. 107.

Sect. 302.—The guardians of any union, and the clerk of a local authority, obtaining any order under this Act adjudging the settlement of any lunatic to be in any union, shall, within a reasonable time after the date of the order, send or deliver, by post or otherwise, to the guardians of the union in which the lunatic is adjudged to be settled, a copy of the order, and also a statement in writing under the hand of the clerk to the guardians, or under the hand of the clerk of the local authority, as the case may be, stating the description and address of the guardians or clerk obtaining the order, and the place of confinement of the lunatic, and setting forth the grounds of the adjudication, including the particulars of any settlement relied upon in support thereof; and on the hearing of any appeal against the order the respondents shall not give evidence of any other grounds in support of the order than those set forth in such statement.

Appeal against order of adjudication. 16 & 17 Vict. c. 97, s. 108.

Sect. 303.—If the guardians of any union feel aggrieved by any order adjudging the settlement of a lunatic, (*a*) they may appeal to the quarter sessions for the county (*b*) or borough on behalf of which the order has been obtained, or in which the union obtaining the order is situate, or, in case such union extends into several counties, (*c*) then to the next quarter sessions for the county or borough in which the institution for lunatics where the lunatic is or has been confined is situate, and such sessions, (*d*) upon hearing the appeal, shall have full power finally to determine the matter.

Note 303.—(*a*) *Kettering Union* v. *Northampton Asylum*, 34 L. J., M. C., 198; 11 Jur., (N.S.) 999; 13 L. T., 199; 6 B. & S., 653.

(*b*) An order, adjudging the settlement, &c., of a pauper lunatic confined in the borough lunatic asylum, was obtained by a parish situate wholly within a borough, having separate quarter sessions, and was made by two justices of the borough, the asylum being also within the borough:—*Held*, that the appeal against the order was to the county, and not to the

borough quarter sessions. (*Reg.* v. *Warwickshire JJ.*, 28 L. J., M. C., 249; 5 Jur., (N.S.) 1292.) But this difficulty is met by the insertion in **A** 303, of the words "or borough."

(*c*) **A** 303, herein meets the case of *Reg.* v. *Kent JJ.*, where an order was obtained by a union comprising parishes, some of which were within a city, which, though in the county, had separate quarter sessions, and some in the county without the city,—and it was held, that the appeal against the order should be made to the quarter sessions of such county, and not to the sessions of the borough within which the asylum was situate; the Court being of opinion that the words "several jurisdictions" must be construed as meaning "several such jurisdictions," *i.e.* counties. (*Reg.* v. *Kent JJ.*, 35 L. J., M. C., 201; L. R., 1 Q. B., 385; 7 B. & S., 304.)

(*d*) *Reg.* v. *Lancashire JJ.*, 18 Q. B., 361; 21 L. J., M. C., 164 (under 8 & 9 Vict. c. 126.) At the hearing of an appeal against an order made by justices adjudicating the settlement of a pauper lunatic, and ordering payment for his maintenance, the Court have power to adjourn the hearing to the next sessions, and this may done after the trial of the appeal has been partly proceeded with. But the power of so adjourning ought to be cautiously and carefully exercised. (*Reg.* v. *Cambridge*, 30 L. J., M. C., 137; 1 E. B. & E., 61; 7 Jur., (N.S.) 1073.)

Copy of depositions to be furnished on application. 16 & 17 Vict. c. 97, s. 109.

Sect. 304.—(1.) The clerk to the justices making an order adjudging the settlement of a lunatic, or the clerk of the peace in the case hereinafter provided for, shall keep the depositions upon which the order was made, and shall, within seven days after application by any party authorised to appeal against the order, furnish a copy of the depositions to the applicant.

(2.) The person applying for a copy of the depositions shall pay for the same at the rate of twopence for every folio of seventy-two words.

(3.) No omission or delay in furnishing a copy of the depositions shall be a ground of appeal against the order.

(4.) On the trial of any appeal no such order shall be quashed or set aside either wholly or in part on the ground that the depositions do not furnish sufficient evidence to support, or that any matter therein contained or omitted raises an objection to the order or grounds on which the same was made. (*a*)

(5.) If the justices who make any such order have no clerk, they shall send or deliver the depositions to the clerk of the peace of the county or borough to the quarter sessions whereof the appeal lies, and the party obtaining such order shall, in the statement of the grounds of adjudication, state that the justices have no clerk.

Note 304.—(4.) (*a*) See *Reg.* v. *St. Peter, Barton-upon-Humber*, 17 Q. B., 630; 21 L. J., M. C., 23.

No appeal if notice not given within a certain time. 16 & 17 Vict. c. 97, s. 110.

Sect. 305.—No appeal shall be allowed against any such order if notice in writing of the appeal is not sent or delivered by post or otherwise to the party on whose application the order was obtained within twenty-one days after the sending or delivery, as hereinbefore directed, of a copy of the order, and such statement as hereinbefore mentioned, unless within the twenty-one days a copy of the depositions has been applied for by the party intending to appeal, in which case a further period of fourteen days after the sending of such copy shall be allowed for giving notice of appeal. (*a*)

Note 305.—(*a*) *Reg.* v. *Glamorganshire JJ.*, 13 Q. B., 561 (under 8 & 9 Vict. c. 126).

Grounds of appeal to be stated. 16 & 17 Vict. c. 97, s. 111.

Sect. 306.—In every case where notice of appeal against such order is given the appellant shall, with the notice, or fourteen days at least (*a*) before the first day of the sessions at which the appeal is to be tried, send or deliver by post or otherwise to the respondent a statement in writing under his hand, or where the appellants are the guardians of a union, under the hand of the clerk to the guardians, of the grounds of such appeal; and the appellant shall not, on the hearing of any appeal, give evidence of any other grounds of appeal than those set forth in such statement.

Note 306.—(*a*) *Reg.* v. *Salop JJ.*, 8 A. & E., 173.

As to the sufficiency of statement of grounds of adjudication or appeal. s. 112.

Sect. 307.—(1.) Upon the hearing of any appeal against any such order no objection whatever on account of any defect in the form of setting forth any ground of adjudication or appeal in any such statement shall be allowed, and no objection to the reception of legal evidence offered in support of any such ground alleged to be set forth in any such statement shall prevail, unless the court is of opinion that such alleged ground is so imperfectly or incorrectly set forth as to be insufficient to enable the party receiving the same to inquire into the subject of such statement, and to prepare for trial.

(2.) In all cases where the court is of opinion that any such objection to such statement or to the reception of evidence ought to prevail, the court may, if it thinks fit, cause any such statement to be forthwith amended (*a*) by some officer of the court, or otherwise, on such terms as to payment of costs to the other party, or postponing the trial to another day in the same sessions, or to the

next subsequent sessions, or both payment of costs and postponement, as to the court appears just.

Note 307.—(2.) (*a*) By a local Act the churchwardens and overseers, together with the rector and twenty-one other persons, were declared to be the guardians of the poor of the parish of L. The justices made an order, under sec. 97, adjudging the settlement of a lunatic, on "the churchwardens and overseers of the parish of L." which was served on the overseers, but not on the guardians. On appeal the order was amended into an order "on the guardians of the poor of the parish of L.:"—*Held*, that both orders were bad; that the mistake in the first order was one of substance, and not of form; and that the alteration of the address was not such an amendment as could be made under sec. 113, as the order thus amended sought to affect new parties, who had never been before the Court. (*Reg.* v. *Liverpool*, 2 L. T., 173; 29 L. J., M. C., 137; 6 Jur., (N.S.) 1028.)

Power for court to amend order on account of omission or mistake. s. 113.

Sect. 308.—(1.) If, upon the trial of any appeal against any such order, or upon the return to a writ of certiorari, any objection is made on account of any omission or mistake in drawing up the order, and it is shown to the satisfaction of the court that sufficient grounds were proved before the justices making the order to authorise the drawing up thereof free from the omission or mistake, the court may, upon such terms as to payment of costs as it thinks fit, amend the order and give judgment as if no omission or mistake had existed.

(2.) No objection on account of any omission or mistake in any such order brought up upon a return to a writ of certiorari shall be allowed, unless the omission or mistake has been specified in the rule for issuing such writ of certiorari.

Power of court as to costs. ss. 114, 115.

Sect. 309.—(1.) Upon every such appeal the court before whom the same is brought may, if it thinks fit, order the party against whom the same is decided to pay to the other such costs and charges as may to the court appear just, and shall certify the amount thereof. (*a*)

(2.) If either of the parties to the appeal have included in the statement of grounds of adjudication or of appeal sent to the opposite party any grounds in support of the order or of appeal which, in the opinion of the court determining the appeal, are frivolous and vexatious, such party shall be liable, at the discretion of the court, to pay the whole or any part of the costs incurred by the other party in disputing any such grounds.

Note 309.—(1.) (*a*) The sessions by which the appeal is

heard and determined is alone competent to decide as to the costs; and an order for costs made at a subsequent sessions was therefore held to be invalid. (*Reg.* v. *Staffordshire JJ.*, 3 Jur., (N.S.) 1148; 26 L. J., M. C., 179.)

Decision upon appeal to be final. s. 116.

Sect. 310.—The decision of the court upon the hearing of any appeal against any such order, as well upon the sufficiency and effect of the statement of the grounds in support of the order and appeal, and of the copy or duplicate of the order sent to the appellant, as upon the amending or refusing to amend the order as aforesaid, or the statement of grounds, shall be final, and shall not be liable to be reviewed in any court by means of a writ of certiorari or mandamus or otherwise.

Abandonment of orders. s. 117.

Sect. 311.—(1.) In any case in which an order has been made as aforesaid, and a copy thereof sent as herein required, the party who has obtained the order, whether any notice of appeal against the order has been given or not, and whether any appeal has been entered or not, may abandon the order, by notice in writing under the hand of such party, or, where the order has been obtained by the guardians of a union, under the hand of the clerk to the guardians, to be sent by post or delivered to the appellant or the party entitled to appeal, and thereupon the order and all proceedings consequent thereon shall be void, and shall not be given in evidence, in case any other order for the same purposes is obtained.

(2.) In all cases of such abandonment the party abandoning shall pay to the appellant or the party entitled to appeal the costs which he has incurred by reason of the order and of all subsequent proceedings thereon.

(3.) The proper officer of the court before whom the appeal (if it had not been abandoned) might have been brought shall, upon application, tax and ascertain the costs, at any time, whether the court is sitting or not, upon production to him of the notice of abandonment, and upon proof to him that such reasonable notice of taxation, together with a copy of the bill of costs, has been given to the guardians, or clerk abandoning the order, as the distance between the parties shall in his judgment require; and thereupon the sum allowed for costs, including the usual costs of taxation, which such officer is hereby empowered to charge and receive, shall be endorsed upon the said notice of abandonment, and the said notice so endorsed shall be filed among the records of the said court.

Sect. 312.—In every case of an inquiry, or appeal as to the union in which a pauper lunatic is settled, the guardians, clerks of the guardians, and relieving officers of every union interested in the inquiry or appeal, and every person duly authorised by them respectively, and the clerk of the local authority interested in the inquiry or appeal, and every person duly authorised by him, shall at all reasonable times be allowed free access, in the presence of the medical attendant, to the lunatic to examine him as to the premises. (*a*)

Guardians and officers interested to have access to the lunatic. s. 119.

Note 312.—(*a*) This section does not mention the places or establishments to which it is intended to apply; but it will doubtless include hospitals and licensed houses as well as asylums. It will be observed that "clerks of the guardians," and "relieving officers," are specified; and that the visits referred to are limited to a particular purpose. With regard to the clerk's duty to act in these matters, both as respects orders and appeals, see the Regulations issued by the Poor Law Commissioners and the Poor Law Board (Glen's *Poor Law Board Orders*, 10th edition, 1887.)

Sect. 313.—The provisions of section thirty-one of the Summary Jurisdiction Act, 1879, shall not apply to appeals under this part of this Act.

Sect. 31 of 42 & 43 Vict. c. 49, not to apply.

Recovery of Expenses.

Sect. 314.—(1.) If the treasurer of any local authority, upon whom any order of justices for the payment of money under the provisions of this Act is made, refuses or neglects for twenty days after due notice of such order to pay the money, the money, together with the expenses of recovering the same, shall be recovered by distress and sale of the goods of the treasurer so refusing or neglecting, by warrant under the hands of any two justices authorised to make the order for payment of the money, or by an action at law, or by any other proceeding in a court of competent jurisdiction, against the treasurer.

Money ordered to be paid may be recovered by distress or action. 16 & 17 Vict. c. 97, s. 121.

(2.) If the guardians upon whom any such order is made (*a*) refuse or neglect for such time as aforesaid to pay the money, the same, together with the expenses of recovering the same, may be recovered by an action at law or by any other proceeding in any such court.

(3.) In case of any such action or proceeding no objection shall be taken to any default or want of form in any order for reception or maintenance, or in any certificate or adjudication under this Act, if such order or

adjudication has not been appealed against, or if appealed against has been affirmed.

Note 314.—(2.) (*a*) Probably, service of the order upon the chairman or the clerk of the board of guardians will suffice; but the better course will be to serve the order upon the board of guardians at one of their meetings.

PART XI.

PENALTIES, MISDEMEANOURS, AND PROCEEDINGS.

Lunatics not to be detained except in accordance with the Act.

Sect. 315.—(1.) Every person who, except under the provisions of this Act, receives or detains a lunatic, or alleged lunatic, in an institution for lunatics, or for payment takes charge of, receives to board or lodge, or detains a lunatic or alleged lunatic in an unlicensed house, shall be guilty of a misdemeanour, and in the latter case shall also be liable to a penalty not exceeding fifty pounds.

(2.) Except under the provisions of this Act, it shall not be lawful for any person (*a*) to receive or detain two or more lunatics in any house (*b*) unless the house is an institution for lunatics or workhouse.

(3.) Any person who receives or detains two or more lunatics in any house, except as aforesaid, shall be guilty of a misdemeanour.

Note 315.—(2.) (*a*) *Budd* v. *Foulkes*, 3 Camp., 404.

(2.) (*b*) The word "house," as here used, does not include workhouses (see **A** 203), or the military and naval asylums (see *Eighth Report* of the Commissioners, 1854, pp. 30–32).

Neglect to send notices on admission a misdemeanour. Lunacy Act, 1889, s. 85 (3).

Sect. 316.—The manager of any hospital or licensed house, and any person having charge of a single patient who omits to send to the Commissioners the prescribed documents and information upon the admission of a patient, or to make the prescribed entries, and give the prescribed notices upon the removal, discharge, or death of a patient, shall be guilty of a misdemeanour, and in the case of a single patient shall also be liable to a penalty not exceeding fifty pounds.

Misstatements. Lunacy Act, 1889, s. 23.

Sect. 317.—(1.) Any person who makes a wilful misstatement of any material fact in any petition, statement of particulars, or reception order under this Act, shall be guilty of a misdemeanour.

(2.) Any person who makes a wilful misstatement of any material fact in any medical or other certificate, or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

(3.) A prosecution for a misdemeanour under this section shall not take place except by order of the Commissioners, or by the direction of the Attorney-General or the Director of Public Prosecutions.

False entries. 8 & 9 Vict. c. 100, ss. 50, 54, 59, 90.

Sect. 318.—Any person who in any book, statement, or return, knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make any entry, shall be guilty of a misdemeanour.

Notice to coroner of death. 16 & 17 Vict. c. 96, s. 19. 25 & 26 Vict. c. 111, s. 44.

Sect. 319.—If the manager of an institution for lunatics, or the person having charge of a single patient, omits to send to the coroner notice of the death of a lunatic within the prescribed time, he shall be guilty of a misdemeanour.

Penalty for non-compliance with the Act and rules. Lunacy Act, 1889, s. 85 (1).

Sect. 320.—Any person who makes default in sending to the Commissioners or any other person any return, report, extract, copy, statement, notice, plan, or document, or any information within his knowledge or obtainable by him, when required so to do under this Act or any other Act relating to lunacy, or any rules made under this Act or in complying with the said Acts or rules, shall for each day or part of a day during which the default continues be liable to a penalty not exceeding ten pounds, unless a penalty is expressly imposed by this or any other Act for such default: Provided that all or any part of the cumulative penalties may be remitted by the court in any case in which it is made to appear to the satisfaction of the court that the original default or its continuance during any period of time arose from mere accident or oversight, and not from wilful or culpable neglect on the part of the person sued.

Obstruction. Lunacy Act, 1889, s. 85 (2).

Sect. 321.—(1.) Any person who obstructs any Commissioner or Chancery or other visitor in the exercise of the powers conferred by this or any other Act, shall for each offence be liable to a penalty not exceeding fifty pounds, and shall also be guilty of a misdemeanour.

16 & 17 Vict. c. 96, s. 34.

(2.) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Lord Chancellor or a Secretary of State to visit and examine any lunatic or supposed lunatic, or to inspect or inquire into the state of any institution for lunatics, gaol, or place wherein any lunatic or person

represented to be lunatic is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Commissioners to make any visit and examination or inquiry into the execution of such order, shall (without prejudice to any proceedings, and in addition to any punishment to which such person obstructing the execution of such order would otherwise be subject,) be liable for every such offence to a penalty not exceeding twenty pounds.

Illtreatment.
8 & 9 Vict. c. 100, s. 56.
16 & 17 Vict. c. 96, s. 9.
16 & 17 Vict. c. 97, s. 123.
27 & 28 Vict. c. 75, s. 13.

Sect. 322.—If any manager, officer, nurse, attendant, servant, or other person employed in an institution for lunatics or any person having charge of a lunatic, whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, illtreats or wilfully neglects a patient, he shall be guilty of a misdemeanour, (*a*) and, on conviction on indictment, shall be liable to fine or imprisonment, or to both fine and imprisonment at the discretion of the court, or be liable on summary conviction for every offence to a penalty not exceeding twenty pounds nor less than two pounds.

Note 322.—(*a*) As to prosecution for manslaughter, and admissibility of lunatic as witness, see *Reg.* v. *Hill* (5 Cox, C.C., 159).

Penalties for permitting escape and for rescue.
16 & 17 Vict. c. 97, s. 124.
25 & 26 Vict. c. 111, s. 39.

Sect. 323.—If any manager, officer, or servant of an institution for lunatics wilfully permits, or assists, or connives at the escape or attempted escape of a patient, or secretes a patient, he shall for every offence be liable to a penalty not exceeding twenty pounds nor less than two pounds.

Abuse of female lunatic.
Lunacy Act, 1889, s. 82.

Sect. 324.—If any manager, officer, nurse, attendant, or other person employed in any institution for lunatics (including an asylum for criminal lunatics), or workhouse, or any person having the care or charge of any single patient, or any attendant of any single patient, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the institution, or workhouse, or as a single patient, he shall be guilty of a misdemeanour, and, on conviction on indictment, shall be liable to be imprisoned with or without hard labour for any term not exceeding two years; and no consent or alleged consent of such female thereto shall be any defence to an indictment or prosecution for such offence.

By whom proceedings to be taken.

Sect. 325.—(1.) Except as by this Act otherwise provided, proceedings against any person for offences against this may be taken—

(*a.*) By the secretary of the Commissioners upon their order for any offence; 8 & 9 Vict. c. 100, s. 106.

(*b.*) By the clerk of the visitors of any licensed house for an offence committed within their jurisdiction; 16 & 17 Vict. c. 97, ss. 125, 126.

(*c.*) By the clerk of the visiting committee of an asylum for any offence by any person employed therein;

and such proceedings shall not abate by the death or removal of the prosecuting secretary or clerk, but the same may be continued by his successor, and in any such proceedings the prosecuting secretary or clerk shall be competent to be a witness.

(2.) Except as by this Act otherwise provided, it shall not be lawful to take such proceedings except by order of the Commissioners, or of visitors having jurisdiction in the place where the offence was committed, or with the consent of the Attorney-General or Solicitor-General.

Recovery and application of penalties.

Sect. 326.—All penalties enforceable under this Act shall be recovered summarily according to the provisions of the Summary Jurisdiction Acts, and shall be paid— 8 & 9 Vict. c. 100, s. 102. 16 & 17 Vict. c. 97, s. 127.

(*a.*) When recovered by the secretary of the Commissioners, to such secretary;

(*b.*) When recovered by the clerk of the visitors of a licensed house, to the clerk of the peace for the county or borough, to be applied in the same way as money received for licences granted by the justices of the county or borough;

(*c.*) When recovered by a clerk of the visiting committee of an asylum, to the treasurer of the asylum for the purposes thereof;

(*d.*) In all other cases to the treasurer of the county or borough for which the convicting justices acted.

Appeals.

Sect. 327.—Any person (*a*) aggrieved by an order of justices under this Act, other than orders adjudicating as to the settlement of a lunatic pauper and providing for his maintenance, may appeal to a court of quarter sessions, subject to the conditions and regulations of the Summary Jurisdiction Acts. 8 & 9 Vict. c. 100, s. 104. 16 & 17 Vict. c. 97, s. 128. 42 & 43 Vict. c. 49.

Note 327.—(*a*) It was held that the word "person" used as here in 16 & 17 Vict. c. 97, sec. 128, did not include overseers or guardians of the poor. (*Kettering Union* v. *Northampton Asylum*, 34 L. J., M. C., 198; 13 L. T., 199; 11 Jur., (N.S.) 999; 6 B. & S., 653.)

Secretary of State may direct prosecution. 8 & 9 Vict. c. 100, s. 56. Lunacy Act, 1889, s. 84.

Sect. 328.—A Secretary of State on the report of the Commissioners or visitors of any institution for lunatics may direct the Attorney-General to prosecute on the part of the Crown any person alleged to have committed a misdemeanour under this Act.

Evidence upon prosecution. Lunacy Act, 1889, s. 86.

Sect. 329.—(1.) Where any person is proceeded against under this Act on a charge of omitting to transmit or send any copy, list, notice, statement, report or other document required to be transmitted or sent by such person, the burden of proof that the same was transmitted or sent within the time required shall lie upon such person; but if he proves by the testimony of one witness upon oath that the copy, list, notice, statement, report or document in respect of which the proceeding is taken was properly addressed and put into the post in due time, or (in case of documents required to be sent to the Commissioners or a clerk of the peace or a clerk to guardians) left at the office of the Commissioners or of the clerk of the peace or clerk to guardians, such proof shall be a bar to all further proceedings in respect of such charge.

(2.) In proceedings under this Act, where a question arises whether a house is or is not a licensed house or registered as a hospital, it shall be presumed not to be so licensed or registered unless the licence or certificate of registration is produced, or sufficient evidence is given that a licence or certificate is in force.

Protection to persons putting the Act in force. Lunacy Act, 1889, s. 12.

Sect. 330.—(1.) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings whether on the ground of want of jurisdiction or on any other ground if such person has acted in good faith and with reasonable care.

(2.) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding

sub-section mentioned, or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a Judge thereof, be stayed upon such terms as to costs and otherwise as the Court or Judge may think fit, if the Court or Judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care. (*a*)

Note 330.—(2.) (*a*) With respect to the general questions raised by this section, the following cases may be referred to:—In a plea of justification for detention or recapture under a proper order and certificates, it is not necessary to aver that the person is a lunatic. Such order and certificates afford a sufficient justification for taking and detaining a wife from her husband. *Held*, that a plea of justification was not bad for not admitting or denying that the lunatic was the wife of the plaintiff, as in either case it justified the alleged trespass. (*Norris* v. *Seend*, 3 Ex., 782; 18 L. J., Ex., 300.)

The person ordering the confinement of an alleged lunatic in a licensed house is not protected; and at common law he would only be justified if the person confined was, in fact, a lunatic. Per Wightman, J. (alluding to sec. 99 of the Lunacy Act, 1845): "The section enumerates those who are to be protected, viz., the medical man, the keeper of the asylum and servants, leaving out the person signing the order for arrest." (*Fletcher* v. *Fletcher*, 1 E. & E., 420; 28 L. J., Q. B., 134.)

Actions by persons detained as lunatics. 8 & 9 Vict. c. 100, 105.

Sect. 331.—(1.) Any action brought by any person who has been detained as a lunatic against any person for anything done under this Act shall be commenced within twelve months next after the release of the party bringing the action, and shall be laid or brought in the county or borough where the cause of action arose, and not elsewhere.

(2.) If the action is brought in any other county or borough or is not commenced within the time limited for bringing the same, judgment shall be given for the defendant.

Commissioners and visitors may summon witnesses. 8 & 9 Vict. c. 100, ss. 100, 101. 25 & 26 Vict. c. 111, s. 46. Form 22.

Sect. 332.—(1.) The Commissioners or any two of them, and also the visitors of any licensed house, or any two of them, may, as they see occasion, require, by summons, under the common seal of the Commission, if by the Commissioners, and if by two only of the Commissioners or by two visitors, then under the hands and seals of such two Commissioners or two visitors, as the case may be, any person to appear before them to testify on oath touching any matters respecting which such Commissioners and visitors respectively are by this Act authorised to inquire (which oath

such Commissioners or visitors are hereby empowered to administer).

(2.) Every person who does not appear pursuant to the summons, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on being convicted thereof before a court of summary jurisdiction, for every such neglect or refusal be liable to a penalty not exceeding fifty pounds.

(3.) Any two or more Commissioners or visitors may, if they think fit, examine on oath any person appearing before them as a witness, without having been summoned.

(4.) Any Commissioners or visitors who summon a person to appear and give evidence may direct the secretary of the Commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance, the same to be considered as expenses incurred in the execution of this Act, and to be taken into account and paid accordingly.

PART XII.

MISCELLANEOUS PROVISIONS, DEFINITIONS, REPEAL.

Indemnity to Bank and others. Lunacy Regulation Act, 1853, s. 144. Lunacy Regulation Act, 1862, s. 17.

Sect. 333.—This Act, and every order purporting to be made under this Act, shall be a full indemnity and discharge to the Bank and every other company and society and their respective officers and servants, and all other persons respectively, for all acts and things done or permitted to be done pursuant thereto, or pursuant to the Rules under this Act, so far as relates to any property in which a lunatic is interested either in his own right, or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make the same.

Meaning of word commission in other Acts extended. Lunacy Regulation Act, 1853, s. 51; 1862, s. 5.

Sect. 334.—Where in any Act of Parliament, order or rule of court, or instrument, reference is made to a commission of lunacy, or the inquisition thereon, the general commission and the inquisition, or certificate operating as an inquisition, and the issue and verdict thereon respectively in this Act mentioned, shall be deemed to be included in the reference.

Pension of lunatic payable by public department. Lunacy Act, 1889, s. 55.

Sect. 335.—When any sum in respect of pay, pension, superannuation, or other allowance, or annuity under the control or management of any public department, is payable to any person, in respect either of service as a civil servant or of military or naval service or of provision for a widow or child of a person employed in civil, military, or naval service, and the person to whom the sum is payable is certified by a justice or minister of religion, and by a medical practitioner, to be unable by reason of mental disability to manage his or her affairs, the public department may pay so much of the said sum as the department may think fit to the institution or person having the care of the disabled person, and may pay the surplus, if any, or such part thereof, as the department may think fit, for or towards the maintenance and benefit of the wife or husband and relatives of the disabled person, and the department shall be discharged from all liability in respect of any sums so paid. Forms 16, 17.

Reception orders before the Act.

Sect. 336.—In the case of orders made before the commencement of this Act for the reception of private patients, the person who signed the reception order shall have all the powers and be subject to the obligations by this Act conferred or imposed upon the petitioner for a reception order, and the provisions of this Act relating to persons upon whose petition a reception order was made shall apply in the case of a person who before the commencement of this Act has signed an order for the reception of a private patient, as if the order had been made after the commencement of this Act upon a petition presented by him.

Power to amalgamate the lunacy departments. Lunacy Act, 1889, s. 87.

Sect. 337.—(1.) The Lord Chancellor may, if it seems expedient to him so to do, by order under his hand, amalgamate the office of the Masters and their staff, and the office of the Chancery Visitors and their staff, and may amalgamate such offices, or either of them, with the office of the Commissioners, and may give such directions as he may think fit for the reconstitution of the Commissioners, and for the exercise and performance of the powers and duties of the Commissioners, and of the officers and staff amalgamated respectively under any order under this section.

(2.) In the event of any such amalgamation, the Lord Chancellor may, with the concurrence of the Treasury, fix the qualifications and salaries of the members of the amalgamated office and of the staff attached thereto, and may, with such concurrence, increase or diminish the number of such members and staff.

(3.) An order under this section shall not be made so as to prejudice the rights of the Masters, Visitors, and Commissioners respectively holding office at the passing of this Act.

(4.) The Lord Chancellor may by order direct that such proportion as he may consider reasonable of the expenses incurred in carrying any such amalgamation into effect including the cost of providing office accommodation, shall be paid out of the percentage charged on the incomes of lunatics.

Power to make rules.

Sect. 338.—(1.) It shall be lawful for the Commissioners, with the approval of the Lord Chancellor, by rules, to prescribe the books to be kept in institutions for lunatics and houses for single patients, and the entries to be made therein, and the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which, such entries, returns, reports, extracts, copies, statements, notices, plans, documents, and information are to be made and sent; and also by rules to prescribe forms for the purposes aforesaid in addition to or in substitution for any forms now in use.

(2.) Subject to the preceding sub-section, the Lord Chancellor may make rules in lunacy for carrying this or any other Act relating to lunacy into effect, and also for regulating costs in relation thereto.

(3.) Where by any Act already passed or hereafter to be passed any application in lunacy is directed or authorised to be made by petition, or in any other specified manner, the Lord Chancellor may by rule direct in what manner the application is to be made.

(4.) The Lord Chancellor and a Secretary of State respectively may by rules provide for preventing interference or delay in the exercise of the ordinary jurisdiction of the judges of county courts and magistrates respectively by the transfer of petitions and notices or otherwise as such rules may direct.

(5.) Subject to any rules made under this section, the existing rules shall, so far as applicable, continue in force.

(6.) All rules made under the provisions of this section shall be laid before Parliament within three weeks after they are made if Parliament is then sitting, and, if Parliament is not then sitting, within three weeks after the beginning of the then next session of Parliament,

and shall be judicially noticed, and shall have effect as if enacted by this Act.

(7.) A rule under the provisions of this section shall not come into operation until the expiration of one month after the same has been made and issued.

Forms.

Sect. 339.—Subject to rules made under this Act, the forms in the Second Schedule may be used, wherever applicable, with such modifications as circumstances may require, and if used, shall be deemed to be sufficient.

Savings as to criminal lunatics and idiots.

Sect. 340.—(1.) Save as in this Act otherwise expressly provided this Act shall not extend to criminal lunatics.

(2.) This Act shall not affect the provisions of the Idiots Act, 1886.

Definitions.

Sect. 341.—In this Act, if not inconsistent with the context—

"Asylum" means an asylum for lunatics provided by a county or borough, or by a union of counties or boroughs:

"The Bank" means the Governor and Company of the Bank of England:

"Clerk," in relation to a local authority, means, where the local authority is a county council, the clerk of the council, and where the local authority is a borough council, the town clerk of the borough:

"Commissioners" means the Commissioners in Lunacy:

"Contingent right," as applied to lands, includes a contingent and executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent:

"Convey" and "conveyance" include the performance of all formalities required to the validity of conveyances by married women and tenants in tail under the "Act for the abolition of fines and recoveries, and for the substitution of more simple modes of assurance," and also surrenders and other acts which a tenant of copyhold lands can perform preparatory to or in aid of a complete assurance of such copyhold lands:

3 & 4 Will. 4, c. 74.

"County," for the purpose of the powers exercisable by justices of a county, does not include a county of a city or county of a town (except the City of London (*a*)), but includes any county, riding,

division, part or liberty of a county having a separate court of quarter sessions:

51 & 52 Vict. c. 41. "County borough" has the same meaning as in the Local Government Act, 1888:

47 & 48 Vict. c. 64. "Criminal lunatic" has the same meaning as in the Criminal Lunatics Act, 1884:

"District asylum" means an asylum provided by two or more counties in union, or by any county or counties in union with any borough or boroughs:

"Dividends" includes interest and other annual produce:

4 & 5 Will. 4, c. 76. "Guardians" means guardians appointed under the Poor Law Amendment Act, 1834, and the Acts amending the same, and includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834:

"Hospital" means any hospital or part of a hospital or other house or institution (not being an asylum) wherein lunatics are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients:

"Inquisition" includes an order, certificate, or verdict operating as an inquisition:

"Institution for lunatics" means an asylum, hospital, or licensed house:

"Justice" means a justice of the peace:

"Land" includes an undivided share of land:

"Lease" includes underlease:

"Lunatic" means an idiot or person of unsound mind: (*b*)

"Magistrate" means a stipendiary magistrate and any magistrate appointed to act at any of the police courts of the metropolis:

"Manager" in relation to an institution for lunatics means the superintendent of an asylum, the resident medical officer or superintendent of a hospital, and the resident licensee of a licensed house:

"Masters" mean the Masters in Lunacy:

"Medical officer" means, in the case of an asylum, the medical superintendent, or if the superintendent is not a medical practitioner the resident medical officer of the asylum, in the case of a hospital the superintendent, and in the case of a licensed house the resident medical practitioner, or if none

the medical practitioner who visits the house as the medical attendant thereof:

"Medical practitioner" means a medical practitioner duly registered under the Medical Act, 1858, and the Acts amending the same, and the Medical Act, 1886:

"Mortgage" includes every estate, interest, or property in real or personal estate, which is a security for money or money's worth:

"Next of kin" includes heir at law, and the persons entitled under the statutes for the distribution of the estates of intestates:

"Pauper" means a person wholly or partly chargeable to a union, county, or borough:

"Paymaster-General" includes the Assistant Paymaster-General for Supreme Court business:

"Prescribed" means prescribed by this Act or by any rules under this Act:

"Private patient" means a patient who is not a pauper:

"Property" includes real and personal property, whether in possession, reversion, remainder, contingency, or expectancy, and any estate or interest, and any undivided share therein:

"Public department" means the Treasury, the Admiralty, and a Secretary of State, and any other public department of the Government:

"Quarter Sessions" includes general sessions:

"Quarter sessions borough" means a borough having a separate court of quarter sessions:

"Reception order" means an order or authority made or given before or after the commencement of this Act for the reception of a lunatic, whether a pauper or not, in an institution for lunatics or as a single patient, and includes an urgency order:

"Relative" means a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:

"Stock" includes any fund, annuity, or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer, accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Merchant Shipping Act, 1854:

17 & 18 Vict. c. 104.

"Transfer" includes assignment, payment, and other disposition, and the execution, and performance, of every assurance and act to complete a transfer:

"Trust" and "trustee" include implied and constructive trusts, and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage:

"Union" means any parish or union of parishes for which there is a separate board of guardians:

"Visiting committee" means a committee of visitors of an asylum appointed under this Act:

30 Vict. c. 6. Lunacy Act, 1889, s. 21 (10).

"Workhouse" includes an asylum provided for reception and relief of the insane under the Metropolitan Poor Act, 1867, and the managers of every such asylum shall exercise the powers and perform the duties by this Act conferred and imposed upon the guardians of the union to which a workhouse belongs.

Note 341.—(*a*) The following is a list of the counties of cities or towns in England and Wales:—*Cities* (England):—Bristol, Canterbury, Chester, Exeter, Gloucester, London, Lichfield, Lincoln, Norwich, Worcester, York. *Towns* (England):—Berwick-on-Tweed, Kingston-on-Hull, Newcastle-on-Tyne, Nottingham, Poole, Southampton; (Wales): Carmarthen, Haverford West. The county of the city of Coventry was abolished by 5 & 6 Vict. c. 110, and 17 & 18 Vict. c. 35.

(*b*) In *Reg.* v. *Shaw* (11 Cox C. C., 109; 18 L. T., 583; 37 L. J., M. C., 112; L. R. 1 C. C., 145); it was held by the Court of Criminal Appeal that imbecility arising from the decay of the faculties through old age or intemperance would constitute the patient a person of unsound mind, and consequently a lunatic within the meaning of sec. 90. As to this case, see also the *Twenty-Second Report* of the Commissioners in Lunacy (1868), p. 58.

Repeal.

Sect. 342.—The Acts mentioned in the Fifth Schedule are hereby repealed to the extent set forth in the third column of the same schedule.

Provided that this repeal shall not affect any jurisdiction or practice established, confirmed, or transferred, or salary or compensation or superannuation secured, by or under any enactment repealed by this Act.

SCHEDULES.

THE FIRST SCHEDULE.

Declaration to be made by a Master. Section 111.

I, , declare that I will faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the powers and trusts committed to me as one of the Masters in Lunacy, and that without favour or affection, prejudice or malice.

Declaration to be made by a Commissioner. Section 151.

I, , declare that I will discreetly, impartially, and faithfully execute all the powers and trusts committed to me as one of the Commissioners in Lunacy, and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of my duties). (1)

Declaration to be made by the Secretary and Clerks of the Commissioners. Section 157.

I, , declare that I will faithfully execute all the trusts and duties committed to me as secretary of the Commissioners in Lunacy [*or*, as clerk of the Commissioners in Lunacy], and that I will keep secret all such matters as come to my knowledge in the execution of my office (except when required to divulge the same by legal authority). (1)

Declaration to be made by Assistants to the Clerk of the Visitors. Section 179.

I, , declare that I will faithfully keep secret all matters and things which come to my knowledge in consequence of my employment as assistant to the clerk of the visitors of licensed houses appointed for the county [*or* borough] of unless required to divulge the same by legal authority. (1)

(1) See *Hill* v. *Philp*, 7 Ex., 232.

Section 339.

THE SECOND SCHEDULE.

Form 1.

Sections 4, 5.

Petition for an Order for Reception of a Private Patient.

In the matter of *A.B.* a person alleged to be of unsound mind.

To a justice of the peace for [*or*

To His Honour the judge of the county court of *or* To stipendiary magistrate for .]

The petition of *C.D.* of [1] in the county of .

1. I am [2] years of age.

2. I desire to obtain an order for the reception of *A.B.* as a lunatic [3] in the asylum [*or* hospital *or* house *as the case may be*] of situate at [4]

3. I last saw the said *A.B.* at on the [5] day of .

4. I am the [6] of the said *A.B.* [*or if the petitioner is not connected with or related to the patient state as follows:*]

I am not related to or connected with the said *A.B.* The reasons why this petition is not presented by a relation or connection are as follows: [*State them.*]

The circumstances under which this petition is presented by me are as follows: [*State them.*]

5. I am not related to or connected with either of the persons signing the certificates which accompany this petition as (*where the petitioner is a man*) husband, father, father-in-law, son, son-in-law, brother, brother-in-law, partner or assistant (*or where the petitioner is a woman*), wife, mother, mother-in-law, daughter, daughter-in-law, sister, sister-in-law, partner or assistant.

6. I undertake to visit the said *A.B.* personally or by some one specially appointed by me at least once in every six months while under care and treatment under the order to be made on this petition.

7. A statement of particulars relating to the said *A.B.* accompanies this petition.

If it is the fact add:

8. The said *A.B.* has been received in the asylum [*or* hospital *or* house *as the case may be*] under an urgency order dated the

The petitioner therefore prays that an order may be made in accordance with the foregoing statement.

[Signed]

Dated full Christian and surname.

[1] Full postal address, and rank, profession, or occupation.

[2] At least twenty-one.

[3] Or an idiot or person of unsound mind.

[4] Insert a full description of the name and locality of the asylum, hospital or licensed house, or the full name, address, and description of the person who is to take charge of the patient as a single patient.

[5] Some day within 14 days before the date of the presentation of the petition.

[6] Here state the connection or relationship with the patient.

FORM 2.

Statement of Particulars.[1] Sections 4, 5, 11.

STATEMENT of particulars referred to in the annexed petition [or in the above or annexed order].

The following is a statement of particulars relating to the said *A.B.* [1]:—

Name of patient, with Christian name at length.

Sex and age.

†Married, single, or widowed.

†Rank, profession, or previous occupation (if any).

†Religious persuasion.

Residence at or immediately previous to the date hereof.

†Whether first attack.

Age on first attack.

When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.

†Duration of existing attack.

Supposed cause.

Whether subject to epilepsy.

Whether suicidal.

Whether dangerous to others, and in what way.

Whether any near relative has been afflicted with insanity.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

Name and full postal address of the usual medical attendant of the patient.

[Where the patient is in the petition or order described as an idiot omit the particulars marked†].

(Signed)[2]

When the petitioner or person signing an urgency order is not the person who signs the statement, add the following particulars concerning the person who signs the statement.

- Name with Christian name at length.
- Rank, profession, or occupation (if any).
- How related to or otherwise connected with the patient.

[1] If any particulars are not known, the fact is to be so stated.

FORM 3.

Order for Reception of a Private Patient to be made by a Justice appointed under the Lunacy Act, 1890, *Judge of County Courts, or Stipendiary Magistrate.* Section 6.

I, the undersigned *E.F.*, being a Justice for specially appointed under the Lunacy Act, 1890 [*or* the Judge of the County Court of *or* the Stipendiary Magistrate for] upon the petition of

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(1) In *Shuttleworth, In re* (9 Q. B., 651), which occurred under 8 & 9 Vict. c. 100, it was held that a *bonâ fide* statement "that the lunatic is constantly watched by an attendant whom she fears," was a good excuse for the omission of many of these particulars.

(2) As to signature by clergyman of the parish in which the private patient is resident: See *Shuttleworth, In re*, 9 Q. B., 651.

C.D., of [1] in the matter of *A.B.* a lunatic, [2] accompanied by the medical certificates of *G.H.* and *I.J.* hereto annexed, and upon the undertaking of the said *C.D.* to visit the said *A.B.* personally or by some one specially appointed by the said *C.D.* once at least in every six months while under care and treatment under this order, hereby authorise you to receive the said *A.B.* as a patient into your asylum [3]. And I declare that I have [*or* have not] personally seen the said *A.B.* before making this order.

Dated (Signed) *E.F.*
A Justice for appointed under the above-mentioned Act, [*or* The Judge of the County Court of *or* a Stipendiary Magistrate.]

To [4]

[1] Address and description.
[2] Or an idiot or person of unsound mind.
[3] Or hospital or house or as a single patient.
[4] To be addressed to the medical superintendent of the asylum or hospital, or to the resident licensee of the house in which the patient is to be placed.

Form 4.

Section 11.

Form of urgency Order for the reception of a private patient.

I, the undersigned, being a person twenty-one years of age, hereby authorise you to receive as a patient into your house [1] *A.B.*, as a lunatic [2], whom I last saw at on the [3] day of 18 . I am not related to or connected with the person signing the certificate which accompanies this order in any of the ways mentioned in the margin [4]. Subjoined [or annexed] hereto [5] is a statement of particulars relating to the said *A.B.*

(Signed) Name and Christian name at length
Rank, profession, or occupation (if any)
Full postal address
How related to or connected with the patient
[If not the husband or wife or a relative of the patient, the person signing to state as briefly as possible: 1. Why the order is not signed by the husband or wife or a relative of the patient. 2. His or her connexion with the patient, and the circumstances under which he or she signs.]

Describing the asylum, hospital, or house by situation and name.

Dated this day of 18 .
To superintendent of the asylum [hospital *or* resident licensee of the house].

[1] Or hospital or asylum or as a single patient.
[2] Or an idiot or a person of unsound mind.
[3] Some day within two days before the date of the order.
[4] Husband, wife, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, partner, or assistant.
[5] *See* Form 2.

FORM 5.

Certificate as to Personal Interview after Reception. Section 8.

I certify that it would be prejudicial to *A.B.* to be taken before or visited by a justice, a judge of county courts, or magistrate.

(Signed) *C.D.*
Medical Superintendent of the Asylum *or* Hospital *or* Resident Medical Practitioner *or* Attendant of the , *or* Medical Attendant of the said *A.B.*

FORM 6.

Notice of Right to Personal Interview. Section 8.

Take notice that you have the right, if you desire it, to be taken before or visited by a justice, judge of county courts, or magistrate. If you desire to exercise such right, you must give me notice thereof by signing the enclosed form on or before the day of .

Dated

(Signed) *C.D.*
Superintendent of the Asylum *or* Hospital *or* Resident Licensee of [*or as the case may be.*]

FORM 7.

Notice of Desire to have a Personal Interview. Section 8.

Dated

[*Address*]

I desire to be taken before or visited by a justice, judge, or magistrate having jurisdiction in the district within which I am detained.

Signed

FORM 8.

Certificate of Medical Practitioner. Sections 4, 11, 16, 23, 24.

In the matter of *A.B.* of [1] in the county [2] of [3], an alleged lunatic.

I, the undersigned *C.D.*, do here certify as follows:

1. I am a person registered under the Medical Act, 1858, and I am in the actual practice of the medical profession.

2. On the day of 18 , at [4] in the county [5] of

[1] Insert residence of patient.
[2] City or borough, as the case may be.
[3] Insert profession or occupation, if any.
[4] Insert the place of examination, giving the name of the street, with number or name of house,[1] or should there be no number the Christian and surname of occupier.
[5] City or borough, as the case may be.

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(1) The omission of the name of the street and number of the house will invalidate the certificate: See *Greenwood, In re*, 24 L. J., Q. B., 48.

[separately from any other practitioner] [6], I personally examined the said *A.B.* and came to the conclusion that he is a [lunatic, an idiot, or a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds (1), viz.:

(*a*) Facts indicating insanity observed by myself at the time of examination [7], viz.:—

(*b*) Facts communicated by others, viz.:—[8]

[*If an urgency certificate is required it must be added here. See* Form 9.]

4. The said *A.B.* appeared to me to be [*or* not to be] in a fit condition of bodily health to be removed to an asylum, hospital, or licensed house. [9]

5. I give this certificate having first read the section of the Act of Parliament printed below.

Dated (Signed) *C.D.* of [10]

Extract from section 317 *of the Lunacy Act*, 1890.

Any person who makes a wilful misstatement of any material fact in any medical or other certificate or in any statement or report of bodily or mental condition under this Act, shall be guilty of a misdemeanour.

[6] Omit this where only one certificate is required.

[7] If the same or other facts were observed previous to the time of the examination, the certifier is at liberty to subjoin them in a separate paragraph.

[8] The names and Christian names (if known) of informants to be given, with their addresses and descriptions.

[9] Strike out this clause in case of a private patient whose removal is not proposed.

[10] Insert full postal address.

Sections 11, 28.

FORM 9.

Statement accompanying Urgency Order.

I certify that it is expedient for the welfare of the said *A.B.* [*or* for the public safety, *as the case may be*] that the said *A.B.* should be forthwith placed under care and treatment.

My reasons for this conclusion are as follows: [*state them*].

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(1) In *Fell, In re* (3 Dowl. & L., 373; 15 L. J., M. C., 25), which related to 8 & 9 Vict. c. 100, ss. 45, 46, now repealed, Patterson, J., thought that a statement in the medical certificate, that the alleged lunatic has "a general suspicion of the motives of every person," or that he "makes ungrounded statements in every conversation," would be insufficient. In *Shuttleworth, In re* (9 Q. B., 651), which also referred to 8 & 9 Vict. c. 100, ss. 45, 46, a statement in the certificate that the alleged lunatic "labours under delusions of various kinds, and is dirty and indecent in the extreme," was held to be sufficient.

FORM 10.

Certificate as to Pauper Lunatic in a Workhouse. Section 24.

I, the undersigned Medical Officer of Workhouse of the Union hereby certify that I have carefully examined into the state of health and mental condition of *A.B.*, a pauper in the said workhouse, and that he is in my opinion a lunatic, and a proper person to be allowed to remain in the workhouse as a lunatic, and that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate].

The grounds for my opinion that the said *A.B.* is a lunatic are as follows:

Dated

(Signed)
Medical Officer of the Workhouse.

FORM 11.

Order for detention of Lunatic in Workhouse. Section 24.

I, the undersigned *C.D.*, a justice of the peace for being satisfied that *A.B.*, a pauper in the workhouse of the is a lunatic [or idiot or person of unsound mind] and a proper person to be taken charge of under care and treatment in the workhouse, and being satisfied that the accommodation in the workhouse is sufficient for his proper care and treatment separate from the inmates of the workhouse not lunatics [*or*, that his condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate] hereby authorise you to take charge of, and, if the workhouse medical officer shall certify it to be necessary, to detain the said *A.B.* as a patient in your workhouse. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed) *C.D.*
A justice of the peace
for

Dated
To the Master of the
Workhouse
of the .

Statement of Particulars.[1]

Name of patient and Christian name at length.
Sex and age.
Married, single, or widowed.
Condition of life and previous occupation (if any).
Religious persuasion as far as known.
Previous place of abode.
Whether first attack.
Age (if known) on first attack.
When and where previously under care and treatment.
Duration of existing attack.

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(1) See footnote to Form 2, *ante*.

Supposed causes.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others.
Whether any near relative has been afflicted with insanity.
Name and Christian name and address of nearest known relative of the patient and degree of relationship if known.
I certify that to the best of my knowledge the above particulars are correct.

[To be signed by the relieving officer.]

FORM 12.

Section 16.

Order for reception of a Pauper Lunatic or Lunatic wandering at large.

I, *C.D.*, having called to my assistance *E.F.* of , a duly qualified medical practitioner, and being satisfied that *A.B.* [*describing him*] is a pauper in receipt of relief [*or* in such circumstances as to require relief for his proper care and maintenance], and that the said *A.B.* is a lunatic [*or* an idiot, *or* a person of unsound mind] and a proper person to be taken charge of and detained under care and treatment, *or* that *A.B.* [*describing him*] is a lunatic, and was wandering at large, and is a proper person to be taken charge of and detained under care and treatment, hereby direct you to receive the said *A.B.* as a patient into your asylum [*or* hospital, *or* house], Subjoined is a statement of particulars respecting the said *A.B.*

(Signed) *C.D.*
A justice of the peace for

Dated the day of one thousand eight hundred and .

To the superintendent of the asylum for the county [*or* borough] of [*or* the lunatic hospital of ; or *E.F.* proprietor of the licensed house of ; describing the asylum, hospital, or house.]

Note.—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Statement of Particulars.

Statement of particulars referred to in the above or annexed order.
The following is a statement of particulars relating to the said *A.B.* [1]:—
Name of patient, with Christian name at length.[1]

[1] If any particulars are not known, the fact is to be so stated.

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(1) In the case of a lunatic found wandering at large, the Poor Law Commissioners and the Commissioners in Lunacy have expressed an opinion that, if his name cannot be ascertained, he may be properly described in the order, statement, and certificate, as of "name unknown." (*Official Circular*, 1st January, 1846, No. 55, p. 10.)

Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been been afflicted with insanity.
Union to which lunatic is chargeable.
Names, Christian names, and full postal addresses of one or more relatives of the patient.
Name of the person to whom notice of death to be sent, and full postal address if not already given.

[Where the patient is in the order described as an idiot omit the particulars marked†].

(Signed) *G.H.*
To be signed by the Relieving Officer or Overseer.

FORM 13.

Certificate that Patient continues of Unsound Mind. Section 38.

I, certify that *A.B.*, the patient [*or* *A.B.*, *C.D.*, &c., the patients] to whom the annexed report relates, is [*or* are] still of unsound mind, and a proper person [*or* proper persons] to be detained under care and treatment.

(Signed)
Medical superintendent *or* resident medical officer of the asylum, *or* superintendent of the hospital *or* resident medical practitioner *or* medical attendant of the house situate at , *or* medical practitioner visiting the said *A.B.*

Dated

FORM 14.

Consent to the Admission of a Boarder. Section 229.

We hereby sanction the admission of *A.B.* as a boarder into for the term of from the day of in accordance with the provisions of the statute and in terms of *A.B.*'s application.

(Signed)
Two of the Commissioners in Lunacy.
[*or* Two of the justices for .]

Dated the day of 18 .

FORM 15.

Section 13.

Order for Reception of a Lunatic not under proper care and control, or cruelly treated or neglected, to be made by a Justice appointed under the Lunacy Act, 1890.

I, the undersigned *C.D.*, being a Justice for specially appointed under the Lunacy Act, 1890, having caused *A.B.* to be examined by two duly qualified medical practitioners, and being satisfied that the said *A.B.* is a lunatic not under proper care and control [*or* is cruelly treated or neglected by the 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, hereby direct you to receive the said *A.B.* as a patient into your asylum [*or* hospital *or* house]. Subjoined is a statement of particulars respecting the said *A.B.*

(Signed)
A justice of the peace for appointed under the above-mentioned Act.

Dated

To the Superintendent of the Asylum for , or of the lunatic hospital of , or the resident licensee of the licensed house at .

Note.—Where the order directs the lunatic to be received into any asylum, other than an asylum of the county or borough in which the parish or place from which the lunatic is sent is situate, or into a registered hospital or licensed house, it shall state, that the justice making the order is satisfied that there is no asylum of such county or borough, or that there is a deficiency of room in such asylum; or (as the case may be) the special circumstances, by reason whereof the lunatic cannot conveniently be taken to an asylum for such first-mentioned county or borough.

Statement of Particulars.

STATEMENT of particulars referred to in the above or annexed order.

The following is a statement of particulars relating to the said *A.B.* [1]:—

Name of patient, with Christian name at length.
Sex and age.
†Married, single, or widowed.
†Rank, profession, or previous occupation (if any).
†Religious persuasion.
Residence at or immediately previous to the date hereof.
†Whether first attack.
Age on first attack.
When and where previously under care and treatment as a lunatic, idiot, or person of unsound mind.
†Duration of existing attack.
Supposed cause.
Whether subject to epilepsy.
Whether suicidal.
Whether dangerous to others, and in what way.
Whether any near relative has been afflicted with insanity.
Union to which lunatic is chargeable.

[Where the patient is in the order described as an idiot omit the particulars marked†].

[1] If any particulars are not known, the fact is to be so stated.

Names, Christian names, and full postal addresses of one or more relatives of the patient.

Name of the person to whom notice of death to be sent, and full postal address if not already given.

(Signed)

To be signed by the relieving officer, overseer, or other person on whose information the order is made.

FORM 16.

Certificate of Disability of Person entitled to Payments from a Public Department. Section 335.

I, , being a justice of the peace for *or* the rector, *or* vicar, *or* minister [*state the denomination and residence*], hereby certify that I know the said *A.B.*, and that I believe him *or* her to be unable, by reason of mental disability, to manage his *or* her affairs; and I further certify that I believe the family of the said *A.B.* to consist of .

Dated .

Signed [*Name*].

[*Place of abode.*]

FORM 17.

Medical Certificate of Disability of Person entitled to Payments from a Public Department. Section 335.

I, , being a person registered under the Medical Act, 1858, and in the actual practice of my profession, hereby certify that I have this day visited and personally examined *A.B.*, and that the said *A.B.* is unable by reason of mental disability to manage his *or* her affairs, and that I have formed this conclusion on the following grounds, viz.: [*state them*].

Signed [*Name*].

[*Postal Address in full.*]

FORM 18.

Form of Licence by Commissioners for a House not previously licensed. Section 207.

KNOW ALL MEN, that we, the Commissioners in Lunacy, do hereby certify that *A.B.* of in the parish of in the county of has delivered to us a plan and description of a house and premises situate at in the county of proposed to be licensed for the reception of lunatics, and we, having considered and approved the same, do hereby authorise the said *A.B.* (he undertaking to reside therein) to use the said house and premises for the reception of male [*or* female, *or* male and female] lunatics, of whom not more than shall be private patients, for calendar months from this date.

Sealed with our common seal this day of 18 .

Witness,

Y.Z., Secretary to the Commissioners of Lunacy.

FORM 19.

Section 207. *Form of Licence by Justices for a House not previously Licensed.*

KNOW ALL MEN, that we, the undersigned justices of the peace acting in and for in general, [*or* quarter *or* special] sessions assembled, do hereby certify that *A.B.* of in the parish of in the county of has delivered to the clerk of the peace a plan and description of a house and premises, situate at in the county of proposed to be licensed for the reception of lunatics, and has applied to us for a licence thereof: And whereas the Commissioners in Lunacy have reported upon the said application, and their report has been received, and has been taken into consideration by us; Now we, having considered and approved the application, do hereby authorise the said *A.B.* (he undertaking to reside therein) to use the said house and premises for the reception of male [*or* female *or* male and female] lunatics, of whom not more than shall be private patients, for the space of calendar months from this date.

Given under our hands and seals this day of 18 .

Witness, *Y.Z., Clerk of the Peace.*

FORM 20.

Section 207. *Licence by Commissioners or Justices for a House previously Licensed.*

KNOW ALL MEN, that we, the Commissioners in Lunacy [*or* we the undersigned justices of the peace, for in general (*or* quarter *or* special) sessions assembled] do hereby certify that *A.B.* of in the parish of in the county of has delivered to us [*or* the clerk of the peace] a list of the number of patients now detained in a house and premises situate at in the county of licensed on the day of for the reception of lunatics, and we, having considered the same, do hereby authorise the said *A.B.*, he undertaking to reside therein, to use the said house and premises for the reception of male [*or* female *or* male and female] lunatics, of whom not more than shall be private patients, for calendar months from this date.

Sealed with our common seal [*or* given under our hands and seals], this day of .

Witness,

Y.Z., Secretary to the Commissioners in Lunacy,
[*or* Clerk of the Peace].

FORM 21.

Section 248. FORM OF AGREEMENT for uniting for the purpose of erecting or providing an asylum for the reception of lunatics.

IT is agreed this day of between the visiting committees for the county of and the borough of [*as the case may be*], that the said county and borough [*as the case may be*], shall henceforth be united for the purposes of the Lunacy Act, 1890; and that an asylum for the reception of lunatics, with all necessary buildings, courts, yards, and outlets, shall be immediately provided and properly fitted up and accommodated for the purposes mentioned in the said Act; and that the necessary expenses attending the providing, building,

fitting up, repairs, and maintenance of the said asylum shall be defrayed by the said county and borough, so united, in the following proportions, such proportions being fixed according to the probable extent of the accommodation required for the lunatics of the contracting county and borough; (that is to say),

The county of	Five-ninths of the said expenses.
The borough of	Four-ninths of the same.

[*as the case may be, or if the expenses are not fixed with reference to the probable extent of the accommodation, insert instead of the last clause.*]

The expenses shall be from time to time charged upon and raised by such county and borough in proportion to their respective populations as stated in the last return for the time being made of the same under the authority of Parliament.

And it is further agreed, that the committee of visitors to superintend the building, erection, and management of the said asylum shall be appointed in the following proportions; the council for the said county of shall appoint* , and the council for the borough of shall appoint* and the proportions in which the said committee of visitors are to be appointed as aforesaid may be from time to time varied, with the consent in writing under the hands of the greater number of visitors of the said county and borough, and with the consent of the Commissioners in Lunacy. And hereunto, we, the undersigned, being the majority of each of the committees appointed by the said councils respectively, do on behalf of the said councils set our hands and seals, this day of .

* *Insert in these blanks either the number or the proportion of visitors: and where the number of the committee of visitors is not fixed in the agreement, but only the proportions, a provision shall be made by the agreement for fixing from time to time the number of such committee.*

FORM 22.

FORM OF SUMMONS. Section 332.

WE, the Commissioners in Lunacy [*or* we whose names are hereunto set and seals affixed, being two of the Commissioners in Lunacy, *or* visitors of], do hereby summon you personally to appear before us at in the parish of in the county of 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 touching certain matters relating to the execution of the Lunacy Act, 1890.

Sealed with the common seal of "The Commissioners in Lunacy" [*or* Given under our hands and seals] this day of .

THE THIRD SCHEDULE.

Section 208.

PLACES WITHIN IMMEDIATE JURISDICTION OF COMMISSIONERS.

The cities of London and Westminster, the counties of London and Middlesex, and the following parishes and places; (that is to say), Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the county of Surrey; Southend, in the county of Kent; and East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the county of Essex; and also every other place, if any, within the distance of seven miles from any part of the cities of London or Westminster, or of the borough of Southwark.

THE FOURTH SCHEDULE.

Sections 169, 240, 245, 246.

BOROUGHS THE COUNCILS OF WHICH ARE LOCAL AUTHORITIES UNDER THIS ACT.

Barnstaple.
Bedford.
Berwick-on-Tweed.
Bridgwater.
Bury St. Edmunds.
Cambridge.
Colchester.
Doncaster.
Dover.
Grantham.
Gravesend.
Guildford.
Hereford.
Kings Lynn.
London (City of).
Maidstone.
Newark.
Newbury.
Newcastle-under-Lyme.
New Sarum.
New Windsor.
Penzance.
Poole.
Rochester.
Scarborough.
Shrewsbury.
Tiverton.
Warwick.
Wenlock.
Winchester.

THE FIFTH SCHEDULE.

Section 342.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
4 & 5 Will. 4, c. 76	An Act for the amendment and better administration of the Laws relating to the Poor in England and Wales.	Section forty-five.
8 & 9 Vict. c. 100 .	An Act for the regulation of the care and treatment of lunatics.	The whole Act.
13 & 14 Vict. c. 60.	The Trustee Act, 1850.	Sections three, four, five, six, and fifty-six. Sections twenty, twenty-six, twenty-seven, twenty-eight, thirty-one, forty, forty-one, forty-two, forty-four, forty-five, fifty-one, fifty-two, and fifty-three, so far as they relate to "the Lord Chancellor entrusted as aforesaid." Except so far as the above sections relate to Ireland.
15 & 16 Vict. c. 48.	An Act for the amendment of the law respecting the property of lunatics.	The whole Act.
15 & 16 Vict. c. 55.	An Act to extend the provisions of the Trustee Act, 1850.	Sections six and seven, so far as relates to the Lord Chancellor entrusted as aforesaid, and sections ten and eleven. Except so far as the above sections relate to Ireland.
16 & 17 Vict. c. 70.	The Lunacy Regulation Act, 1853.	The whole Act.

Section 342.

THE FIFTH SCHEDULE—*continued.*

Session and Chapter.	Title or Short Title.	Extent of Repeal.
16 & 17 Vict. c. 96.	An Act to amend an Act passed in the ninth year of Her Majesty for the regulation of the care and treatment of lunatics.	The whole Act.
16 & 17 Vict. c. 97.	The Lunatic Asylums Act, 1853.	The whole Act.
18 Vict. c. 13 . .	An Act to amend and explain the Lunacy Regulation Act, 1853.	The whole Act.
18 & 19 Vict. c. 105	An Act to amend the Lunatic Asylums Act, 1853, and the Acts passed in the ninth and seventeenth years of Her Majesty for the regulation of the care and treatment of lunatics.	The whole Act.
19 & 20 Vict. c. 87.	An Act to amend the Lunatic Asylums Act, 1853.	The whole Act.
23 & 24 Vict. c. 127	An Act to amend the law relating to attorneys, solicitors, proctors, and certificated conveyancers.	Section twenty-nine.
24 & 25 Vict. c. 55.	An Act to amend the laws regarding the removal of the poor, and the contribution of parishes to the common fund in unions.	Section seven.
25 & 26 Vict. c. 86.	The Lunacy Regulation Act, 1862.	The whole Act.
25 & 26 Vict. c. 111	The Lunacy Acts Amendment Act, 1862.	The whole Act.
26 & 27 Vict. c. 110	The Lunacy Acts Amendment Act, 1863.	The whole Act.
28 & 29 Vict. c. 80.	The Lunacy Act Amendment Act, 1865.	The whole Act.
30 Vict. c. 6 . .	The Metropolitan Poor Act, 1867.	In section thirty, the words "and every such asylum" to the end of the section.
30 & 31 Vict. c. 87.	The Court of Chancery (Officers) Act, 1867.	Section thirteen.

THE FIFTH SCHEDULE—*continued.*

Section 342.

Session and Chapter.	Title or Short Title.	Extent of Repeal.
30 & 31 Vict. c. 106	The Poor Law Amendment Act, 1867.	Section twenty-two, except as regards persons suffering from delirium tremens, or from bodily disease of a contagious or infectious character.
31 & 32 Vict. c. 122	The Poor Law Amendment Act, 1868.	Section forty-three.
34 & 35 Vict. c. 14.	The County Property Act, 1871.	Section two.
38 & 39 Vict. c. 77.	The Supreme Court of Judicature Act, 1875.	Section seven.
		In section twenty-six, the words "including the percentage on estates of lunatics)" and the words "(including the masters and other officers in lunacy)."
45 & 46 Vict. c. 82.	The Lunacy Regulation Amendment Act, 1882.	The whole Act.
48 & 49 Vict. c. 52.	The Lunacy Acts Amendment Act, 1885.	The whole Act.
51 & 52 Vict. c. 41.	The Local Government Act, 1888.	Section thirty-two, sub-section three, sub-clause (*c*); section eighty-six, sub-sections one, two, three, four, six, seven, and eight.
52 & 53 Vict. c. 41.	The Lunacy Acts Amendment Act, 1889.	The whole Act.

BOOK III.

OFFICIAL DOCUMENTS.

Rules made by the Lord Chancellor under The Lunacy Act, 1890.—Section 338, Sub-Section 4.

1. If on the presentation to a judge of county courts of a petition for a reception order, or the transmission to a judge of a notice that a lunatic desires to exercise the right of being taken before or being visited by him, such judge is unable to proceed upon such petition or notice without interfering with or delaying the exercise of his ordinary jurisdiction, it shall be lawful for him by writing under his hand, to certify such inability, together with the grounds upon which the certificate is founded, and thereupon to send the petition or notice, and the documents accompanying the same; together with the certificate, by registered post, to the justices clerk of the petty sessional division or borough where the lunatic is, to be transmitted by the clerk to some other of the judicial authorities mentioned in section 9, sub-section 1, of the Lunacy Act, 1890; and such other judicial authority shall thereupon proceed in the matter as if the petition had been presented or the notice had been transmitted to him in the first instance.

2. A judge of county courts signing a certificate under these rules shall also send a copy thereof to the Lord Chancellor.

3. Certificates under these rules shall be according to the form in the schedule.

The Schedule.

Form of Certificate.

Whereas a petition for a reception order under the Lunacy Act, 1890, in the matter of *A.B.*, a person alleged to be of unsound mind, has been presented to me: [*or*, Whereas a notice of the desire of *A.B.*, a person under

care and treatment as a lunatic, to be taken, under the Lunacy Act, 1890, before or visited by a judge of county courts, magistrate, or justice of the peace has been transmitted to me:]

Now I, the undersigned, certify that I am unable to proceed upon the said petition [*or* the said notice] without interfering with or delaying the exercise of my ordinary jurisdiction as a judge of county courts. The grounds upon which this certificate is founded are as follows: (*here state them*).

(Signed)_____
Judge of the county court
of_____

Dated

(Signed) HALSBURY, C.
March 29, 1890.

RULES MADE BY THE COMMISSIONERS IN LUNACY WITH THE APPROVAL OF THE LORD CHANCELLOR.

Books to be kept.

1.—(1.) There shall be kept in every institution for lunatics—

a. A Visitors Book.
b. A Register of Patients.
c. A Medical Journal.
d. A Register of Mechanical Restraint.
e. A Medical Case Book.
f. A Register of Removals, Discharges, and Deaths.

(2.) There shall also be kept in every hospital and licensed house a Patients Book and a Register of Voluntary Boarders.

(3.) There shall be kept in every house where a single patient is detained a Medical Journal and a Register of Mechanical Restraint.

(4.) In every institution for lunatics in which private and pauper patients are admitted there shall be kept a separate Register of Patients, Medical Journal, and Register of Removals, Discharges, and Deaths, for each class of patients.

(5.) There shall be kept in every workhouse a Register of Mechanical Restraint.

Register of Patients.

2. The Register of Patients shall be in the Form 1 in the Schedule.[1]

Medical Journal.

3.—(1.) The Medical Journal to be kept in institutions for lunatics shall be in the Form 2 in the Schedule.

(1) As to the inspection of this book see *Hill* v. *Philp*, 7 Ex., 232.

(2.) The Medical Journal in the case of single patients shall be in the Form 3 in the Schedule.

Register of Mechanical Restraint.

4. The Register of Mechanical Restraint shall be in the Form 4 in the Schedule.

Register of Boarders.

5. The Register of Voluntary Boarders shall be in the Form 5 in the Schedule.

Registrar of Removals, Discharges, and Deaths.

6. The Register of Removals, Discharges, and Deaths shall be in the Form 6 in the Schedule.

Notices to be sent on reception.

7.—(1.) The clerk of every asylum and the manager of every hospital and licensed house shall, immediately on the reception of a person as a lunatic, make an entry with respect to such lunatic in the Register of Patients according to the prescribed form, and containing the particulars therein specified, except as to the form of disorder.

(2.) The entry as to the form of disorder shall be supplied by the medical officer of every asylum within one month, and by the medical officer of every hospital or house within seven days after the reception of a patient.

(3.) The clerk of every asylum and the manager of every hospital or licensed house shall, in the case of a person, not a pauper, within one clear day, and in the case of a pauper, after the second and before the end of the seventh day after the patient's admission, send to the Commissioners a notice of admission in the Form 7 in the Schedule, and also a copy of the reception order and medical certificate or certificates upon which the same was made, and in the case of reception orders upon petition a copy of the petition and statement of particulars, and shall, in every case after the second and before the end of the seventh clear day after the patient's admission, send to the Commissioners a medical statement to be made and signed by the medical officer of the institution, according to the Form 8 in the Schedule.

(4.) The manager of every licensed house, within the jurisdiction of visitors, shall also within the times limited by this rule, send the like documents to the clerk of the visitors.

(5.) Every person who has charge of a single patient shall, within the times limited by this rule as regards patients not paupers, send to the Commissioners the like documents concerning such single patient, and shall, with the notice of admission, send a statement of the Christian and surname and occupation of the occupier of the house and of the person who has charge of the patient. The

medical statement shall be made and signed by the medical practitioner who visits the patient.

Form of report to be sent at the end of a month after reception.

8. The report to be sent to the Commissioners by the medical officer of every institution for lunatics, and the medical attendant of every single patient, at the expiration of one month after the reception of a private patient, shall be in the Form 9 in the Schedule.

Who to keep Medical Journal and Case Book.

9. The Medical Journal and Case Book to be kept in every institution for lunatics shall be kept by the medical officer thereof, and every entry made therein respectively shall be signed by the person making the same.

How often entries to be made in Medical Journal.

10. The prescribed entries in the Medical Journal to be kept in institutions for lunatics shall be made once in every week, or in the case of a licensed house at which visits by a medical practitioner at more distant intervals than once a week are permitted, at each visit.

Entries in Case Books in hospitals and licensed houses.

11. There shall be entered in the Medical Case Book to be kept at institutions for lunatics the following particulars:—

(*a.*) A statement of the name, age, sex, and previous occupation of the patient, and whether married, single, or widowed;

(*b.*) An accurate description of the external appearance of the patient upon admission:—of the habit of body and temperament; appearance of eyes, expression of countenance, and any peculiarity in form of head; physical state of the vascular and respiratory organs, and of the abdominal viscera, and their respective functions; state of the pulse, tongue, skin, &c.; and the presence or absence, on admission, of bruises or other injuries;

(*c.*) A description of the phenomena of the mental disorder:—the manner and period of the attack, with a minute account of the symptoms, and the changes produced in the patients temper or disposition; specifying whether the malady displays itself by any, and what illusions, or irrational conduct, or morbid or dangerous habits or propensities; whether it has occasioned any failure of memory or understanding; or is connected with epilepsy, or ordinary paralysis, or symptoms of general paralysis, such as tremulous movements of the tongue, defect of articulation, or weakness or unsteadiness of gait;

(*d.*) Every particular which can be obtained respecting the previous history of the patient:—what are believed to have been the predisposing and

exciting causes of the attack; what the previous habits, active or sedentary, temperate or otherwise; whether the patient has experienced any former attacks, and, if so, at what periods; whether any relatives have been subject to insanity; and whether the present attack has been preceded by any premonitory symptoms, such as restlessness, unusual elevation or depression of spirits, or any remarkable deviation from ordinary habits and conduct; and whether the patient has undergone any, and what previous treatment, or has been subjected to personal restraint;

(*e.*) An accurate record of the medicines administered and other remedies employed, with the results;

(*f.*) An accurate record of all injuries and accidents.

How often entries to be made in Case Book.

12. The prescribed entries shall be made in the Case Book to be kept in every institution for lunatics at least once in every week during the first month after reception, and oftener when the nature of the case requires it. Afterwards in recent or curable cases such entries shall be made at least once in every month, and in chronic cases subject to little variation once in every three months.

Copies of Case Book entries.

13. The medical officer of every institution for lunatics shall, whenever required so to do by notice in writing signed by the Secretary of the Commissioners, send to the Commissioners a correct copy of all the entries, or of any particular entries or entry, in the Medical Case Book relative to any specified patient who is, or may have been, confined in the institution.

Duties of medical attendant of single patient.

14.—(1.) The medical attendant of a single patient shall, as soon as possible after the admission of the patient, enter on blank pages to be left at the beginning of the Medical Journal a sketch of the previous history of the case, and full particulars of the mental and bodily condition of the patient on admission.

(2.) Such medical attendant shall also at each visit enter in the Medical Journal the date of the visit, and full particulars of the mental and bodily condition of the patient, and a statement as to the condition of the house.

(3.) If the Commissioners allow a single patient to be visited less often than once in every two weeks, and the patient is in the charge of a medical practitioner, such practitioner shall once at least in every two weeks enter in the Medical Journal full particulars of the mental and

bodily condition of the patient, with the date of the entry.

(4.) Every entry to be made under this rule shall be signed by the person who makes the same.

Medical reports upon single patients.

15. Every medical practitioner who visits a single patient, or under whose charge a single patient is, shall on the tenth of January, or within seven days from that time, in every year report in writing to the Commissioners the state of health, bodily and mental, of the patient, with such other circumstances as he may deem necessary to communicate.

Copies of entries in Register of Mechanical Restraint.

16. The manager of every institution for lunatics, and every person having charge of a single patient, shall at the end of every quarter send to the Commissioners a copy of every entry in the Register of Mechanical Restraint made during the quarter.

Who to keep Register of Voluntary Boarders.

17. The Register of Voluntary Boarders to be kept in licensed houses and hospitals shall be kept by the manager thereof.

Schedule of rates of payments for private patients.

18. The manager of every licensed house and hospital shall prepare and keep up an accurate list of the private patients for the time being on the books of the house or hospital, with the rates of payment made for the maintenance and care and treatment of such patients respectively; and such list shall be at all times accessible to the Commissioners or Commissioner visiting the house or hospital, and, in the case of a house licensed by justices, to the visitors of such house.

Transfer of patients and leave of absence.

19.—(1.) When application is made to the Commissioners for their consent to the transfer of a private patient from one institution for lunatics to another, the medical officer of the institution from which the patient is to be removed shall furnish the Commissioners with a report as to the patient's mental and bodily condition, and fitness for transfer.

(2.) When application is made for the grant by the Commissioners or by visitors of leave of absence of a private patient from an institution for lunatics, or of a single patient from the house in which he is received, either for the benefit of the patient's health or on trial, it shall be accompanied by a recommendation from the medical officer of the institution or the medical attendant of the patient.

Notices to be sent of remarks on visitation.

20.—(1.) The clerk of every asylum and the manager of every hospital or licensed house shall, within three days after each visit of one or more of the Commissioners, send to the office of the Commissioners, and in the case of

a house licensed by justices, also to the clerk of the visitors, copies of all entries and remarks made by any visiting Commissioner or Commissioners at such visit in any of the books of the institution.

(2.) The manager of every hospital and licensed house shall also, within three days after each visit by any visitor, send to the office of the Commissioners and to the clerk to such visitors a true and perfect copy of all entries and remarks made by such visitors at such visit in any of the books of the hospital or house.

Notice of dismissal of servants.

21. The clerk of every asylum, and the manager of every hospital or licensed house, shall within one week after the dismissal for misconduct of any person employed in connection with the care of the patients therein, send notice in writing to the Commissioners of the dismissal and its cause.

Entries to be made on removal, discharge, or death.

22. The clerk of every asylum, and the manager of every hospital and licensed house, shall, within two clear days after the removal, discharge, or death of any patient, make an entry thereof in the Register of Patients, and also in the Register of Removals, Discharges, and Deaths, according to the prescribed form.

Notices to be sent on removal, discharge, escape, and recapture.

23.—(1.) The clerk of every asylum, and the manager of every hospital or licensed house, and the person having charge of a single patient, shall, within three clear days after the removal, discharge, escape, or recapture of a patient, send written notice thereof to the Commissioners, and also in the case of a lunatic so found by inquisition to the Chancery Visitors.

(2.) In the case of a licensed house within the jurisdiction of any visitors, the like notice shall, within the time aforesaid, also be sent by the manager of the house to the visitors.

(3.) Notices of removal and discharge shall be in the Forms 10 and 11 in the Schedule. Notices of escape and recapture shall be in the Forms 12 and 13 in the Schedule.

(4.) Where upon the discharge of a pauper lunatic from an institution for lunatics the medical officer of the institution certifies that the lunatic has not recovered, and is a proper person to be kept in a workhouse as a lunatic, a copy of the certificate shall accompany the notice of discharge.

(5.) Notice of escape shall state the Christian name and surname of the patient, his state of mind, and the circumstances attending the escape.

(6.) Notice of recapture shall state when the patient

was brought back, and under what circumstances, and whether with or without a fresh reception order or certificates.

Statement and notice as to death.

24.—(1.) In the case of the death of a patient, not being a patient in a workhouse, a statement shall be prepared and signed setting forth—

(*a.*) The name, sex, and age of the patient;
(*b.*) Whether married, single, or widowed;
(*c.*) The profession or occupation of the patient;
(*d.*) His place of abode immediately prior to being placed under care and treatment, if known;
(*e.*) The time and cause of, and the circumstances attending, the death;
(*f.*) The duration of the disease of which the patient died;
(*g.*) The name or names of any person or persons present at the death.

(2.) The statement shall be prepared and signed, in the case of a death in an asylum, by the clerk and medical officer of the asylum, and in any other case, by the medical person or persons who attended the patient in his last illness; and shall, within forty-eight hours of the death, be sent to the coroner of the district by the manager of the institution for lunatics in which the patient died, or by the person having charge of the single patient.

(3.) In the case of a lunatic dying in an institution for lunatics, the medical officer of the institution shall within three days after the death, enter a copy of the statement in the Medical Case Book, and in the case of a single patient the person having charge of him shall, within the like period, enter a copy of the statement in the Medical Journal.

(4.) The clerk of the asylum, or the manager of the hospital or house, or upon the death of a single patient, the person who had charge of him, shall, within forty-eight hours of the death of a patient, send notice thereof in the Form 14 in the Schedule—

(*a.*) To the Commissioners;
(*b.*) To the relation or one of the relations named in the statement accompanying the order for the reception of the patient;
(*c.*) To the registrar of deaths for the district;
(*d.*) In the case of a licensed house within the jurisdiction of any visitors, also to the clerk of the visitors;

(*e.*) In the case of a lunatic so found by inquisition, also to the Chancery Visitors;

(*f.*) If the patient was not a pauper, also to the person upon whose petition the order for the admission of the patient was made, or who made the last payment on account of the patient;

(*g.*) If the patient was a pauper, also to the relieving officer or the union or the clerk of the peace of the county or borough to which the patient was chargeable.

Note. See 6 & 7 Will. IV., c. 86; 7 Will. IV. and 1 Vict. c. 22; 21 & 22 Vict. c. 25, and 37 & 38 Vict. c. 88. The last-mentioned Act contains the following provisions:—

"10. When a person dies in a house after the commencement of this Act, it shall be the duty of the nearest relatives of the deceased present at the death, or in attendance during the last illness of the deceased, and in default of such relatives, of every other relative of the deceased dwelling or being in the same sub-district as the deceased, and in default of such relatives, of each person present at the death, and of the occupier of the house in which, to his knowledge, the death took place, and in default of the persons hereinbefore in this section mentioned, of each inmate of such house, and of the person causing the body of the deceased person to be buried, to give, to the best of his knowledge and belief, to the registrar, within the five days next following the day of such death, information of the particulars required to be registered concerning such death, and in the presence of the registrar to sign the register.

"12. If a person required to give information concerning any death sends to the registrar a written notice of the occurrence of the death, accompanied by such medical certificate of the cause of death as is required by this Act to be delivered to a registrar, the information of the particulars required by the Births and Deaths Registration Acts, 1836 to 1874, to be registered concerning the death need not be given within the said five days, but shall, notwithstanding such notice, be given within fourteen days next after the day of the death by the person giving such notice, or some other person required by this Act to give the information.

"14. It shall be the duty of the registrar to inform himself carefully of every death which happens within his sub-district, and upon receiving personally from the informant at any time within twelve months after the date of any death, or of the finding of any dead body, information of the particulars required to be registered concerning the death from any person required by this Act to give the same, forthwith in the prescribed form and manner to register the death and the said particulars (if not previously registered), without fee or reward

from the informant, except that if, in pursuance of a written requisition, he registers the same at the residence of the person making such requisition, or at the house where the deceased died, he shall, unless the death took place in a public institution, be entitled to the appointed fee."

And s. 48 declares that the term "public institution," as used in this Act, means, amongst other things, a lunatic asylum; that the term "house" includes a "public institution" as so defined; and that the term "occupier" includes the governor, keeper, master, matron, superintendent, or the chief resident officer of every "public institution." Where the deceased has been attended in his last illness by a medical man, the following provision will apply:—

"20 (2). In case of the death of any person who has been attended during his last illness by a registered medical practitioner, that practitioner shall sign and give to some person required by this Act to give information concerning the death a certificate stating to the best of his knowledge and belief the cause of death, and such person shall, upon giving information concerning the death or giving notice of the death, deliver that certificate to the registrar, and the cause of death as stated in that certificate shall be entered in the register, together with the name of the certifying medical practitioner. . . . If any person to whom a medical certificate is given by a registered medical practitioner in pursuance of this section fails to deliver that certificate to the registrar, he shall be liable to a penalty not exceeding forty shillings."

"17. A coroner, upon holding an inquest upon any body, may, if he thinks fit, by order under his hand authorise the body to be buried before registry of the death, and shall give such order to the relative of the deceased or other person who causes the body to be buried, or to the undertaker or other person having charge of the funeral; and, except upon holding an inquest, no order, warrant, or other document for the burial of any body shall be given by the coroner. The registrar, upon registering any death, or upon receiving a written requisition to attend at a house to register a death, or upon receiving such written notice of the occurrence of a death, accompanied by a medical certificate as is before provided by this Act, shall forthwith, or as soon after as he is required, give, without fee or reward, either to the person giving information concerning the death or sending the requisition or notice, or to the undertaker or other person having charge of the funeral of the deceased, a certificate under his hand that he has registered or received notice of the death as the case may be. Every such order of the coroner and certificate of the registrar shall be delivered to the person who buries or performs any funeral or religious service for the burial of the body of the deceased; and any person to whom such order or certificate was given by the coroner or registrar who fails so to deliver or cause to be

delivered the same shall be liable to a penalty not exceeding forty shillings. The person who buries or performs any funeral or religious service for the burial of any dead body, as to which no order or certificate under this section is delivered to him, shall, within seven days after the burial, give notice thereof in writing to the registrar, and if he fail so to do shall be liable to a penalty not exceeding ten pounds."

Half-yearly lists of patients in asylum to be made up.

25.—(1.) The clerk of every asylum shall, on the first of January and the first of July in every year, prepare a list, made up to those dates, of all pauper lunatics then in the asylum, according to the Form 15 in the Schedule.

(2.) Within fifteen days after the list is prepared, the clerk shall lay a copy before the committee of visitors, and shall send a copy to the Commissioners and to the clerk of each local authority to which the asylum belongs, to be laid before the local authority.

(3.) The clerk of every asylum receiving private patients shall, on the first of January and the first of July in every year, prepare a list, made up to those dates, containing the Christian names and surnames of all the private patients then in the asylum, according to the Form 16 in the Schedule: and shall, within fifteen days after the list is prepared, send a copy to the Commissioners, and shall, within the same time, transmit to the clerk of each local authority, for the purpose aforesaid, a certificate under his hand of the number of private patients of each sex.

Report of visiting committee to be sent to Commissioners.

26. The clerk to the committee of visitors of every asylum shall, within twenty-one days after their annual report has been laid before the local authority by the committee of visitors, transmit a copy to the Commissioners.

Statement of condition of pauper lunatics.

27. The manager of every asylum shall once at least in each half year send to the guardians of every union a statement of the mental and bodily condition of every pauper lunatic chargeable to the union.

Quarterly return of pauper lunatics not in an institution for lunatics.

28.—(1.) In the case of pauper lunatics not in an institution for lunatics, the medical officer of every district of a union and of every workhouse shall, within seven days after every thirty-first of March, thirtieth of June, thirtieth of September, and thirty-first of December, make a return of all such lunatics visited by him during the preceding quarter; or if there were no such lunatics within the district or workhouse of which he is medical officer, shall make a return to that effect.

(2.) Such returns shall be in the Forms 17 and 18

in the Schedule, and shall, within the time aforesaid, be delivered or sent to the clerk to the guardians of the union to which the return relates.

(3.) The clerk receiving the return shall, within three days after receipt thereof, make a copy thereof, and shall, within the same period, send the return to the Commissioners, and the copy to the clerk to the committee of visitors of the asylum for the county or borough in which the union for which he is clerk is wholly or partly situate.

Annual return by clerks to Boards of Guardians.

29. The clerk of the board of guardians of every union shall, on the first of January in every year, or as soon after as possible, make out and sign a complete list in the Form 19 in the Schedule, made up to that date, of all lunatics chargeable to the union, and shall, on or before the first of February following, send a copy of the list to the following authorities :—

(*a.*) The Local Government Board ;

(*b.*) The Commissioners ;

(*c.*) The Committee of visitors of the asylum of the county or borough, or each county or borough, in which the union is wholly or partly situate ;

(*d.*) The clerk of the local authority within the area whereof the union is wholly or partly situate, to be laid before the local authority.

Entries to be clear and distinct.

30. All entries to be made under these rules shall be made in a manner so clear and distinct as to admit of being easily referred to and extracted whenever the Commissioners shall so require.

Returns and information to be furnished by managers.

31. The manager of every institution for lunatics shall furnish to the Commissioners, at such times and in such form as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the patients of or boarders in the institution, as the Commissioners may, in their discretion, require.

Applications for licences.

32.—(1.) Every applicant for a licence for a house shall at least fourteen clear[1] days before a quarterly or other meeting of the Commissioners, or before a quarter or special sessions of the licensing justices, give notice of the application—

(*a.*) If the house is within the immediate jurisdiction of the Commissioners, to the Commissioners ;

(*b.*) If elsewhere, to the clerk of the peace for the county or borough in which it is situate.

(1) See *Reg.* v. *Salop JJ.*, 8 A. & E., 173 ; *Reg.* v. *Middlesex JJ.*, 14 L. J., M. C., 139.

(2.) The notice shall contain—

(*a.*) The Christian and surname, place of abode, and occupation of the proposed licensee;

(*b.*) The Christian and surname of the person who is to reside in the house; and if the house has not been previously licensed, a full description of the estate or interest of the proposed licensee therein.

(3.) If the house has not been previously licensed, the applicant shall send with his notice the following documents:—

(*a.*) A plan of all houses and buildings to be included in the licence, drawn upon a scale of eight feet to an inch, with a description of the situation of the house, and the length, breadth, and height of, and a reference by a figure or letter to every room therein, distinguishing the rooms to be appropriated to patients from those to be occupied by the family and domestic servants of the resident licensee.

(*b.*) A statement of the quantity of land not covered by building annexed to the house, and appropriated to the exclusive use, exercise, and recreation of the patients, with a plan thereof drawn to the scale of 100 feet to an inch.

(*c.*) A statement of the number of patients of each sex to be received, and of the means by which the sexes are to be kept apart.

(4.) The notice and accompanying documents when sent to a clerk of the peace shall by him be laid before the justices when they consider the application for the licence.

(5.) If a house not within the immediate jurisdiction of the Commissioners has not been previously licensed, copies of the notice and accompanying documents shall, at least thirty days before the quarter or special sessions at which the application is to be considered, be sent by the applicant to the Commissioners.

On renewal of licence, statement to be furnished of the number and class of patients detained.

33.—(1.) Every person applying for the renewal of a licence shall send to the Commissioners, and if his application is to any justices, shall also send to the clerk of the peace for the county or borough a statement, signed by the applicant, containing the names and number of the patients of each sex then detained in such house, and distinguishing between private and pauper patients.

(2.) Copies of all entries made by the visiting Commissioners in the books of a licensed house since the last renewal of the licence shall be laid before the justices upon every renewal of a licence.

Notice of alterations and additions to licensed houses.

34.—(1.) Before any alteration or addition is made to, in, or about a licensed house, or its appurtenances, the licensee shall send notice in writing of the proposed alteration or addition to the Commissioners, or, in the case of a house licensed by justices of a county for borough, to the clerk of the peace of the county or borough.

(2.) Such notice shall be accompanied by a full description of the proposed alteration or addition, with plans drawn to a scale of eight feet to an inch.

(3.) Every clerk of the peace to whom a notice is given under this rule shall within three days after receiving the same send the notice, together with the accompanying description and plans, or copies thereof respectively, to the Commissioners.

Plans of hospitals.

35.—(1.) With every application for the registration of a hospital for the reception of lunatics the following plans shall be sent to the Commissioners:—

(*a.*) A general plan, to the scale of one hundred feet to an inch, of the land proposed to be occupied with the hospital, with a block plan of the buildings drawn thereon, and showing the positions and area of the exercise grounds, gardens, and roads of approach.

(*b.*) Plans of the basement, ground, and every other floor of the principal buildings and offices, and also of the roofs, with the dimensions of the rooms and the thicknesses of the walls.

(*c.*) Elevations of the fronts and sides of the principal buildings and offices.

(*d.*) Transverse and longitudinal sections sufficient to show the heights of the various rooms in the buildings.

(*e.*) A general plan showing the courses of the drains and the manner in which the sewage will be disposed of.

(2.) The plans (*b*) to (*e*) inclusive shall be drawn to a scale of eight feet to an inch.

(3.) There shall also be furnished with every application a concise description of the hospital buildings, and of the systems of heating, lighting, and ventilation adopted, and the plans shall show the manner in which the various portions of the buildings are to be appropriated to the different classes of patients to be received.

Notice of alterations and additions to hospitals.

36.—(1.) Before any alteration or addition is made to, in, or about any hospital, whether registered after or before the date of these rules, the superintendent shall send notice in writing of the proposed alteration or addition to the Commissioners.

(2.) Every such notice shall be accompanied by plans and descriptions similar to those specified in the last preceding rule.

Hospitals already registered to furnish plans.

37. In the case of hospitals registered before the date of these rules, the Commissioners may require the superintendent of any such hospital to furnish, at the cost of the hospital, such plans of all or any of the buildings used for the purposes of the hospital as, being of the description hereinbefore specified, the Commissioners may think fit.

Abstracts of hospital accounts to be sent to Commissioners.

38. The superintendent of every hospital shall within one calendar month next after the accounts of the hospital shall have been submitted to the Charity Commissioners, or have been audited, send to the Commissioners an abstract of the accounts in such form as the Commissioners shall from time to time prescribe.

39. These rules shall come into operation on the first of May one thousand eight hundred and ninety.

THE SCHEDULE.

FORM 1.

Register of Patients.

Date of last previous Admission, if any.	No. in Order of Admission.	Date of Admission.	Date of continuation of Reception Order.	Christian and Surname at Length.	Sex. M.	Sex. F.	Age.	Condition as to Marriage. Married.	Condition as to Marriage. Single.	Condition as to Marriage. Widowed.	Condition of Life and previous Occupation.	Previous Place of Abode.	Union, County, or Borough to which chargeable.	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. Years.	Duration of existing Attack. Months.	Duration of existing Attack. Weeks.	Number of previous Attacks.	Age on First Attack.	Date of Removal, Discharge, or Death.	Removed or Discharged. Recovered.	Removed or Discharged. Relieved.	Removed or Discharged. Not improved.	Died.	Observations.
	1	1880: Jan. 3		William Johnson	1	..	23	..	1	..	Carpenter	..	..	..	..	Melancholia	..	..	..	..	..	4	..	2	17	1881: Sept. 7	1				
	2	1882: June 9		William Johnson	1	..	25	..	1	..	.. ..	..	..	..	..	.. ..	..	..	..	..	7	..	..	3	..	1883: Dec. 2	1				
	3	1883: July 6		William Johnson	1	..	29	1	..	..	.. ..	..	..	..	..	.. ..	..	..	..	..	3	..	..	4	..	1884: June 8					

FORM 2.

MEDICAL JOURNAL TO BE KEPT AT ASYLUMS, HOSPITALS, AND LICENSED HOUSES.

Date.	Number of Patients.		Patients who are or since the last entry have been in seclusion, when, and for what period, and reasons.		Patients under medical treatment, and for what, if any, bodily disorder.		Deaths, injuries, and violence to patients, since the last entry.
	Males.	Females.	Males.	Females.	Males.	Females.	

FORM 3.

MEDICAL JOURNAL FOR SINGLE PATIENTS.

Date.	Mental condition; what evidence of insanity? Any and what change since last visit.	Bodily Health and Condition.	Seclusion since last visit. When and how long.	Visits of friends; date of visit; name of friend.	State of house and furniture, bed and bedding supply, and condition of wearing apparel.	Dietary proper? if not, state the reason.	Employment, exercise, and amusements.

FORM 4.

Register of Mechanical Restraint.

Date.	Name of Patients.		Means of Restraint employed.	Duration in Hours.	Certificate of Medical Superintendent, Medical Officer, Medical Proprietor, or Medical Attendant, stating grounds upon which the restraint was employed.
	Male.	Female.			
		C. S. Burns	Strait waistcoat	20	

FORM 5.

Register of Voluntary Boarders.

Date of Reception into Institution.	Name of Boarders.		Term for which Residence is permitted.	Extended Term and Date of Consent to the Extension.	Name of Commissioners or Visitors consenting to Reception, or Extension of Term, where such consent necessary.	Date on which the Boarder leaves the Institution.	Reception, whether for Treatment, or as Relative or Friend of a Patient.
	Male.	Female.					

FORM 6.

Register of Removals, Discharges, and Deaths.

Date of Removal, Discharge, or Death.	Date of last Admission.	No. in Register of Patients.	Christian and Surname at Length.	Sex.		Discharged.						Removal, and to what Asylum, registered Hospital, or Licensed House.				Died.		Assigned Cause of Death.	Age at Death.		Observations.
						Recovered.		Relieved.		Not improved.		Relieved.		Not improved.							
				M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.	M.	F.		M.	F.	
1881: Sept. 1 .	1880: Jan. 3 . .	1	William Johnson	1	..	1															
1881: Dec. 2 . .	1882: June 9 .	2	William Johnson	1	..	1															
1884: June 8 .	1883: May . .	3	William Johnson	1	..	..	..	..	..	..	..	..	..	..	..	1	..	Phthisis	27		

FORM 7.

Notice of Admission.

Date of reception order, the day of , 18 .

I hereby give you notice that *A.B.* was admitted into this asylum [*or* hospital *or* house] as a private [*or* pauper] patient [*or* into the house of situate at as a single patient] on the day of , and I hereby transmit a copy of the reception order and medical certificates [*or* certificate] and of the petition and statement of particulars on which he was received.

A statement with respect to the mental and bodily condition of the above-named patient will be forwarded in due course.

[*or as the case may be.* Subjoined is a statement with respect to the mental and bodily condition of the patient.]

(Signed)
clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of

To the Commissioners in Lunacy
[*or as the case may be.*]

FORM 8.

Medical Statement.

I have this day [*some day not less than two clear days after the admission of the patient*] seen and examined the patient mentioned in the Notice of Admission dated the day of , [*or as the case may be* the above notice] and hereby certify that with respect to mental state he [*or* she] [*describing it*] and with respect to bodily health and condition he [*or* she] [*describing it*].

Dated the day of

(Signed)
Medical officer of the asylum, *or* hospital known as , situate at , *or* resident medical practitioner *or* medical attendant of the licensed house known as , situate at , *or* medical practitioner visiting the said patient.

FORM 9.

Report as to Private Patient.

To be sent at the expiration of *one month after* reception.

I have this day seen and examined received here on the day of , 189 , and report that with respect to mental condition he is , and that with respect to bodily condition he is .

Dated this day of 189 .

A.B., medical officer of the asylum, *or* hospital, *or* medical attendant of (licensed house) *or* medical practitioner visiting the said patient.

To the Commissioners in Lunacy.

FORM 10.

Notice of Removal.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of was, on the day of , removed to relieved [*or* not improved] by the authority of .

(Signed)

clerk of the asylum *or* manager of the lunatic hospital known as situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of

To the Commissioners in Lunacy [*or as the case may be*].

FORM 11.

Notice of Discharge.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , was discharged therefrom recovered [*or* relieved *or* not improved] on the day of by the authority of

(Signed)

clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of

To the Commissioners in Lunacy [*or as the case may be*].

FORM 12.

Notice of Escape.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , escaped therefrom on the day of .

The state of mind of the patient at the time of his escape was [*state it*].

The circumstances attending the escape were as follows [*state them*].

(Signed)
clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of

To the Commissioners in Lunacy
[*or as the case may be*].

FORM 13.

Notice of Recapture.

I hereby give you notice that , a private [*or* pauper] patient who was received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , and escaped therefrom on the day of , was on the day of recaptured under the following circumstances [*state them*].

The patient has been again received into this asylum [*or* hospital *or* licensed house *or* house] under [*or* without] a fresh reception order and certificates.

(Signed)
clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of

To the Commissioners in Lunacy
[*or as the case may be*].

FORM 14.

Notice of Death.

I hereby give you notice that , a private [*or* pauper] patient received into this asylum [*or* hospital *or* licensed house *or* house] on the day of , died therein on the day of .

And I certify that was present at the death of the said , and that the apparent cause of his death [ascertained by post-mortem examination[1] *if so*] was .

(Signed)
clerk of the asylum, *or* manager of the lunatic hospital known as , situate at , *or* of the licensed house known as , situate at , *or* the person having charge of the said lunatic as a single patient.

Dated the day of
To the Commissioners in Lunacy
[*or as the case may be*].

[1] It seems proper that whenever practicable the consent of the lunatic's relatives should be obtained before a post-mortem examination is made.

FORM 15.

NAMES of all [male] *or* [female], *as the case may be*, pauper lunatics in the asylum at for the county [*or* borough, *&c., as the case may be*,] of on the 1st day of January or July 18 .

Names of those chargeable to a Union.	Name of Union to which chargeable.	Date of Admission.	Names of those chargeable exclusively to County or Borough Fund.	Date of Admission.	Names of those chargeable to Visitors of other Asylums.	Date of Admission.	Criminal Patients.	Date of Admission.

This is a correct return.

(Signed)
Dated Clerk of the Asylum.

FORM 16.

NAMES of all private lunatics in the asylum at for the county [*or* borough, &c., *as the case may be*,] of on the day of 18 .

Name.	Date of Admission.

This is a correct list.

(Signed)

Clerk of the Asylum.

FORM 17.

County of
Union [*or* Parish] of
District of[1]

QUARTERLY LIST of LUNATIC PAUPERS within the district of the union of [*or* the parish of], in the county or borough of , not in any asylum, hospital, or licensed house.

Name.	Sex.	Age.	Form of Mental Disorder.	Duration of present attack of Insanity, and if idiotic, whether or not from birth.	Resident in Workhouse.	Non-Resident in Workhouse, where and with whom resident.	Date of visit.	In what state as to Bodily and Mental Condition, Accommodation, and general Care and Management.	If ever mechanically restrained, why, and by what means, and how often.

I declare that I have personally examined the several persons whose names are specified in the above list on the day set opposite their names, and I certify, first, with respect to those appearing by the above list to be in the workhouse, that the accommodation in the workhouse is sufficient for their reception, and that they are all [*or*, all except] proper patients to be kept in the workhouse; and secondly, with respect to those appearing by the above list to be resident elsewhere than in the workhouse, that they are all [*or*, all except] properly taken care of, and may properly remain out of an asylum.

[1] The Commissioners in Lunacy have advised that, in those instances where no pauper lunatics are resident in the district, the fact should be communicated by making a "nil" return (see their *Thirteenth Report*, p. 75].

I declare that the persons in the above list are, to the best of my knowledge, the only pauper lunatics in the district of the union of [*or* in the parish of] who are not in an asylum, hospital, or licensed house.

(Signed) *A.B.*
Medical officer of the district of the union [*or* parish] of

Dated the day of

FORM 18.

County of
Union [*or* parish] of
District of

SIR,

I DECLARE that to the best of my belief there has not, during the quarter ending the day of 189 , been any pauper lunatic residing in the district of the union of [*or* in the parish of] who is not in an asylum, hospital, or licensed house.

(Signed)
Medical Officer.

Dated this day of 18 .

FORM 19.

Form of Annual Return.

A TRUE LIST of all LUNATICS chargeable on the 1st January, 18 , to the Union [*or* Parish of], in the County [*or* Counties] of , specifying the Names, Sex, and Age of each, and where detained or residing.

Name.	Age.	Sex.	Where maintained.						Weekly Cost of Maintenance and Clothing.	Observations.
			In any and what County or Borough Asylum, including Patients out on Trial, but excluding those boarded out.	Boarded out with Relatives or Friends under the Lunacy Act, 1890, sect. 57.	In any and what Hospital or licensed House, including Patients out on Trial.	In the Workhouse.	In Lodgings, or boarded out, and where, and with whom, by Name.	Residing with Relatives, and where, and with whom, by Name.		

Signed by me this day of 18 .
A.B.
Clerk to the Board of Guardians of the said Union.

Sealed with the common seal of the Commissioners in Lunacy by order of the Board in the presence of
Secretary.

19, Whitehall Place, London, S.W.,
the 29th day of March, 1890.

Regulation by the Commissioners in Lunacy as to Instruments and Appliances for the Mechanical Bodily Restraint of Lunatics.

Lunacy Act, 1890, s. 40.

By sub-section 6 of section 40 of the Lunacy Act, 1890, it is enacted as follows :—

> "In the application of this section, mechanical means shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine."

The intention and object of the above section obviously is to discourage the employment of mechanical restraint in the treatment of the insane, except in cases of manifest and urgent necessity : an object which the Lunacy Commission has always endeavoured to promote. It is with great reluctance, therefore, that the Commissioners approach the performance of the duty imposed on them by the Legislature, of determining the instruments and appliances of restraint, and their discharge of the duty must not be construed as implying any greater countenance by them of this mode of treatment than they have hitherto given to it.

They recognise, however, as the section referred to recognises, that cases will occur in which it is necessary for the safety of the patient or of others, or is beneficial to the patient, that mechanical restraint should be applied ; but they hold that the application of it should be restricted within the narrowest limits possible, that the restraint should be applied by means the most humane that can be contrived, should not be long continued without intermission, and should be dispensed with immediately it has effected the purpose for which it is employed.

In pursuance of sub-section 6 of section 40 of the Lunacy Act, 1890, the Commissioners in Lunacy by this regulation under their seal do hereby determine that in the application of that section "mechanical means" of

bodily restraint shall be and include all instruments and appliances whereby the movements of the body or of any of the limbs of a lunatic are restrained or impeded.

The Commissioners direct that at each visit of Commissioners or a Commissioner to an asylum, hospital, or licensed house, or to a single patient, all instruments and mechanical appliances which may have been employed in the application of bodily restraint to a lunatic since the last preceding visit of Commissioners or a Commissioner, be produced to the Visiting Commissioners or Commissioner by the superintendent, resident medical officer, or resident licensee, or the person having charge of the single patient.

By order of the Board,
G. HAROLD URMSON,
Secretary.

19, Whitehall Place, London, S.W.,
the 9th day of April, 1890.

The Rules in Lunacy, 1890.

Preliminary.

Short title.

1. These Rules may be cited as the Rules in Lunacy, 1890.

Commencement of Rules.

2. These Rules shall come into operation on the 1st of August, 1890, and as from that date the Lunacy Orders, 1883, and the Orders dated the 4th of May, 1827, the 3rd of August, 1876, the 6th of February, 1889, and the 6th of May, 1889, shall be annulled.

Pending proceedings.

3. Pending proceedings shall be carried on according to the provisions of these Rules, so far as possible, and subject thereto according to the practice heretofore subsisting, and in case of doubt as to the mode of procedure, in such of those modes as the Masters direct. The provisions of these Rules shall be subject to variation by special Order in any case, and shall apply only where no express directions are given by any special Order concerning any of the matters provided for in these Rules, or so far as such directions do not extend. In all matters not provided for by these Rules, the mode of procedure heretofore in force shall continue to be followed.

Month means calendar month.

4. Where in any Order the time for doing any act or taking any proceeding is limited by months, and where the word "month" occurs in any document which is part of any legal procedure under these Rules, such time shall be computed by calendar months unless otherwise expressed.

Exclusion of Sundays, &c.

5. Where any limited time less than six days from or after any date or event is appointed or allowed by these Rules or any Order for doing any act or taking any proceeding, Sunday, Christmas Day, and Good Friday shall not be reckoned in the computation of such limited time.

Time expiring on Sunday or close day.

6. Where the time for doing any act or taking any proceeding under these Rules or any Order expires on a Sunday, or other day on which the offices are closed, and by reason thereof such act or proceeding cannot be done

or taken on that day, such act or proceeding shall, so far as regards the time of doing or taking the same, be held to be duly done or taken, if done or taken on the day on which the offices shall next be open.

Number of days how computed.

7. In any case in which any particular number of days not expressed to be clear days is prescribed by these Rules or any Order, the same shall be reckoned exclusively of the first day, and inclusively of the last day.

Power to enlarge or abridge time.

8. The Judge in Lunacy (in these Rules called the Judge) and the Masters may enlarge or abridge the time appointed by these Rules or fixed by any Order enlarging time, for doing any act or taking any proceeding, upon such terms (if any) as the justice of the case requires, and any such enlargement may be ordered, although the application for the same is not made until after the expiration of the time appointed or allowed.

Attendance in Court.

9. Such one of the Masters or their clerks as the Masters with the concurrence of the Lord Chancellor direct, shall attend in Court upon the hearing of any application in lunacy, and shall take a note of the Order made by the Court.

Masters to inquire into delay.

10. The Masters shall inquire into the circumstances of any delay in the conduct of proceedings before them or in proceeding upon their certificates and directions, and for that purpose may call before them all parties concerned, and may certify accordingly where it seems to them expedient.

Forms may be varied.

11. Such variation may be made in the prescribed forms as the circumstances require.

Mode of Application.

Application for an order for inquisition.

12. Applications under the Lunacy Act, 1890, for an order for inquisition shall be made by petition in the Form 1 in the Schedule. The petition shall be signed by the petitioner and attested by a solicitor.

Applications for a traverse and vesting orders.

13. Applications for a traverse and for vesting orders as regards property of which a lunatic is a trustee shall also be made by petition.

Certain petitions with the evidence to be laid before Judge out of Court.

14. Every petition for an order for inquisition and for a traverse, and the evidence in support thereof, shall be filed in the Masters' office and shall be laid before the Judge out of Court.

Other applications under Lunacy Act,

15. All other applications under the Lunacy Act, 1890, shall, unless the Judge in any particular case otherwise

directs, be made by summons at Chambers before the Masters. 1890, to be by summons.

16. In all cases in which the Judge has, under the Lands Clauses Acts, the Settled Estates Act, 1877, the Settled Land Acts, 1882 and 1884, or any other enactment, jurisdiction to make an Order upon petition affecting the property of a lunatic, the application for the Order shall, unless the Judge in any particular case otherwise directs, be made by summons at Chambers before the Masters. Applications under Lands Clauses Acts, Settled Estates Act, Settled Land Acts, and other Acts.

17. If in any case, in which the application is not by these Rules directed to be made by petition, a petition is presented without the direction of the Judge, no further costs shall be allowed than would be allowed upon a summons. If petition presented only costs of summons to be allowed.

18. Subject to the provisions of these Rules the Masters shall in all cases, except petitions for an Order for inquisition, or for a traverse, but including petitions for vesting Orders, consider the summons or petition and the evidence in support thereof, and shall, unless the Judge dispenses with a certificate, certify the result of the evidence, and shall prepare the minutes of such Order (if any) as they think should be made, and shall lay the summons or petition, with such certificate and minutes, before the Judge. The Judge may in any case, if he thinks fit, require the evidence to be laid before him. Masters to certify result of evidence and to prepare minutes.

19. All matters which require to be brought before the Judge shall be brought before him out of Court. The Judge may make an order upon any summons or petition without attendance of counsel, solicitors, or parties, or after such attendance, or may adjourn the summons or petition into Court, or refer the same to the Masters for inquiry or further inquiry upon any matter. Any matter may be adjourned from Court for consideration by the Judge out of Court Matters to be brought before Judge out of Court.

20. The Judge and Masters respectively may direct any person to be served with notice of any application, and may dispense with service on any person. Power to order or dispense with service.

21. The Masters may communicate personally with the Judge with regard to any matter pending before them when any point appearing to them to be novel or difficult arises, and they shall, when requested by the Judge so to do, attend to give any information or assistance he may require. Masters may communicate with and are to attend Judge.

The Inquisition.

22. The notice to an alleged lunatic of a petition for an Order for inquisition shall be by service on him of a copy Notice of petition for inquisition.

of the petition with a notice thereon endorsed signed by the petitioner or his solicitor in the Form 2 in the Schedule.

Notice of report of Commissioners.

23. The notice to an alleged lunatic of a report of the Commissioners under Section 100 of the Lunacy Act, 1890, shall be in the Form 3 in the Schedule.

Order not to be made until seven days after notice.

24. No Order shall be made upon any such petition or report until after the expiration of seven clear days from service upon the alleged lunatic of notice of the petition or report.

Service of notice.

25. Such notice shall be served on the alleged lunatic by being delivered to him personally, or where personal service cannot be effected or is inexpedient, then by being delivered to some adult inmate at the dwelling-house or usual or last known place of abode of the alleged lunatic within the jurisdiction, and an affidavit of service, stating particularly the time, place, and mode of service, and where there has not been personal service, the grounds of such service not having been made, shall be filed with the Masters.

How demand of a jury to be made.

26. An alleged lunatic may either by notice filed with the Masters at any time before the consideration of the petition or report, or by himself, his counsel, or solicitor upon such consideration, demand an inquisition before a jury. A notice demanding a jury shall be in the Form 4 in the Schedule, and shall be signed by the alleged lunatic and attested by his solicitor.

Proceedings after Inquisition.

Summons for inquiries after inquisition found.

27. Subject to the provisions of these Rules as to inquiries respecting the next-of-kin and heir at law of a lunatic, the party having the conduct of the proceedings shall, immediately after inquisition found, take out a summons to inquire into the matters following:—

(*a.*) The lunatic's age, position in life, and residence.
(*b.*) The nature of his lunacy.
(*c.*) Who are his next-of-kin and heir at law.
(*d.*) Who ought to be appointed committee of his person and of his estate.
(*e.*) Of what his property consists, and the particulars thereof.
(*f.*) The amount of his income.
(*g.*) In what manner, and at what expense, and by whom, and where, he has been maintained; what should be allowed for his past maintenance,

what, if anything, is due, and to whom, in respect thereof, and to whom and out of what fund the same ought to be paid.

(*h.*) What should be allowed for future maintenance, when the allowance ought to commence, and out of what fund it should be paid.

Masters to certify result of inquiries.

28. The Masters shall certify the result of the inquiries in the last preceding Rule mentioned, and the Certificate shall be in the Form 5 in the Schedule so far as applicable.

Interim Committees.

29. The Masters may wherever they think proper before certifying the result of their inquiries, certify whether it is expedient that an interim Committee of the person and estate should be appointed, and who is the proper person to be appointed.

Inquiries as to debts.

30. The Masters may, when it seems to them expedient, inquire what undisputed debts (if any) are due from the lunatic, and to whom and whether the same or any of them ought to be paid, and out of what property, and they may entertain proposals for the settlement or payment thereof and for the compromise of any disputed claim against the lunatic or his estate.

Power to conduct inquiries.

31. The Masters may entertain applications and conduct inquiries as to any other matters affecting the property of the lunatic.

Inquiries as to dealings with lunatic's estate before inquisition.

32. The Masters may make such inquiries as they think fit respecting any dealings with the lunatic's estate and the application of the same prior to the date of the inquisition, and respecting the state and condition of the lunatic at the time of such dealings, whether a summons for any such inquiry is pending before them or not.

Inquiries as to property of lunatic out of jurisdiction.

33. The Masters may without an Order of reference inquire whether any person resident out of the jurisdiction has by the law of the place where the lunatic resides been found or declared a lunatic, and whether his personal estate or any part thereof has been vested in a curator or other person appointed for the management thereof according to such law, and whether or not any personal property within the jurisdiction is vested in the lunatic, and what is his interest therein.

No inquiry as to next of kin and heir if per-centage not payable.

34. Where the Judge exempts the property of a lunatic from payment of per-centage and fees, the Masters shall not, during the continuance of the exemption, inquire respecting his next-of-kin and heir at law, without special Order.

Judge may defer and limit and

35. The Judge may in any case by Order defer an inquiry respecting next-of-kin and heir at law, or direct

dispense with inquiry as to next-of-kin and heir.

that the inquiry be carried on to such limited extent only and under such restrictions as the Judge thinks expedient, and he may direct that persons claiming to be next-of-kin or heir at law be left to make out their claim at their own expense, and may in any case, if he thinks it expedient, wholly dispense with the inquiry.

Masters to certify as to inquiry as to next-of-kin and heir.

36. Where the Masters are of opinion that by reason of the smallness of the property of a lunatic, or for any other reason, an inquiry respecting next-of-kin or heir at law should be deferred, or carried on to a limited extent only, or dispensed with, they shall certify accordingly.

Strict proof of pedigree may be dispensed with.

37. Where the Masters are of opinion that it is expedient that strict proof of pedigree should not be gone into, they may dispense with the same to such extent and in such manner as they think fit, and may require and receive such evidence as they think sufficient respecting the family and next-of-kin or heirs at law.

Power to dispense with or disallow attendance of heir or next-of-kin.

38. The Judge may by Order dispense with and disallow the attendance on the proceedings of the heir at law or of all or any of the next-of-kin, either wholly or except at their own expense, or except upon special leave first obtained, and such notice only of attending the proceedings shall be given as shall be conformable to the Order of the Judge.

Master to determine who is to attend the proceedings.

39. Subject to the provisions of these Rules the Masters shall once in the matter of each lunatic so found by inquisition, and may as often as they think it expedient, determine which, if any, of the next-of-kin, and what other persons, if any, are to attend the proceedings or any particular proceeding, and only those persons (if any) to whom the Masters have given leave to attend shall be entitled to notice of or be allowed to attend on any proceeding at the cost of the estate, except by special leave first obtained. The Masters shall certify the persons to whom they have given leave to attend.

Power to appoint guardian of infant.

40. Where an infant being one of the next-of-kin, and having liberty to attend the proceedings, has no guardian, the Masters may by certificate appoint a proper person to be his guardian for the purposes of the lunacy, and the person so appointed shall have the same powers, authorities, and discretion as a guardian ad litem appointed by the Chancery Division of the High Court. The Masters may by certificate revoke any such appointment and appoint another person to be guardian.

Power to consolidate matters and to use

41. The Masters, if it seems to them expedient, may consolidate and carry on together similar proceedings before them in the matters of several persons being

members of the same family, and may in any case use in the matter of one member of a family evidence filed in the matter of any other member of the same family. evidence in other matter.

42. The Masters may direct that several parties appearing before them by different solicitors shall appear by the same solicitor, or that several parties appearing before them by the same solicitor shall appear by different solicitors. Where parties directed to appear by the same solicitor cannot agree upon the solicitor to represent them the Master may nominate the solicitor, and if any of such parties insists upon appearing by a different solicitor he shall do so at his own cost. Power to determine what solicitors are to represent the parties.

43. If the Masters are of opinion that any application ought not to be granted, or that any inquiry was unnecessary, they shall decide whether the application or inquiry was proper, and if they decide in the affirmative the proper costs of the application or inquiry shall be allowed on taxation by virtue of their note, but if they decide in the negative the Judge shall direct by whom and in what manner the costs are to be borne. Masters to certify if any application improper or any inquiry unnecessary.

44. The Masters may receive any deed or security belonging to a lunatic, and may by certificate give liberty for payment or transfer into Court of any money or stock belonging to a lunatic. Power to receive and deliver deeds and securities.

45. Any person in whose custody or control any testamentary paper of the lunatic is shall be at liberty to deposit the same in the office of the Masters upon oath, as they may direct, there to remain for safe custody. Liberty to deposit will of lunatic with Masters.

46. On the death of a lunatic or a supersedeas being issued, the Masters shall ascertain and certify who is entitled to receive any funds in Court belonging to the lunatic, or any documents or effects relating to or forming part of his estate deposited in their office for safe custody, and they shall prepare the minutes of an Order for payment, transfer, and delivery of the same to the person entitled thereto, and the Judge may make an Order for payment, transfer, and delivery to the person certified to be so entitled. On death of lunatic funds in Court and effects deposited with Masters to be paid and delivered.

47. The Masters may on being satisfied of a lunatic's death without Order open and read any document deposited with them purporting or alleged to contain any testamentary disposition made by him for the purpose of ascertaining who is therein nominated executor thereof, and whether any direction is contained therein concerning his funeral or place of interment, and may deliver the document to the proper officer of the Probate Division to be dealt with according to law. On death of lunatic Masters may open will.

Applications as to Property of Persons not found Lunatic by Inquisition.

Notice of applications as to property of person not found lunatic by inquisition.

48. In the case of applications under that portion of the Lunacy Act, 1890, which relates to "Management and Administration," respecting the property of any person not found lunatic by inquisition, seven clear days' notice of the application shall be given to such person by service on him of a copy of the summons with a notice indorsed thereon signed by the applicant or his solicitor in the Form 6 in the Schedule. Such notice shall be served in the manner in which under these Rules notice of a petition for an Order for inquisition is to be served. The summons shall be returnable not less than seven clear days from its date.

Affidavit of service to be filed.

49. An affidavit of service stating particularly the time, place, and mode of service, and where there has not been personal service the grounds of such service not having been made, shall be filed with the Masters.

Notice of objection.

50. The person so served may file a notice of objection to the application. Such notice may be in the Form 7 in the Schedule.

Power to dispense with notice in small property cases.

51. In the case of a person whose property does not exceed 2000*l.* in value, or the income of whose property does not exceed 100*l.* a year, the Masters may, if they think fit, dispense with notice to such person of any application after the first.

Masters may visit persons to whom any inquiry relates.

52. For the purpose of any inquiry before the Masters relating to the property of a person not found lunatic by inquisition, the Masters may, if they think fit, visit such person or require him to be produced before them as they direct.

Notice of proceedings to next-of-kin or others.

53. The Masters may, if they deem it expedient for the better prosecution before them of any such inquiry as aforesaid, direct that notice of the proceedings be given to any of the next-of-kin of the person to whom the inquiry relates, or to any other person, and only such persons as the Masters direct to be served with notice shall be entitled to attend on the inquiry before them.

Provisions as to lunatics so found by inquisition to apply.

54. In all cases not otherwise herein specially provided for, the provisions of these Rules relating to lunatics so found by inquisition and the other general provisions of these Rules shall apply to applications under the Lunacy Act, 1890, relating to the property of persons not so found by inquisition.

Vesting Orders.

55. Applications under that portion of the Lunacy Act, 1890, which relates to "Vesting Orders" may be made— Application for the appointment of new trustees or for vesting orders.

(*a.*) Where the application is for the appointment of new trustees, or relates to property subject to a trust, by any person beneficially interested in the property, whether under disability or not, or by any duly appointed trustee thereof.

(*b.*) Where the application relates to any property subject to a mortgage, by any person beneficially interested in the equity of redemption, whether under disability or not, or by any person interested in the mortgage money.

56. The summons shall be intituled in the matter of the trust or mortgage, and in the matter of the Lunacy Act, 1890. Title of summons.

57. The applicant shall serve any such application upon the person or persons who according to the practice of the Chancery Division of the High Court would be required or entitled to be served in similar cases. Persons to be served.

Orders and Certificates.

58. The Masters shall be provided with an official stamp or seal for the authentication of orders, certificates, and other documents, and of amendments therein. Masters to have an official seal.

59. Orders made in Lunacy shall be drawn up and signed by the Masters and shall be entered by them in a proper book to be provided for that purpose. Orders to be entered by Masters.

60. Every certificate shall state as concisely as possible the grounds of any recommendation and the circumstances relative thereto, when the nature of the case so requires. Certificates of Masters.

61. The Masters shall so far as possible prepare their certificates without attendance of solicitors or parties. Certificates to be prepared without attendances.

62. The Masters may, on request or otherwise, make a separate certificate or state any matters specially with respect to the subject matter of a certificate; and they may make a special certificate on any matter as they think fit. Separate or special certificates.

63. Every certificate and the minutes of every Order, when prepared and settled, shall be signed by the Masters at an adjournment to be made for that purpose, notice of which shall be given to the parties in cases where the certificate has been prepared without any attendance. If the parties consent to the signature of the certificate and Settlement of certificates and minutes.

minutes without any adjournment the Masters may, if they think fit, sign the certificate and minutes as soon as they are prepared and settled.

Any party may refer the certificate or minutes of an Order to the Judge.

64. Any person objecting to a certificate (not being a certificate to be acted on without further Order), or to the minutes of any Order, may take the opinion of the Judge thereon by summons to be issued within eight days after the signature by the Master of the certificate or minutes, and to be served eight clear days before the return thereof. Such summons shall be in the Form 8 in the Schedule. It shall be addressed to all the persons on whom it is to be served.

Confirmation of certificate and minutes by Judge.

65. If no summons has been taken out under the last preceding Rule for the opinion of the Judge upon a certificate (not being a certificate to be acted on without further Order), or upon the minutes of an Order, the same shall be submitted for approval by the Judge without attendance of parties.

Certificates to be signed by Judge.

66. Every certificate (not being a certificate to be acted on without further Order), if approved by the Judge, shall be signed by him after the expiration of eight days after signature by the Masters, or, if a summons for the opinion of the Judge has been taken out, then after the summons has been heard and disposed of. Any certificate may, with the consent of the parties, be signed by the Judge at any time before the expiration of eight days after signature by the Masters. A certificate, when signed by the Judge, shall thenceforth be binding on all the parties to the proceedings.

Certificates not to be brought before Judge by petition.

67. No certificate shall be brought before the Judge by petition, unless the Judge so directs.

Numbers to be denoted by figures.

68. In certificates, Orders, and other documents issued from or brought into the office of the Masters, numbers shall be denoted by figures, and not by words.

Masters to certify account to which money, securities, and effects to be placed.

69. Every Order and every certificate of the Masters for the purpose of a payment or transfer into or deposit in Court of money, securities, or effects shall specify the credit and account to which the payment, transfer, or deposit is to be made. The Masters may, if they think fit, direct that such money, securities, or effects shall not be paid or transferred out without notice to such person as occasion requires and they direct.

Clerical mistakes and accidental omissions.

70. Clerical mistakes in Orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the Judge or the Masters.

Committees of the Estate and Person.

71. Where the Masters certify that several persons ought to be appointed Committees of the estate or person, and that it is expedient that one or more of such persons should continue to act after the death or discharge of the others or other of them, the Order appointing the Committees may direct that the custody of the estate or person shall continue to the surviving or continuing Committees or Committee. Custody of estate or person may be continued to surviving or continuing Committees.

72. The Masters shall approve the security to be given by the Committee of the estate. Such security may be reduced on request to an amount corresponding in the judgment of the Masters with the condition of the property of the lunatic and the income thereof. The Masters may also require the security of the Committee of the estate to be increased, if in their judgment the circumstances of the case render it desirable. Masters to approve security.

73. The Masters may authorise the Committee of the estate to give security in the whole or in part by bringing into Court a sufficient sum of money or stock, and they may for that purpose by certificate give liberty for payment or transfer into Court of any money or stock, and direct how the money is to be invested and the dividends applied, and the Paymaster-General shall give effect to every such certificate. Money or stock may be brought into Court as security.

74. Where a Committee enters into a fresh security, upon the same being duly perfected, and upon the balance then due by the Committee being paid or secured to the satisfaction of the Masters, the former security shall be discharged. Upon fresh security being given previous security discharged.

75. The Committee of the estate shall annually, or at such longer or shorter periods as the Masters fix, deliver his accounts or affidavit in lieu of accounts into the Masters' office, and attend before the Masters at or within such time as the Masters fix, and have his accounts taken and passed, and the Masters shall make to him all just allowances, including an allowance of his reasonable and proper costs, charges, and expenses of passing the account, and those of the next-of-kin, and other persons (if any) allowed to attend on the passing of the account, at the cost of the estate. Committee of estate to pass accounts.

76. The Committee of the estate shall, on each occasion of passing his account, and also whenever the Masters so require, satisfy the Masters that his sureties are living, and that neither of them has been adjudicated bankrupt or compounded with his creditors, and in default thereof Committee to satisfy Masters that sureties are living and solvent.

the Masters shall require him to enter into fresh security within such time as they fix.

Balances of Committee to be paid into Court and invested.

77. The balances certified by the Masters to be due from the Committee of the estate on passing his accounts, or so much thereof respectively as the Masters certify to be proper to be paid by him, shall, unless the Masters otherwise direct, be paid by him, at or within such time as the Masters fix, into Court, to the credit of the matter, and the same, when paid in, and any sum of cash in Court to which the lunatic is entitled, or so much thereof respectively as the Masters by their certificate direct, shall, unless the Masters otherwise direct, within such time (if any) as the Masters fix, be laid out in the purchase of such securities for the time being authorised for the investment of cash under the control of the High Court, as the Masters direct, and the dividends on the securities so purchased and all accumulations of dividends shall, unless the Masters otherwise certify, when the same amount to a competent sum, be laid out in like manner without any request for the purpose.

Mode of allowance of account.

78. The Masters' allowance of the account of a Committee shall be signified under the hand of a Master and written under the account, and a certificate shall not be made unless it is required with a view to the payment of money into Court or for some other purpose.

If balances retained Committee to be disallowed salary and to be charged with interest.

79. Where the Committee of the estate makes default in bringing in his account, or in having the same passed, or in paying the balance certified to be due from him, or in causing the same or any sum of cash in Court to be laid out pursuant to any certificate or direction in that behalf, the Masters shall, unless good cause be shown to them to the contrary, not only disallow his salary or remuneration (if any), but shall also charge him with interest at the rate of 4*l.* per cent. per annum upon any balance or cash for the time during which the same appears to have been improperly retained in hand or uninvested.

Masters to certify in certain cases whether a new Committee should be appointed.

80. The Masters shall in each of the following cases, without special order, inquire and certify whether or not it is expedient that a Committee or a new Committee of the person or of the estate should be appointed, and if so, who is the proper person to be appointed; that is to say:—

(*a.*) On default of a person approved to be Committee of the estate in duly perfecting his security or in duly perfecting a fresh security when required by the Masters.

(*b.*) On the death or discharge of a Committee, or one of several Committees, where the custody does not survive.

(*c.*) If a receiving order in bankruptcy is made against a Committee or he compounds with his creditors.

(*d.*) If a Committee absconds or goes to reside permanently abroad.

Accounts to be passed on discharge or death of Committee or after supersedeas.

81. Upon the discharge or death of the Committee of the estate or upon the issue of a supersedeas or the death of the lunatic, the Masters shall take and pass the account of the Committee from his appointment or from the foot of his last account. If a balance is certified to be due from the Committee or his estate, he or his legal personal representatives shall pay the same into Court by virtue of the certificate or otherwise within such time as the Masters direct, or in the case of a supersedeas shall pay the same to the person whose lunacy has been superseded, or in the case of the death of the lunatic shall pay the same to the legal personal representatives of the lunatic. If the Masters find a balance due to the Committee or his estate, the same shall be paid to him or his legal personal representatives by the new Committee out of the lunatic's estate, or in the case of a supersedeas by the person whose lunacy has been superseded, or in the case of the death of the lunatic by his legal personal representatives. Upon payment of the balance, if any, or if no balance is found due or the taking of the account is not required and may in the opinion of the Masters be properly dispensed with, the security of the Committee shall be discharged.

Procedure where security of Committee is to be discharged.

82. Where under these Rules, or any special Order, the security of a Committee of the estate is to be discharged, then in the case of a bond the Masters shall deliver up the same to be cancelled, and in the case of a recognisance the Masters shall by certificate direct the clerk of the Enrolment Department of the Central Office to attend the Master of the Rolls with the enrolment of the recognisance to be vacated, and such clerk shall by virtue of such certificate attend accordingly; and in the case of security having been given in the whole or in part by a sum of money or stock being brought into Court, the Masters shall prepare the minutes of an Order for the payment or transfer in such manner as the Committee requests and as the Masters think proper of the sum of money or stock, and the dividends thereon, and an Order for such payment or transfer may be made by the Judge without a certificate.

Receivers.

Appointment of Receiver.

83. The Judge may in any case, if he thinks fit, appoint a Receiver of the estate of a lunatic so found by inquisition. Where a Receiver is appointed the person appointed shall, unless otherwise ordered, first give security to be allowed by the Masters duly to account for what he shall receive as such Receiver, and to pay the same as the Judge or Masters direct, and the person so appointed shall, unless otherwise ordered, be allowed by the Masters a proper salary or allowance.

Provisions as to committees extended to Receivers.

84. The provisions of these Rules respecting the Committee of the estate, his accounts, payments, allowances, and matters of the like nature, shall extend, so far as applicable with the necessary modifications, to the case of a Receiver.

Evidence.

Evidence may be taken orally or by affidavit.

85. The Masters may direct the evidence in the matter of a lunatic or any particular proceedings to be taken orally or partly orally and partly by affidavit.

Masters may administer oaths and take recognisances.

86. The Masters may administer oaths to any witness whether his deposition or affidavit is to be used before themselves or not, and recognisances may be taken and acknowledged before them.

Masters may issue advertisements.

87. The Masters may cause to be issued such advertisements as seem to them expedient with reference to any application before them.

Persons making affidavits may be cross-examined.

88. Every person who has made an affidavit to be used on any proceeding in Lunacy shall be liable to cross-examination by or before the Masters, and after cross-examination may be re-examined.

Form of affidavits.

89. Every affidavit shall be drawn up in the first person, and shall be divided into paragraphs, and every paragraph shall be numbered consecutively, and as nearly as may be shall be confined to a distinct portion of the subject. Every affidavit shall be written or printed bookwise. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this Rule.

Affidavits by two or more deponents.

90. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat, except that if the affidavit of all the deponents is taken at one time by the same officer, it shall be sufficient to state that it was sworn by both (or all) of the "above-named" deponents.

91. Every affidavit shall state the description and true place of abode of the deponent. Description and abode of deponent to be stated.

92. The consent of a new trustee to act shall be sufficiently evidenced by a written consent signed by him and verified by his solicitor in the Form 9 in the Schedule. Consent of new trustee to act.

Summonses.

93. Summonses shall be prepared by the parties and sealed by one of the clerks in the Masters' office with the seal of the office, and a copy of the summons shall be left at the Masters' Chambers by the party obtaining the same. Summonses how prepared and issued.

94. Subject to the provisions of these Rules a summons before the Masters shall be served at least two clear days before the return thereof, unless the Masters direct the summons to be returnable within a shorter time after service. The summons shall be in the Form 10 in the Schedule, with such variations as circumstances require. It shall be addressed to all the persons on whom it is to be served. Service and return of summons.

95. When from any cause a summons before the Masters has not been served upon any party at least two clear days before the return thereof, or within such shorter time as the Masters direct, an endorsement may be made upon the summons, and upon the copy thereof, stamped for service, appointing a new time for the parties not before served to attend, and such endorsements shall be sealed at the Masters' Chambers; and the service of the copy so endorsed and sealed shall have the same effect as the service of an original summons; and when any party has been served before such endorsement, the hearing thereof may, upon the return of the summons, be adjourned to the new time so appointed. Further time for service may be allowed.

96. Where any of the parties summoned to attend the Masters in Chambers fail so to attend, whether upon the return of the summons or at any time appointed for the consideration or further consideration of the matter, the Masters may proceed ex parte if, considering the nature of the case, they think it expedient so to do. Failure to attend on return of summons.

97. Where the Masters have proceeded ex parte, such proceeding shall not in any manner be re-considered in the Masters' Chambers, unless the Masters, upon a special application made to them for that purpose by a party who was absent, are satisfied that a re-consideration is necessary or expedient. Proceeding ex parte not to be re-opened except upon a special application.

Matters may be further considered from time to time.

98. Where matters in respect of which a summons has been issued are not disposed of upon the return of the summons, the parties shall attend from time to time, without further summons, at such time or times as may be appointed for the further consideration of the matter.

Masters may dispense with summons or require summons to be taken out.

99. The Masters may, if they think fit, dispense with any summons ordinarily taken out in the course of the proceedings before them, and require any party attending before them to take out a summons for a particular purpose or within a particular time, and fix the time at which any particular summons shall be returnable before them, or at or within which any proceeding necessary or proper to be taken before them shall be taken, and may proceed de die in diem, or adjourn the proceedings before them, as they think fit.

Statement of facts or proposal not to be brought in.

100. A summons shall not in any case be supported by a statement of facts or proposal.

The Chancery Visitors.

Masters to supply Chancery Visitors with information.

101. The Masters shall furnish the Chancery Visitors with abstracts of their certificates as to the property, income, and maintenance of each lunatic to be visited by the Chancery Visitors, and of the Orders made upon such certificates, and shall inform the Chancery Visitors of any increase which has accrued in the property and of any change which has been made in the allowance or scheme for the maintenance of the lunatic, so that the Chancery Visitors may at all times be fully acquainted with the amount of the property and income of every lunatic to be visited by them, and with the scheme approved and the allowance made for his maintenance.

Chancery Visitors to inquire into maintenance of lunatic.

102. The Chancery Visitors shall on each occasion of visiting any lunatic inquire and examine whether he is maintained in a suitable and proper manner, having regard to the existing amount of the allowance ordered to be paid and the existing scheme approved for his maintenance, and also whether, having regard to his property and income, it appears expedient that any and what addition should be made to his comforts, or any and what alterations made in the scheme for or manner of his maintenance.

Chancery Visitors to make special report in certain cases.

103. If the Chancery Visitors on such inquiry and examination consider that the lunatic is not maintained in a suitable manner, or that the allowance provided for his maintenance is not duly applied, or that any provision in the scheme for his maintenance, either for his personal

comfort or enjoyment, or otherwise, is not duly observed, or that any addition to the comforts or any alteration in the manner of the maintenance of the lunatic should be made which his fortune or income is capable of providing, they shall forthwith make a special report, stating their opinion and the grounds thereof to the Board of Visitors.

Board to consider report.

104. The Board shall consider the report at their next meeting, and shall, if they think fit, refer the same to the Masters, to take such steps thereon as appear to them to be expedient.

Masters to investigate matters in report.

105. The Masters shall, on any such report as aforesaid being referred to them by the Board, investigate the matters thereby reported upon, and may, if they deem it expedient, summon the Committee of the person or estate to attend before them, to give explanations thereon, and the Masters may, if they think fit, certify the result of their investigations to the Judge, and prepare the minutes of such Order in the matter as they deem proper.

Chancery Visitors to report once a year to the Lord Chancellor.

106. The Chancery Visitors shall once at least in every year report to the Lord Chancellor in the case of each lunatic, stating the result of their examination and inquiry as to the maintenance of each lunatic, and shall also in any case in which any special report to the Board has been made, state, so far as possible, what steps have been taken in consequence of such special report.

Costs and Taxation of Costs.

Higher and lower scale.

107. Solicitors shall in matters in which the income of a person who is alleged or found to be lunatic exceeds 300*l.* per annum be allowed the fees according to the "Higher Scale," and in all other cases the fees according to the "Lower Scale," appointed by the Rules of the Supreme Court as to costs for the time being in force so far as the same are applicable to such matters, unless the Judge otherwise orders as to all or any of the parties to such matters.

Masters may allow fixed sum for attendance.

108. The Masters shall be at liberty, by memorandum in writing, to allow to a solicitor for attending on any summons or appointment before them such a sum, not exceeding five guineas, as, having regard to the special nature of the case, they think reasonable.

Allowance by Taxing Officer for attendance.

109. Where the Masters have not made and have not refused to make any such allowance as last above mentioned, the Taxing Officer shall take into consideration the circumstances of each case and allow to a solicitor for attending any summons or other appointment such a sum,

not exceeding three guineas, as he in his discretion thinks reasonable.

Solicitors to be allowed same costs as in Chancery Division.

110. In all cases not otherwise herein specially provided for, solicitors shall be entitled to charge and be allowed the fees they would be entitled to charge and be allowed for work and labour of a similar character transacted in the Chancery Division of the High Court.

Refreshments not allowed.

111. No allowance shall be made for refreshments upon inquisitions.

Costs to be taxed by officer appointed by Lord Chancellor.

112. Costs in lunacy shall be taxed by such Taxing Officer as the Lord Chancellor directs.

Rules of Supreme Court as to taxation to apply in lunacy.

113. Subject to these Rules all the provisions of the Rules of the Supreme Court for the time being in force relating to taxation of costs shall apply to the taxation of costs in lunacy.

Procedure on taxation.

114. Where it is ordered that any costs, or costs, charges, and expenses, be taxed, the Taxing Officer, to whom the taxation of costs is for the time being referred, shall tax and certify such costs, or costs, charges, and expenses, and shall certify the names of the respective solicitors to whom the same should be paid; and due notice of attending the Taxing Officer on the taxation shall be given to such parties as the Masters have certified are to attend on the proceedings in the matter; and where it is ordered that the costs, charges, and expenses of any Committee or next-of-kin in the matter of any lunacy be taxed, the Taxing Officer, in taxing such costs, charges, and expenses, shall not allow the costs, charges, or expenses of any application upon which no Order has been drawn up, or of any evidence in relation thereto, unless the same shall by any Order be directed to be allowed or ordered to be costs in the matter of such lunacy, and shall not allow the costs, charges, or expenses of or incidental to any proposal or inquiry before the Masters which they have disallowed or not thought fit to adopt or carry into effect, unless the Masters have certified that such proposal or inquiry was proper.

Construction of and Proceedings under Orders.

Masters may act jointly and severally.

115. Where any matter is referred to, or is directed or permitted to be done by or before the Masters, it shall be considered to be referred to them jointly and severally, and may be done by or before them or either of them,

but all matters in the same lunacy shall, so far as convenient, be conducted before the same Master.

Certain Orders to take effect till further Order.

116. All Orders for the appointment of Committees and for the allowance of maintenance shall be deemed to take effect only until further Order.

Order appointing Committee to take effect on security being given.

117. Where it is ordered that a person named be appointed Committee of the estate, the Order shall be deemed to take effect only on the Masters certifying that he has given such security as they have approved for answering the estate and accounting for the rents, profits, and produce thereof once in every year, or oftener, if required, before the Masters; and such security shall be perfected at or within such time as the Masters appoint, and until such security has been perfected, the approved Committee shall not, unless otherwise ordered, interfere in any manner in the affairs of the lunatic as the Committee of his estate or otherwise. The Masters shall furnish to the Paymaster-General a copy of their certificate, that such security has been perfected.

Committee to account for money received.

118. Where it is ordered that the Committee of the estate do receive, or be at liberty to receive, any money on account of the lunatic or his estate, he shall give credit for the same on passing his accounts before the Masters, and where any sum is ordered to be allowed for the maintenance of the lunatic, or to be expended for any other purpose out of his estate, the Committee of the estate shall be allowed the amount of the allowance for maintenance or the amount to be expended (as the case may be) on passing his accounts before the Masters.

Payments by Committee.

119. Where it is ordered that the Committee of the estate do pay any sums of money for maintenance, he shall pay the same out of income, and where it is ordered that he do pay any costs, he shall, unless otherwise ordered, pay the same, when taxed, out of any moneys coming to his hands, after providing for the maintenance.

Inventory to be signed.

120. Where it is ordered that the Committee of the estate or the person be at liberty to retain any furniture or effects of the lunatic, he is to sign an inventory thereof and an undertaking to deliver up the same when required so to do, and such inventory and undertaking shall be deposited in the office of the Masters.

Proper officers to transfer stock.

121. Where it is ordered that a sum of stock standing in the books of the Bank or other public company be transferred into Court either generally or on a particular account, and no person is named in the Order for making the transfer, the Secretary or Deputy Secretary, Accountant-General, or Deputy Accountant-General for

the time being of the Bank, or other proper officer of such other company, shall make the transfer, and he, or one of the cashiers for the time being of the Bank, or other such proper officer as aforesaid, shall, if so directed, receive any sum of money standing in the books of the Bank or such other company as aforesaid accrued due at the date of the Order by way of dividend, bonus, or periodical payment in respect of the stock to be transferred, and also any future sum so to accrue due previously to the transfer, and shall pay the same into Court either generally or on such particular account as aforesaid, as the case may require.

How lease to be settled.

122. Where an Order is made authorising a lease of a lunatic's property, the Masters shall settle a proper lease in pursuance of the Order and shall sign their allowance of the lease when settled, and the Committee of the estate shall in the name and on behalf of the lunatic execute the lease when allowed, upon the intending lessee executing a counterpart thereof.

Order to raise money by mortgage.

123. Where it is ordered that the Committee be at liberty to raise by mortgage of any part of the lunatic's estate a sum of money for any purpose, the Masters shall settle and approve a proper mortgage, and the Committee upon payment to him, or as may be directed, of the amount to be raised, shall in the name and on the behalf of the lunatic execute the mortgage when so settled and approved, and do all such other acts as are necessary to effectuate the same, and the Committee shall out of the income of the lunatic's estate, pay and keep down the interest on the mortgage.

Orders for sale.

124. Where an Order for the sale of a lunatic's real or leasehold estate is made, the purchaser shall, within such time as the Masters appoint, pay his purchase money into Court, or otherwise as the Masters direct, and in case of payment into Court to such account, as the Masters appoint, and upon such payment the purchaser shall be let into possession or receipt of the rents and profits as from such day as the Masters appoint, and the Committee of the estate shall forthwith in the name and on behalf of the lunatic execute all proper assurances of the property sold to the purchaser or as he directs to be settled by the Masters, and due notice of attending the Masters shall be given to all parties interested.

Per-centage and Fees.

Scale of per-centage.

125. There shall be paid a per-centage at the rate of 4 per cent. per annum on the clear annual income,

amounting to 100*l.* and upwards, of every lunatic so found by inquisition, but so that no larger sum shall be payable in any case in any one year than 400*l.*, and that sums less than ten shillings shall be disregarded in the calculation of the per-centage, and shall not be levied.

126. The following fees shall be payable in Lunacy :— Fees.

Certificates.

	£	*s.*	*d.*
On every certificate of a Master or Taxing Officer other than a certificate of a Master respecting income or per-centage	1	0	0

Attendances.

On an application, with or without subpœna, for any officer to attend as a witness or to produce documents (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office	1	0	0
The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application.			
The officer may also require an undertaking in writing to pay any further fees and expenses which may become payable beyond the amounts so paid and deposited.			

Orders.

On every Order	2	0	0

Copies.

On all copies of documents, the actual cost.

127. The fees payable under these Rules shall be paid by means of stamps. Impressed stamps shall be used, unless for some sufficient reason to be approved by the Impressed stamps to be used.

Masters their use be inconvenient. The stamps shall be impressed or affixed on the vellum, parchment, or paper on which the proceeding in respect whereof such stamps are required is written or engrossed, or which may otherwise be used in reference to such proceeding.

Stamp to be cancelled.

128. Every officer who receives any document to which a stamp is affixed shall immediately upon the receipt of such document cancel or deface the stamp thereon by writing upon such stamp his name or the initial letters of his name in such a manner as to show clearly and distinctly that such stamp has been made use of and so that the same may not be again used, and no document bearing an adhesive stamp shall be filed or delivered out until the stamp thereon has been cancelled or defaced in manner aforesaid.

Limited number of adhesive stamps to be used.

129. In all cases where adhesive stamps are used the stamps affixed to the document shall be of an amount corresponding as nearly as is practicable with the amount of the stamp which such document requires, in order that no greater number of adhesive stamps may be affixed to any document than is actually necessary.

Masters to certify amount of per-centage.

130. The Masters shall certify the amount of per-centage payable upon the income of each lunatic and the person who is to pay the same, and the time within which the same is to be paid, and such person shall pay the same out of the first money coming to his hands on account of the income of the lunatic.

Masters may certify per-centage to be paid out of dividends.

131. The Masters may in such cases as they think fit, certify that the whole or any part of the per-centage payable on the incomes of lunatics shall be paid out of cash arising from dividends of the lunatic standing to the credit of the matter of any lunacy either generally or to any particular account, and when any such certificate is made, the amount certified thereby shall not be paid by means of stamps, but shall be carried over and transferred in manner hereinafter directed.

Lunacy Per-centage Account.

132. There shall be kept in the Paymaster-General's office an account intituled "The Paymaster-General's Lunacy Per-centage Account."

Upon certificate of Masters dividends to be carried to Per-centage Account.

133. When any such certificate as last herein-before mentioned is made, an office copy of such certificate shall be left at the office of the Paymaster-General, who shall by virtue of such certificate, out of any cash arising from dividends or interest on money on deposit belonging to the lunatic standing to the credit of the matter of any lunacy, carry over the amount mentioned in such certificate from the credit of the account in such certificate

mentioned to the credit of the Lunacy Per-centage Account, and any Orders made and to be made in any such matters respectively are to be subject to this Rule and to be acted upon accordingly.

Transfer from Per-centage Account to Cash Account.

134. As soon as conveniently may be after the 31st of January in each year, the Paymaster-General shall, by certificate under his hand, direct the Bank to transfer to his "Cash Account" at the Bank the amount of cash standing on that day to the credit of the Lunacy Per-centage Account, and such certificate shall be a good and sufficient authority to the Bank to write off the amount therein mentioned from the Lunacy Per-centage Account, and to carry it to the "Cash Account," without any further order of the Court, and upon receiving from the Bank a certificate that such transfer has been effected, the amount so transferred shall be placed to the debit of the proper accounts in the books of the Paymaster General.

Per-centage to be paid by stamps.

135. Subject to the provisions herein-before contained, the per-centage shall be paid by means of stamps, and the Masters shall give notice in writing to the Committee of the estate or other proper person of the amount of per-centage to be paid by him according to the certificate of the Masters, and of the time within which such amount is to be paid, and the Committee or other person shall within such time pay the amount stated in the notice out of the income of the lunatic by purchasing stamps to such amount and shall file such notice duly stamped at the office of the Masters.

Per-centage may be paid for less than a year.

136. Where it appears to the Masters with a view to the establishment of a uniform period for the payment of per-centage in the several matters in lunacy or for other purposes to be expedient, they may make in any case a certificate comprising the income of a period greater or less than one year, and stating the amount of per-centage payable for such period.

Masters to certify persons in default in paying per-centage.

137. The Masters shall once at least in every six months, and oftener if they think fit, certify to the Treasury the names of all persons, if any, who are then in default in paying the amount certified to be payable by them in respect of the said per-centage and filing the notices duly stamped as herein-before provided, with the amounts payable by such parties respectively.

Copies of Documents.

Copies to be made in the Masters' office.

138. The following copies of proceedings and documents in matters in lunacy shall be made in the Masters'

office (that is to say): office copies of affidavits to be made for and taken by the party filing the same; copies of documents prepared in the offices of the Masters to be made for and taken by the party having the conduct of the proceedings; office copies of all certificates, orders, and other documents, and of all proceedings filed in lunacy; and copies of all documents filed in the office of the Masters. Copies of all proceedings and documents in matters in lunacy, except those above mentioned, shall be made, delivered, charged, and paid for according to these Rules.

Request for copies.

139. The party, or his solicitor, requiring any copy, save as herein-before excepted, shall make a written request, to be delivered to the party by whom the copy is to be furnished or his solicitor with an undertaking to pay the proper charges. Upon the request being made, with such undertaking as aforesaid, copies of such proceedings or documents shall be made by the party or his solicitor filing or leaving the same, or who, under the last preceding Rule, may have taken office copies thereof.

Time for delivery of copies.

140. The copies shall be ready to be delivered at the expiration of forty-eight hours after the delivery of such request and undertaking, or within such other time as the Judge in any case directs, and shall be delivered accordingly upon demand and payment of the proper charges.

Charge for copies.

141. The charges for all such copies shall be at the rate of fourpence per folio of 72 words, every figure comprised in a column being counted as one word.

Folios to be numbered.

142. The folios of all copies shall be numbered consecutively in the margin thereof, and the name and address of the party or solicitor by whom the same are made shall be endorsed thereon, and such party or solicitor shall be answerable for the same being true copies of the originals or of the office copies of the originals of which they respectively purport to be copies, as the case may be.

Solicitor taking office copy to produce it.

143. Any party or solicitor who has taken any office copy under these Rules shall produce the same in Court or at the office of the Masters when required for the purpose of the proceedings to which the same relate.

Copies to be on convenient paper and legible.

144. All office copies and copies to be furnished by parties or their solicitors shall be written on paper of a convenient size, with a sufficient margin, and in a neat and legible manner, similar to that which is usually adopted by law stationers, and in the case of copies to be furnished by parties of their solicitors, unless so written, the parties or solicitors furnishing them shall not be entitled to be paid for the same.

145. In case any solicitor who is required to furnish any such copy as aforesaid either refuses or for two clear days from the time when the application for such copy has been made neglects to furnish the same, the person by whom such application has been made shall be at liberty to procure a copy from the office in which the original document is or has been filed or left in the same way as if no such application had been made to the solicitor, and in such case no costs shall be due or payable to the solicitor so making default in respect of the copy or copies so applied for. Default of solicitor to furnish copy.

146. The Taxing Officer shall not allow any costs in respect of any copy unless the same appears to him to have been required and to have been made with due care. Costs of unnecessary copies to be disallowed.

(Signed) HALSBURY, C.

The 1st day of July, 1890.

THE SCHEDULE REFERRED TO IN THE FOREGOING RULES.

FORMS.

Form 1.

Petition for an Order for Inquisition.

In Lunacy.

In the matter of *A.B.*, a person alleged to be of unsound mind.

To the Right Honourable the Lord High Chancellor of Great Britain,

The humble petition of *C.D.*, of in the county of sheweth as follows:—

1. *A.B.*, now residing at is now and for years last past has been of unsound mind and incapable of managing himself or his affairs.

2. Your petitioner is the father of the said *A.B.*

Your petitioner therefore humbly prays that the Masters in Lunacy, or one of them, may be directed to inquire concerning the alleged lunacy of the said *A.B.*

And your petitioner will ever pray, &c.

(Signed) *C.D.*

Witness to the signature of the said *C.D.*

E.F.,
Solicitor of .

Form 2.

Notice to alleged Lunatic of application for Inquisition.

Mr. *A.B.*

Take notice that a petition, of which a copy is within written, has been presented to the Lord Chancellor by me (*or* by *C.D.*, of), [1] and that by virtue of and under the same an inquiry may be ordered to take place before one of the Masters in Lunacy as to whether you are or are not of unsound mind and incapable of managing yourself and your affairs, but that you may, in case you think fit, demand that such inquiry may, if ordered, be had before a

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(1) When a demand for a jury has already been filed, from this to the end is to be omitted.

jury, in which case a notice of such your desire must be signed by you and attested by your solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the day of

(Signed) *C.D.*
(*or X.Y.* of
Solicitor for the Applicant *C.D.*)

FORM 3.

NOTICE TO ALLEGED LUNATIC OF REPORT OF COMMISSIONERS UNDER THE LUNACY ACT, 1890.

Mr. *A.B.*

Take notice that the Commissioners in Lunacy, on the day of made a Report to the Lord Chancellor, stating that you are detained or taken charge of as a lunatic, and that they are of opinion that your property is not duly protected (*or* that the income of your property is not duly applied for your benefit *or to that effect*): And take notice that such Report having been duly filed, an inquiry may thereon be ordered by the Judge in Lunacy to take place before one of the Masters in Lunacy as to whether or not you are of unsound mind and incapable of managing yourself and your affairs, but that in case you think fit to demand that such inquiry if ordered to be held may take place before a jury, a notice thereof must be signed by you and attested by your solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven days after your receipt of this notice.

Dated the day of

(Signed) *X.Y.*

FORM 4.

NOTICE BY ALLEGED LUNATIC DEMANDING A JURY.

In the matter of *A.B.*, an alleged lunatic.

I, the above-named *A.B.*, having been on the day of served with a notice of a petition for an order for an inquiry (*or* of the filing of a Report whereon an inquiry may be ordered), whether or not I am of unsound mind and incapable of managing myself and my affairs, do hereby demand that, in the event of such an inquiry as aforesaid being ordered, the same be had before a jury.

Dated the day of

(Signed) *A.B.*

Witness,
M.N., of
Solicitor for the above-named *A.B.*

FORM 5.

CERTIFICATE OF MASTER.

In Lunacy.

In the matter of *A.B.*, a person of unsound mind.

Upon the application of *C.B.*, I hereby certify that the result of inquiries made by me pursuant to the Lunacy Act, 1890, and the Rules in Lunacy, 1890, is as follows:

1. By inquisition taken by at 18 , the said *A.B.* was found of unsound mind.

2. The said *A.B.* is affected with paralysis of the brain. He is unable to understand what is said to him or to express himself intelligently.

3. The said *A.B.* is 50 years of age. Up to the 18 , he carried on business as a at .

4. The persons who would be entitled to the personal estate of the said *A.B.* if he were now dead intestate are as follows [*insert their names, and show their relationship to the lunatic*].

The said *C.B.* would be entitled as heir-at-law to the real estate of the said *A.B.* if he were now dead intestate.

5. The said are the persons who are to attend by one solicitor in this matter generally.

6. The said *C.B.* is the proper person to be appointed Committee of the person and estate of the said *A.B.* The said *A.B.* before the commencement of his lunacy resided with the said *C.B.* at and has continued to reside with him down to the present time. The appointment of the said *C.B.* as Committee of the person and estate of the said *A.B.* is approved by his next-of-kin.

7. I have set forth in the first part of the Schedule hereto the particulars of the personal property of the said *A.B.*, and in the second part of the said Schedule the particulars of his real estate. (*Mention any property in respect of which special directions are wanted.*)

8. The gross annual income of the said *A.B.* is £ or thereabouts, his net annual income is £ or thereabouts.

9 The said *A.B.* has since the commencement of his lunacy resided with and been maintained by the said *C.B.* The sum of £ is now due to the said *C.B.* for the maintenance of the said *A.B.* That sum ought to be paid to him out of the income of the said *A.B.*

10. The sum of per annum is a proper sum to be allowed to the said *C.B.* out of the property of the said *A.B.* for his future maintenance as from the 18 , according to the following scheme (*set it out shortly*):

Dated the day of

Master in Lunacy.

Approved the 18 .

Lord Justice.

FORM 6.

NOTICE TO PERSON NOT FOUND LUNATIC BY INQUISITION OF APPLICATION UNDER THE LUNACY ACT, 1890.

Mr. *A.B.*

Take notice that a summons, of which a copy is within written, was on the day of issued, and that in pursuance thereof orders may be made on the ground (*state the ground on which the case*

is brought within Section 116 *of the Lunacy Act,* 1890, *e.g.*, that you are lawfully detained as a lunatic) for the purpose (*state the purpose, e.g.*, of rendering your property or the income thereof available for the maintenance or benefit of yourself *or* of yourself and your family *or* for carrying on your trade or business), and that if you intend to object to such orders being made, notice of such objection must be signed by you and attested by your solicitor, and filed at the office of the Masters in Lunacy, the Royal Courts of Justice, London, within seven clear days after your receipt of this notice.

Dated the day of

(Signed) *C.D.*
(*or*) *X.Y.*
Solicitor for the Petitioner, *C.D.*

FORM 7.

NOTICE OF OBJECTION BY PERSON NOT FOUND LUNATIC BY INQUISITION TO ORDER UNDER LUNACY ACT, 1890.

I, *A.B.*, of having been served with a notice of a summons for an order respecting my property, under the Lunacy Act, 1890, hereby give notice of my intention to object to such order being made.

Dated the day of

A.B.

Witness,
C.D.,
Solicitor for the above-named *A.B.*

FORM 8.

SUMMONS BEFORE THE JUDGE.

In Lunacy.

In the matter of *A.B.*, a person of unsound mind, so found by inquisition.

or In the matter of *A.B.*, a person alleged to be of unsound mind.

or In the matter of *A.B.*, a person of unsound mind, not so found by inquisition.

or In the matter of *A.B.*, a person alleged to be, through mental infirmity arising from disease or age, incapable of managing his affairs.

Let all parties concerned attend the Judge in his private room at the Royal Courts of Justice on day the day of , at o'clock in the noon, or on such later date and at such time as the Judge directs, on the hearing of an application on the part of [*here state on whose behalf the application is made and its object*].

Dated the day of .

This summons was taken out by of , solicitor for

To

FORM 9.

CONSENT TO ACT.

I, *A.B.*, of hereby consent to act as a trustee of the [*describe the instrument*].

Dated the day of .

(Signed) *A.B.*

I, *C.D.*, of solicitor, hereby certify that the above written signature is the signature of *A.B.*, the person mentioned in the above written consent.

Dated the day of .

(Signed) *C.D.*

FORM 10.

SUMMONS BEFORE THE MASTERS.

For heading, see Form 8.

Let all parties concerned attend the Master in Chambers at the Royal Courts of Justice, London, on day the day of at o'clock in the noon on the hearing of an application on the part of [*here state on whose behalf the application is made and its object*].

Dated the day of 189 .

This summons was taken out by of , Solicitor for

To

CIRCULAR LETTER OF THE LOCAL GOVERNMENT BOARD.

The Lunacy Act, 1890.

[53 Vict., Cap. 5.]

Local Government Board,
Whitehall, S.W.,
23 *April*, 1890.

Sir,

I am directed by the Local Government Board to draw the attention of the Guardians to the Lunacy Act, 1890, which received the Royal Assent on the 29th ultimo, and which comes into operation on the 1st May next.

The Act consolidates the law respecting lunatics, and repeals most of the previous enactments on the subject. Twenty-seven statutes are thus wholly or partially repealed and re-enacted; and on referring to the fifth schedule to the Act it will be seen that the repeal practically extends to all the enactments relating to pauper lunatics and to the powers and duties of boards of guardians and their officers in relation to them. The substituted provisions are contained in various parts of the new Act; but attention may be especially directed to sections 13 to 22, which deal with summary reception orders, to sections 24 to 26, which relate to lunatics in workhouses, to sections 55 to 82, which provide for the absence from asylums of lunatics on trial or for health, the boarding out of lunatics, and their removal and discharge, and to Part X. of the Act, which has reference to the expenses of pauper lunatics.

The measure embodies the provisions of an Act passed last year called the Lunacy Acts Amendment Act, 1889 (52 & 53 Vict. c. 41), by which important alterations were made in the law relating to pauper lunatics. These alterations have not yet taken effect, as the Act was not for the most part to come into operation until the 1st May next. As it has now been superseded by the Act of

the present session, the provisions of the latter Act, which correspond with those of the Act of 1889, must, for practical purposes, be regarded as new; and the Board think it desirable to refer to them in detail, so far as they affect those lunatics with whom boards of guardians and their officer are concerned. Subject to this, the new Act does not substantially alter the law.

Lunatics not under proper care and control or cruelly treated or neglected.

By section 68 of the Lunatic Asylums Act, 1853, it was enacted that every constable, relieving officer, and overseer of any parish, having knowledge that any person in such parish, not a pauper, and not wandering at large, was deemed to be a lunatic, and was not under proper care and control, or was cruelly treated or neglected by any relative or other person having the care or charge of him, should, within three days after obtaining such knowledge, give information thereof upon oath to a justice.

The justice was thereupon required either himself to visit the alleged lunatic and to make inquiry into the matter, or to direct and authorise some medical man to do so, and to report to the justice his opinion thereon. If it was thus made to appear to the justice that the allegations in the information were correct, it was lawful for him to require any constable of the parish or place, or any relieving officer or overseer where the person was alleged to be, to bring such person before any two justices of the county or borough, who having called a medical man to their assistance, could then deal with the case.

The whole of the Act of 1853 is now repealed; and the provisions which take the place of those above referred to will be found in section 13 of the new Act. Under that section it is necessary that the information should be given to a justice who is a judicial authority under the Act.

Any such justice, to whom the information on oath has been given, may himself visit the alleged lunatic, and must, whether making such visit or not, direct and authorise any two medical practitioners, whom he thinks fit, to visit and examine the alleged lunatic, and to certify their opinion as to his mental state. The justice is to proceed in the same manner so far as possible, and to have, as to the alleged lunatic, the same powers as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic

has been sworn. (Section 13 (2).) It is unnecessary to describe this procedure in detail. It will be found set forth in sections 6 and 7 of the Act.

The order or authority made or given for the reception of a lunatic, whether a pauper or not, in an institution for lunatics (*i.e.*, an asylum, hospital, or licensed house) is, in the new Act, termed a "reception order." (Section 341.)

In order that a justice may be a judicial authority within the meaning of the Act, it is necessary that he should have been specially appointed by the justices of the county or quarter sessions borough, or by the Lord Chancellor, to exercise within the county or borough the powers conferred by the Act upon the judicial authority. (Section 10.)

It is the duty of the clerk of the peace of the county or borough to publish the names of the justices so appointed in each petty sessional division of the county and otherwise for the information of all persons concerned.

It is desirable that the Guardians should obtain from the clerk of the peace of each of the counties or quarter sessions boroughs in which the union is situate, lists of the justices who have been appointed as judicial authorities. If in any borough, not having a separate quarter sessions, which is wholly or partly included in the union, justices have been appointed as judicial authorities, lists of such justices should be obtained from the clerk to the justices.

Orders for reception of pauper lunatics in institutions for lunatics.

The Act of 1890 does not alter the law generally as regards the steps to be taken to remove a pauper lunatic to an institution for lunatics. But after the commencement of that Act no pauper can be received as a lunatic into any asylum, hospital, or licensed house, under an order under the hands of an officiating clergyman and overseer or relieving officer. It may, however, be pointed out that where notice is given to, or an information on oath is laid before, a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within such limits is deemed to be a lunatic, the justice may examine him at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him. (Section 17.)

But a justice cannot now in any case act upon his own knowledge only for the purpose of making a reception order. He cannot proceed except upon the prescribed notice, or where an information has been laid.

A justice is forbidden, after the 1st of May next, to sign an order for the reception of any person as a pauper lunatic into an institution for lunatics, or workhouse, unless he is satisfied that the alleged pauper is either in receipt of relief, or in such circumstances as to require relief for his proper care. If it appears by the order that the justice is so satisfied, the lunatic is to be deemed to be a pauper chargeable to the union, county, or borough properly liable for his relief. A person who is visited by a medical officer of the union at the expense of the union is, for the purposes of this enactment, to be deemed to be in receipt of relief. (Section 18.)

Requirements of Reception Orders and Medical Certificates.

Some restrictions have been placed on the making of reception orders and the granting of medical certificates. Thus section 29 of the recent Act provides that a reception order shall not be made unless the medical practitioner who signs the medical certificate, or where two certificates are required, each medical practitioner who signs a certificate, has personally examined the alleged lunatic, in such cases as those with which guardians or their officers have to deal, not more than seven clear days before the date of the order. Moreover, where two medical certificates are required, a reception order is not to be made unless each medical practitioner signing a certificate has examined the alleged lunatic separately from the other.

If an order or certificate for the reception of a lunatic is, after such reception, found to be in any respect incorrect or defective, the order or certificate may, within 14 days next after such reception, be amended by the person who signed the same. No amendment, however, is to be allowed unless it receives the sanction of the Commissioners in Lunacy, or of one of them. Every order and certificate so amended will take effect as if the amendment had been contained therein when it was signed. (Section 34.)

Where a reception order has been made, and the execution of the order has been suspended, or the lunatic has been temporarily taken to a workhouse, he may be received in the institution for lunatics named in the

order at any time within 14 days after the date of the reception order. (Section 36 (1).)

If the removal of the lunatic has been suspended by reason of a medical certificate that he is not in a fit state for removal, he may be received in the institution for lunatics named in the order within three days after the date of a medical certificate that he is in a fit state to be removed. (Section 36 (2).)

In all other cases a reception order will cease to be of any force unless the lunatic has been received under it before the expiration of seven clear days from its date. (Section 36 (3).)

Lunatics in Workhouses.

Section 24 of the new Act provides that except in the cases mentioned in the Act (viz., those coming within section 20 or 21) no person is, after the 1st May next, to be allowed to remain in a workhouse as a lunatic unless the medical officer of the workhouse certifies in writing—

(*a*) that such person is a lunatic, with the grounds for the opinion; and

(*b*) that he is a proper person to be allowed to remain in a workhouse as a lunatic; and

(*c*) that the accommodation in the workhouse is sufficient for his proper care and treatment, separate from the inmates of the workhouse not lunatics, unless the medical officer certifies that the lunatic's condition is such that it is not necessary for the convenience of the lunatic or of the other inmates that he should be kept separate.

(Sub-section (1).)

A certificate under this section will be sufficient authority for detaining the lunatic therein named against his will in the workhouse for 14 days from its date. (Sub-section (2).)

No lunatic is to be detained against his will or allowed to remain in a workhouse for more than 14 days from the date of a certificate under this section without an order under the hand of a justice having jurisdiction in the place where the workhouse is situate. Such an order may be made upon the application of a relieving officer of the union to which the workhouse belongs, supported by a medical certificate under the hand of a medical practitioner, not being an officer of the workhouse, and by the certificate under the hand of the medical officer of the workhouse before mentioned. (Sub-sections (3) and (4).)

The guardians are to pay to the medical practitioner who, not being an officer of the workhouse, examines a person for the purpose of a certificate under this section, such reasonable remuneration as they think fit. (Sub-section (5).)

No such certificate or order of a justice as is above referred to is required as regards a pauper in a workhouse at the date of the commencement of the Act, as to whom a certificate has been signed under section 20 of the Lunacy Acts Amendment Act, 1862. (Sub-section (8).)

If, in the case of a lunatic in a workhouse, the medical officer thereof does not sign a certificate under section 24 (1) of the new Act, or if, at or before the expiration of 14 days from the date of the certificate, an order is not made under the hand of a justice for the detention of the lunatic in the workhouse, or, if after such an order has been made, the lunatic ceases to be a proper person to be detained in a workhouse, the medical officer of the workhouse is forthwith to give notice in writing to a relieving officer of the union that a pauper in the workhouse is a lunatic and a proper person to be sent to an asylum. The like proceedings must then be taken by the relieving officer and all other persons for the purpose of removing the lunatic to an asylum, and within the same time, as is provided in the case of a pauper deemed to be a lunatic and a proper person to be sent to an asylum. Pending such proceedings the lunatic may be detained in the workhouse. (Sub-section (6).)

Failure on the part of the medical officer of a workhouse to give such notice to a relieving officer will render the medical officer liable, for each day or part of a day during which his default continues, to a penalty not exceeding 10*l.*; and if the relieving officer fails to perform his duty under the section he will be liable to a similar penalty. (Section 320.)

The provisions of section 24 of the new Act take the place of the enactments in section 45 of the Poor Law Amendment Act, 1834, which prohibited the detention in a workhouse of any dangerous lunatic for any longer period than 14 days; of those in section 20 of the Lunacy Acts Amendment Act, 1862, which provided that no person should be detained in a workhouse being a lunatic or alleged lunatic beyond 14 days, unless in the opinion of the workhouse medical officer the person was a proper person to be kept in a workhouse, nor unless the accommodation in the workhouse was sufficient for his reception; and of those in section 22 of the Poor Law

Amendment Act, 1867, which provided for the detention in workhouses of poor persons suffering from mental disease if the medical officer of the workhouse reported that the person was not in a proper state to leave the workhouse without danger to himself or others. Accordingly these enactments have all been repealed, except that in the case of the last-mentioned section, the repeal does not extend to persons suffering from delirium tremens. Moreover, this section is in no way interfered with so far as it relates to persons suffering from bodily disease of a contagious or infectious character.

It is scarcely necessary to point out the great importance of the proper observance in future of the requirements of section 24 of the new Act. It may at the same time be noticed that where a lunatic is sent to the workhouse by a justice under section 21 of the Act (which takes the place of section 3 of the Lunacy Acts Amendment Act, 1885,) in a case where a summary reception order might be made, the justice's order will not authorise the detention of the lunatic in the workhouse for more than 14 days, after which period such detention will not be lawful except in accordance with the provisions of section 24.

The guardians may make an order for the removal or discharge of any lunatic detained in a workhouse belonging to their union. (Sections 62 and 81.)

Where a pauper lunatic is discharged from an institution for lunatics, and the medical officer of the institution is of opinion that the lunatic has not recovered and is a proper person to be kept in a workhouse as a lunatic, the medical officer is to certify such opinion, and the lunatic may thereupon be received and detained against his will in a workhouse without further order, if the medical officer of the workhouse certifies in writing that the accommodation in the workhouse is sufficient for the lunatic's proper care and treatment, separate from the inmates of the workhouse who are not lunatics, or that the lunatic's condition is such that it is not necessary for the convenience of the lunatic, or of the other inmates, that he should be kept separate. (Section 25.)

Expenses of Lunatics. Powers as to dealing with Estate.

Section 69 of the Lunatic Asylums Act, 1853, enabled the justice or justices causing any person to be examined by a medical practitioner, to make an order upon the guardians of the union or parish to which the person was chargeable for the payment of the reasonable remunera-

tion of the medical man, and of all other reasonable expenses in or about the examination, the bringing him before the justice or justices, and in conveying him to an asylum. Some difficulties arose in connection with this section, as only the justice or justices causing the person to be examined could make an order under it, and the order could only be made on the guardians of the union or parish to which the person was chargeable. Hence, if he was not chargeable no order could be made. The section was repealed by the Act of 1889, and a provision was substituted for it which has been reproduced in section 285 of the Act of this year. Under this section the difficulties above referred to will not arise, as it provides that whenever a justice directs a lunatic or alleged lunatic, whether a pauper or not, to be examined by a medical practitioner under the provisions of the Act, the justice directing the examination, or any other justice having jurisdiction in the place where the examination took place, may make an order upon the guardians of the union named in the order for payment of such reasonable remuneration to the medical practitioner and of all such other reasonable expenses in and about the examination, and the inquiry whether an order for the reception of the alleged lunatic in an institution for lunatics or workhouse ought to be made, and also, if an order is made, for payment of such reasonable expenses of carrying the order into effect as the justice thinks proper. Any sums paid by the guardians under such an order may be recovered by the guardians against the lunatic or alleged lunatic and his estate, and the person or authority legally liable for his maintenance as in the case of orders for maintenance.

Under sections 94 and 104 of the Lunatic Asylums Act, 1853, orders might be made by certain justices for the purpose of making a lunatic's property applicable to his maintenance. The restrictions as to the justices who could make such orders have now been removed, for section 299 (1) of the new Act provides that if it appears to any justice that a lunatic, chargeable to any union, has any real or personal property more than sufficient to maintain his family, if any, such justice may by order direct a relieving officer of the union to seize so much of any money, and to seize and sell so much of any other personal property of the lunatic, and to receive so much of the rents of any land of the lunatic as the justice may think sufficient to pay the expenses of maintenance and incidental expenses respectively incurred or to be incurred in relation to the lunatic. The expression "incidental

expenses" is defined in section 289 to mean the expenses incurred in or about the examination of the lunatic, and the bringing him before a justice or justices, and his removal and conveyance to or from any institution for lunatics.

Section 299 (2), provides that if any trustee, or the Governor and Company of the Bank of England, or any other society or person having possession of any property of a lunatic, shall pay or deliver to a relieving officer of a union to which a lunatic is chargeable any money or other property of the lunatic, to repay the charges mentioned, whether pursuant to an order under the section, or without an order, the receipt of such relieving officer shall be a good discharge.

Where a reception order is made in the case of a lunatic the value of whose real and personal property is under £200, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent, may, upon the application of the clerk of the guardians, or a relieving officer, of the union from which the lunatic is sent, authorise the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead. (Section 132 (1).)

The judge, by whom the order is made, may by the same or any subsequent orders give directions as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by the guardians, or by the person acting under any such order. Moreover, the judge may order that the whole or any part of the proceeds of the lunatic's property shall be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and applied for the benefit of the lunatic, or in or towards the reimbursement of the sums above referred to. (Section 132 (2).)

The person acting under any such order of a judge of county courts is to render an account of his dealings with the lunatic's property to the judge by whom the order was made. (Section 132 (3).)

An order may be made by a judge of county courts upon an application by the guardians of any union for payment of the expenses incurred by them in relation to a lunatic, and the order may be enforced against any property of the lunatic in the same way as a judgment of the county court. (Section 300.)

In connection with sections 132 and 299 (1), reference may also be made to the provisions of section 206 of the Act, to which attention will presently be drawn.

Chargeability of Lunatics in Asylums becoming Paupers.

Section 95 of the Lunatic Asylums Act, 1853, directed that where any pauper lunatic was confined under this Act, he should be chargeable to the parish from which, or at the instance of some officer or officiating clergyman of which, he had been sent to the asylum, until it had been established that he was settled in some other parish, or that it could not be ascertained in what parish he was settled. The section did not, however, deal with the case of a lunatic sent to an asylum who became a pauper after his admission. It is now provided by section 286 of the new Act that where a pauper lunatic is sent to an institution for lunatics, or where a lunatic in an institution for lunatics becomes a pauper, he is to be deemed to be chargeable to the union from which he was sent, until it had been established in the manner provided by the Act (sections 338, 289, and 290) that he is settled in some union, or that it cannot be ascertained in what union he was settled, and the manager of the institution is forthwith to give to the authority liable for his maintenance notice that the lunatic has become destitute.

Boarding out Lunatics.

In accordance with a recommendation of the Select Committee on Lunacy Law in 1878, provision is now made for the boarding out of pauper lunatics with their relatives. Section 57 of the Act of this session provides, as regards pauper lunatics chargeable to a union, that where application is made to the visiting committee of an asylum by any friend or relative of a lunatic confined therein, that he may be delivered over to the custody of such relative or friend, the committee may, upon being

satisfied that the application has been approved by the guardians of the union to which the lunatic is chargeable, and, in case the proposed residence is outside the limits of such union, then also by a justice having jurisdiction in the place where the relative or friend resides, and that the lunatic will be properly taken care of, order the lunatic to be delivered over accordingly.

The term "relative" is defined by section 341 to mean a lineal ancestor or lineal descendant, or a lineal descendant of an ancestor not more remote than great grandfather or great grandmother.

Where an order is made for the delivery of a pauper lunatic chargeable to a union into the custody of a relative or friend, the guardians are to pay to the person to whom the lunatic is delivered such allowance for the maintenance of the lunatic, not exceeding the expenses which would be incurred on his account if he were in the asylum, as the guardians, on the recommendation of the visiting committee of the asylum from which the lunatic was delivered over, think proper. (Section 57 (2).)

The lunatic is to be visited, once in every quarter of a year, by the medical officer of the union or district in which the lunatic is resident, who must, within three days after each quarterly visit, send to the visiting committee a report stating whether, in his opinion, the lunatic is properly taken care of, and may properly remain out of an asylum, and for every such report, the medical officer is to be paid two shillings and sixpence in addition to the sum of two shillings and sixpence for each quarterly visit. The payment is to be made by the same persons and to be charged to the same account as the relief of the pauper. (Section 202 (3) and (4).)

It is important to observe that for the purposes of section 24 (2) (f) of the Local Government Act, 1888, a lunatic boarded out by the authorities of any asylum is to be deemed to be a lunatic maintained in an asylum. (Section 57 (3).) Consequently it will be incumbent on every County Council to pay to the guardians of every union wholly or partly in the county a sum equal to 4*s.* a week for each pauper lunatic chargeable to the union who is boarded out, and for whom the net charge upon the guardians, after deducting any amount received by them for the maintenance of the lunatic from any source other than local rates, is equal to or exceeds 4*s.* a week throughout the period of maintenance for which the sum is paid. This requirement will of course be subject to

sub-section (5) of section 24 of the Local Government Act, which provides for an apportionment of the sum otherwise payable by the County Council, where the union is situate in more than one administrative county.

Lunatics in Private Families, or in Charitable or Other Establishments.

By section 206 of the new statute it is enacted that if it comes to the knowledge of the Commissioners in Lunacy, that any person appears to be, without an order and certificates, detained or treated as a lunatic, or alleged lunatic, by any person receiving no payment for the charge, or in any charitable, religious, or other establishment (not being an institution for lunatics), they may require the person by whom the patient is detained, or the superintendent or principal officer of the establishment, to send to them a report or periodical reports by a medical practitioner of the mental and bodily condition of the patient, with all such other particulars as to him and his property as they may think fit. Any one or more of the Commissioners may at any time visit any such patient and report the result of the visit to the Commissioners, and may exercise, with respect to such patient, all the powers (except that of discharge) given to them as to persons confined in an institution for lunatics or as single patients. The Commissioners may transmit any reports received by them, or may report the results of any inquiries made by them under this section, to the Lord Chancellor, who may thereupon make an order for the discharge of the patient from the custody in which he is detained or for his removal to an institution for lunatics, or to such other custody as he may think fit, and the expenses properly incurred of carrying any such order into effect, and of maintaining the patient, if so removed, are, if the order so directs, to be paid by the guardians of the union in which the patient was found, until the authority legally liable for his maintenance has been ascertained. The guardians will have the same right to recover any such expenses paid by them against the lunatic and his estate, and the person or authority legally liable for his maintenance, as in the case of orders for maintenance under the Act.

Where an order is made by the Lord Chancellor under this section for removal of a lunatic to an asylum, any justice of the county or borough in which the asylum is

may exercise all the authorities conferred upon a justice by the Act, for the purpose of making the lunatic's property applicable to his maintenance and for maintaining him as a pauper. (Section 206 (4).)

Discharge of Pauper Lunatic from Hospital or Licensed House.

The guardians are empowered to make an order for the discharge of any pauper lunatic detained in a hospital or licensed house, for whose maintenance they are liable, and to direct the mode of discharge. (Section 73.)

When the Commissioners in Lunacy have made any order for the discharge of a pauper lunatic, which they are empowered to do in the case of a patient detained in any hospital or licensed house, they are to give notice of such order to the authority liable for the maintenance of the lunatic. (Section 76 (1).)

Mechanical Means of Restraint.

Some important restrictions have been placed by the recent Act on the use of mechanical means of restraint on lunatics. It is directed by section 40 that mechanical means of bodily restraint shall not be applied to any lunatic unless the restraint is necessary for purposes of surgical or medical treatment, or to prevent the lunatic from injuring himself or others, and in every case where such restraint is applied, a medical certificate must, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

The certificate is to be signed, in the case of a lunatic in a workhouse, by the medical officer of the workhouse. (Sub-section (3).)

A full record of every case of restraint by mechanical means must be kept from day to day; and a copy of every such record and certificate is to be sent to the Commissioners in Lunacy at the end of every quarter. (Sub-section (4).)

In the case of a workhouse, the record is to be kept by the medical officer of the workhouse, and the copies of records and certificates to be sent are to be sent by the clerk to the guardians. (Sub-section (5).)

Sub-section (6) provides that in the application of this section "mechanical means" shall be such instruments and appliances as the Commissioners may, by regulations to be made from time to time, determine. The Board

will furnish a copy of the regulations made by the Commissioners as soon as they are received by the Board.

Any person who wilfully acts in contravention of the section will be guilty of a misdemeanour. (Sub-section (7).)

Rating of Lunatic Asylums.

It was provided by section 35 of the Lunatic Asylums Act, 1853, that no lands or buildings purchased or acquired for the purposes of any asylum should, while used for these purposes, be assessed to any local rates at a higher value or more improved rent than the value or rent at which they were assessed at the time of the purchase or acquisition.

Complaint has frequently been made of the inequitable operation of this section. The injustice complained of has now been removed, for section 263 of the new Act provides that lands and buildings already or to be hereafter purchased or acquired for the purposes of any asylum, and any additional building erected or to be erected thereon, shall, while used for those purposes, be assessed to county, parochial, district, and other rates made after the commencement of the Act, on the same basis, and to the same extent, as other lands and buildings in the same parish, township, or district.

In every case in which a parish contains lands or buildings purchased or acquired for asylum purposes, steps should be taken for the revision of the valuation list, so far as such lands or buildings are concerned.

Asylum to which Lunatic may be Removed from Workhouse in Certain Cases.

Section 72 of the Lunatic Asylums Act, 1853, provided that every lunatic should, under any order made by a justice or justices for his reception into an asylum, be sent to an asylum of the county or borough in which the parish or place from which he was sent was situate, unless there was no asylum, or there was a deficiency of room, or unless there were some special circumstances by reason of which he could not conveniently be taken to such asylum. To this rule an exception has now been made, where the union is in more than one county, and the workhouse of the union is in one county, and the place from which the lunatic was sent to the workhouse is in another county. Section 68 of the Act of 1890 provides that, in such a case, an order may be made by a justice for the county in which the workhouse is, or a justice for

the county from which the lunatic was sent, for the removal of the lunatic, either to the asylum of the county in which the workhouse is, or to the asylum of the county from which the lunatic was sent, and such latter order may be made notwithstanding that there may be an asylum of the county in which the workhouse is, and there may not be a deficiency of room or any other special circumstances by reason whereof the lunatic cannot conveniently be taken to that asylum.

Abuse of Female Lunatic.

It is expressly provided by the new Act, that if any officer, nurse, attendant, or other person employed in any workhouse, carnally knows or attempts to have carnal knowledge of any female under care or treatment as a lunatic in the workhouse, he will be guilty of a misdemeanor, and, on conviction, will be liable to be imprisoned with or without hard labour for a term not exceeding two years. No consent or alleged consent of such female will be any defence to an indictment or prosecution for such offence. (Section 324.)

Rules and Forms.

By section 338 of the recent Act, the Commissioners in Lunacy are empowered, with the approval of the Lord Chancellor, by rules, to prescribe the returns, reports, extracts, copies, statements, notices, plans, documents, and information to be sent to the Commissioners or any authority or person, and the persons by whom, the times within which, and the manner in which they are to be made and sent; and also to prescribe forms for these purposes in addition to or in substitution for any forms now in use. The rules will have effect as if enacted by the Act. Subject to any rules made under the section, the existing rules are, so far as applicable, to continue in force.

The Commissioners have, with the approval of the Lord Chancellor, made certain rules under this section, which are to come into operation on the 1st proximo. The rules which concern guardians and their officers are those numbered 1 (5), 4, 28, and 29, and copies of these rules and of the forms referred to in them are enclosed. By the rules the Commissioners have prescribed a form of register of mechanical restraint which is to be kept in every workhouse, for the purposes of section 40 of the Act; and forms for the purposes of the quarterly return to be made by every poor law medical officer of all pauper lunatics visited by him, and of the annual list to

be made by the clerk to the guardians of all lunatics chargeable to the union. These forms are to be used in lieu of those prescribed for the same purposes in Schedule B. of the Lunacy Acts Amendment Act, 1862, and in Schedule D. of the Lunatic Asylums Act, 1853, and the rules contain directions as to the times when the returns and lists are to be made and the authorities and persons to whom copies are to be sent. The provisions on these subjects in sections 64 and 66 of the Act of 1853 have not been re-enacted, and are consequently superseded by these rules. Under section 202 (2) of the new Act, the guardians must furnish the medical officers of the union with forms for the prescribed returns to be made by those officers. It is desirable that the attention of those officers should be specially drawn to the provision in rule 28 that where there is no pauper lunatic within the district or workhouse for which the medical officer is appointed, he is to make a return to that effect, in the Form (No. 18) prescribed by the rules.

Subject to rules made by the Commissioners in Lunacy, or the Lord Chancellor, under section 338 of the Act, the forms in the Second Schedule may be used, wherever applicable, with such modifications as circumstances may require. If used, they are to be deemed to be sufficient. (Section 339.)

The Board have thus drawn attention to the chief points in which the law with regard to lunacy has been practically altered by the Act of 1890, so far as matters affecting guardians and their officers are concerned. It is evidently necessary that those officers of the guardians who have specially to deal with lunatics, and particularly the relieving officers and the medical officers, should at once make themselves acquainted with the parts of the new Act affecting their duties, and the Board forward copies of this letter for distribution amongst such officers.

It should be added that the term "Guardians" as used in the Act includes guardians or other body of persons performing under any local Act the like functions as guardians under the Poor Law Amendment Act, 1834, and that "union" means any parish or union of parishes for which there is a separate board of guardians. (Section 341.)

I am, Sir,
Your obedient Servant,
HUGH OWEN,
Secretary.

The Clerk to the Guardians.

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†53 Ditto ditto as to Adjudication (Sec. 289).

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†55 ORDER of Adjudication (Sec. 290).

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