CHAP. 55.

An Act to amend the Law relating to Criminal and Dangerous Lunatics in Scotland. [24th July 1871.]

A.D. 1871.

WHEREAS it is expedient to amend the law relating to criminal and dangerous lunatics in Scotland:

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 for all purposes as "The Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871."

Disposal of persons on indictment placed at Her Majesty's order. 20 & 21 Vict. c. 71. ss. 87 and 88.

2. When in terms of an Act of the twentieth and twenty-first years of the reign of Queen Victoria, intituled "An Act for the "regulation of the care and treatment of Lunatics, and for the "provision, maintenance, and regulation of Lunatic Asylums in "Scotland," any person having been charged under indictment or criminal letters shall be ordered by the court to be kept in custody until Her Majesty's pleasure shall be known, any order which Her Majesty shall be pleased to issue in relation to the custody of such person may be renewed and varied from time to time, and it shall be lawful for Her Majesty, by an order under the hand of a Principal Secretary of State, to authorise, on such terms and conditions as shall be specified in the order, the liberation from custody in prison or elsewhere of any person who has been ordered to be kept in custody as aforesaid, and if any of the conditions of such liberation are broken any Principal Secretary of State may, by warrant to be executed by any sheriff officer or by any officer of the General Prison at Perth to whom such warrant is delivered, direct such person to be taken into custody and to be conveyed to the place in which he was detained at the time of his liberation, or to

A.D. 1871.

any other place to which he might have been removed if no order for his liberation had been given; and any person so taken into custody shall revert in all respects to the same position as he was in at the time when the order for his liberation was given, and shall be subject to be detained accordingly.

Provision as to persons detained by judgment anterior to recited Act.

3. When by judgment anterior to the time when the said Act of the twentieth and twenty-first years of Queen Victoria came in force any person charged on indictment or criminal letters has by reason of lunacy been detained until further order of court, or has been disposed of otherwise than by being placed at Her Majesty's disposal, the provisions of this Act, and all other provisions in any Act relating to Scotland authorising Her Majesty to dispose of persons who by reason of lunacy have been ordered to be detained until Her Majesty's pleasure shall be known, shall apply to persons who have been so detained or otherwise disposed of by such judgment.

Relief of lunatic department in general prison from overcrowding.

4. When in relation to any insane prisoner in the General Prison at Perth it is certified, on soul and conscience, by two medical persons that they have visited and examined such prisoner, and that in their opinion he is insane, but that his insanity is of a kind which can be properly treated in a lunatic asylum, it shall be lawful for one of Her Majesty's Principal Secretaries of State, by a writing under his hand, to order that such prisoner be removed to any district asylum, or to any chartered or licensed asylum in which pauper lunatics are maintained in terms of any contract for such maintenance; and the managers or other administrators of the asylum named in the order shall, unless it be certified by Her Majesty's Commissioners in Lunacy that there is not sufficient accommodation at their disposal, be bound to provide for the reception of the prisoner named therein, and for his detention and maintenance, so long as he may be legally detained in such asylum; and if such prisoner be under a sentence which has not expired, the amount to be paid for his detention and maintenance until the expiry of his sentence shall be fixed by Her Majesty's Commissioners in Lunacy, and the same, when so fixed, may be charged in the accounts for the maintenance of the General Prison at Perth; and if such prisoner be not undergoing any sentence, section seventy-seven of the said Act of the twentieth and twenty-first Victoria, relating to the expense of the maintenance of lunatics, and all the provisions of the said Act and of any Act amending the same relating to the expense of the maintenance of lunatics in Scotland, shall apply to such prisoner while

detained in a lunatic asylum upon an order made under the provisions of this Act: Provided that in the case of chartered asylums or licensed private asylums the consent of the managers or other administrators thereof, both as to the reception of any such person and as to the rate of board, shall be previously had and obtained, without prejudice always to existing contracts.

Removals to and from general prison.

5. Any insane prisoner who has been removed from the General Prison shall be conveyed back thereto on any order to that effect being issued under the hand of one of Her Majesty's Principal Secretaries of State, and all orders for removal, whether from or to the General Prison in terms of this Act, shall be directed to the governor of the General Prison, who shall be responsible for the execution of the same.

Disposal of persons becoming insane in local prisons.

6. When in relation to any person confined in a local prison in terms of the "Prisons (Scotland) Administration Act, 1860," it is certified, on soul and conscience, by two medical persons that they have visited and examined such prisoner, and that in their opinion he is insane, it shall be lawful for the sheriff, on summary application at the instance of the administrators of such prison, by a warrant under his hand, to order such prisoner to be removed to a lunatic asylum; and if the asylum named in such warrant be a district asylum, or a chartered or licensed asylum in which pauper lunatics are maintained in terms of any contract for such maintenance, the managers or other administrators thereof shall, unless it be certified by Her Majesty's Commissioners in Lunacy that there is not sufficient accommodation at their disposal, be bound to provide for the reception of such prisoner, and for his detention and maintenance for the period during which he would have been liable to detention in such prison had he not been so removed; and the amount to be paid for the removal of such prisoner to an asylum, and for detention therein, shall be charged against the assessment for current expenses under the administration of the Prison Board of the county in which the offence wherewith such prisoner is charged was committed, and in case of dispute the amount of such payment shall be fixed by Her Majesty's Commissioners in Lunacy: Provided that in the case of chartered asylums or licensed private asylums the consent of the managers or other administrators thereof, both as to the reception of any such person and as to the rate of board, shall be previously had and obtained, without prejudice always to existing contracts.

Persons in custody may be recon-

7. The sheriff of the county in which the prison from which any person has been so removed is situate may, by a warrant under his

A.D. 1871.

veyed to prisons from which they have been removed.

hand, order such person to be reconveyed to the prison from which he was so removed; and any warrant under the hand of a sheriff in terms of this Act shall be valid, and may be put in force either within the county of such sheriff's jurisdiction or elsewhere in Scotland; and, for the purposes of this Act, the term "sheriff" shall include "sheriff substitute."

Removal of doubts as to application to paupers of provisions for dangerous lunatics. 25 & 26 Vict. c. 54. ss. 15 and 16.

8. For the removal of certain doubts in an Act of the twenty-fifth and twenty-sixth years of the reign of Queen Victoria, entitled "An Act to make further provision respecting Lunacy in Scotland," the provisions therein concerning lunatics charged with assault or other offence inferring danger to the lieges, or found in a state threatening danger to the lieges, or in a state offensive to public decency, shall not be limited to pauper lunatics, but shall apply to any person so charged or found, although he may not, by receiving parochial relief, or in any other form, come within the definition of a pauper, and the powers conferred upon Her Majesty's Commissioners in Lunacy of removal or transfer of any lunatic from any asylum in which he is detained to any other asylum shall apply to such lunatic.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1871.