Alteration of limitation of borrowing power.

23. The limitation on the borrowing power of the Board contained in section thirty-eight of the Metropolitan Board of Works (Loans) Act, 1869, shall not extend to money raised by the Board for purposes mentioned in this Act.

Repayments to go to consolidated loans fund.

24. All sums received by the Board in respect of interest on or principal of any loan made by them under this Act shall be carried to the consolidated loans fund.

Application of provisions of 32 & 33 Vict c. 102. s. 3.

25. The provisions of section three of the Metropolitan Board of Works (Loans) Act, 1869, shall extend and apply to and shall authorise the raising in manner therein mentioned of any money by the Board with the sanction of the Treasury under any powers of borrowing.

SCHEDULE.

NEW MONEY POWERS CONFERRED IN THIS ACT.

Section of Act.	Purpose.		Amount.
			£
(*a*) Supplemental for 1877.			
3	Fire Brigade		15,000
4	Loans to vestries and district boards		50,000
5	Loans to guardians		80,000
6	Loans to public bodies		50,000
(*b*) For 1878.			
7	Minor improvements		100,000
8	Fire Brigade		20,000
9	Street Improvements Act, 1877, and other Acts, viz.:		
	Street Improvements	3,712,507	
	Sydenham Recreation Ground	4,500	
	Clapham Common and Bostal Heath	30,000	
			3,747,007
10	Street improvements under Act of 1872		60,000
11	Loans to vestries and district boards		200,000
12	Loans to guardians		200,000
13	Loans to public bodies		50,000
14	Loans to managers of Metropolitan Asylums District		50,000
			£4,622,007

CHAPTER 53.

An Act to amend the Law relating to Prisons in Scotland.

[14th August 1877.]

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 of Act.

1. This Act may be cited for all purposes as the Prisons (Scotland) Act, 1877.

Commencement of Act.

2. This Act shall, except as is herein-after otherwise provided, and except in so far as relates to the making of rules by the Secretary of State, in pursuance of any power transferred to or vested in the Secretary of State by this Act, which rules may be made at any time after the passing of this Act, come into operation on the first day of April one thousand eight hundred and seventy-eight, which day is herein-after referred to as the commencement of this Act.

Extent of Act.

3. This Act shall not extend to England or Ireland, but shall apply in Scotland to all prisons as herein-after defined.

PART I.

TRANSFER AND ADMINISTRATION OF PRISONS.

Transfer of Prisons.

Maintenance of prisons and prisoners out of public funds.

4. On and after the commencement of this Act all expenses incurred in respect of the maintenance of prisons to which this Act applies, and of the prisoners therein, shall be defrayed out of moneys provided by Parliament.

Prisons to vest in Secretary of State.

5. Subject as in this Act mentioned—

(1.) The prisons to which this Act applies, and the furniture and effects belonging thereto; also,

(2.) The appointment of all officers, and the control and safe custody of the prisoners in the prisons to which this Act applies; also all powers and jurisdiction vested in or exerciseable by the Managers of the General Prison at Perth, or any prison authorities appointed in pursuance of the Prisons (Scotland) Administration Act, 1860, or any Act amending the same, in relation to prisons or prisoners within their jurisdiction,

23 & 24 Vict. c. 105.

shall, on and after the commencement of this Act, be transferred to, vested in, and exercised by one of Her Majesty's Principal Secretaries of State, in this Act referred to as the Secretary of State.

General rules for prisons made by Secretary of State to continue. 23 & 24 Vict. c. 105.

6. All rules for prisons in Scotland which have before the commencement of this Act been certified under the hand of one of Her Majesty's Principal Secretaries of State in pursuance of the Prisons (Scotland) Administration Act, 1860, and have not been superseded by the provisions of this Act, or by rules made as herein-after provided, shall continue to be rules for prisons in Scotland: Provided that it shall be lawful for the Secretary of State at any time after the passing of this Act to repeal, alter, or add to such rules, and such repeal, alteration, or addition shall be by writing under the hand of the Secretary of State, which shall be subject to the provisions herein contained as to rules or regulations made by the Secretary of State.

A copy of all the rules for the time being in force shall be posted in some conspicuous place in every prison to which the same relate.

23 & 24 Vict. c. 105.

Wherever in any enactment reference is made to rules made under and in virtue of the powers conferred by the Prisons (Scotland) Administration Act, 1860, such reference shall be deemed and taken to be made to rules made or continued or altered under and in virtue of the powers conferred by this Act.

ADMINISTRATION OF PRISONS.

Prison Commissioners.

Appointment of Prison Commissioners.

7. For the purpose of aiding the Secretary of State in carrying into effect the provisions of this Act relating to prisons in Scotland, Her Majesty may, on the recommendation of the Secretary of State, at any time after the passing of this Act by warrant under Her Sign Manual appoint any number of persons not exceeding three to be Commissioners during Her Majesty's pleasure, and may, on the recommendation of the Secretary of State, on the occasion of any vacancy in the office of any Commissioner by death, resignation, or otherwise, by the like warrant appoint some other fit person to fill such vacancy. For the like purpose the Sheriff of the county of Perth and the Crown Agent for Scotland for the time being shall be Commissioners ex officio. The Commissioners shall be a body corporate, with power to hold land so far as may be necessary for the purposes of this Act, and shall be styled "The Prison Commissioners for Scotland."

The Secretary of State may from time to time appoint one of the Commissioners to be chairman.

Any act or thing required or authorised to be done by the Prison Commissioners may be done by any one or more of them as the Secretary of State may by general or special rule direct.

Appointment of inspectors, officers, and servants.

8. The Prison Commissioners shall be assisted in the performance of their duties by such number of inspectors, storekeepers, accountants, and other officers and servants as may, with the sanction of the Treasury as to number, be determined by the Secretary of State. The inspectors shall be appointed by the Secretary of State, the other officers and servants of the Prison Commissioners by the Prison Commissioners themselves, subject to the approval of the Secretary of State.

Salaries.

9. There may be paid, out of moneys provided by Parliament, to any two of the Prison Commissioners such salary for their services as the Secretary of State may, with the consent of the Treasury, determine.

There shall be paid, out of moneys provided by Parliament, to the inspectors and other officers and servants of the Prison Commissioners such salaries as the Secretary of State may, with the consent of the Treasury, determine.

Duties of Prison Commissioners.

10. The general superintendence of prisons under this Act shall be vested in the Prison Commissioners, subject to the control of the Secretary of State.

The Secretary of State shall appoint the governors, matrons, and medical officers of prisons, such medical officers being medical practitioners duly registered under the Medical Act, and any Acts amending the same; and he shall also appoint to each prison a chaplain being a minister or licentiate of the Church of Scotland.

Subject as in this Act mentioned, the Prison Commissioners shall appoint all other officers in prisons (herein-after called subordinate officers), such appointments to be for general prison service. The Prison Commissioners shall also make contracts, and do all other acts necessary for the maintenance of the prisons and prisoners within their jurisdiction.

The Prison Commissioners shall have such office accommodation as the Secretary of State may, with the consent of the Treasury, determine.

Subject to the control of the Secretary of State, the Prison Commissioners, by themselves or their officers, shall visit and inspect the prisons within their jurisdiction, and shall examine into the state of the buildings, so as to form a judgment as to the repairs, additions, or alterations which may appear necessary, regard being had to the arrangements requisite for the separation of prisoners and enforcement of hard labour, and shall further examine into the conduct of the respective officers and the treatment and conduct of the prisoners, the means of setting them to work, the amount of their earnings, and the expenses attending the prison, and shall inquire into all abuses within the prison, and regulate all matters required to be regulated by them.

Subject to the control of the Secretary of State, the Prison Commissioners, or any one or more of them, may, in addition to any powers otherwise conferred on them by this Act, exercise in relation to any prison under this Act, and the prisoners therein, all powers and jurisdiction by any Act of Parliament, or by any rules duly made in pursuance thereof, exerciseable by the prison authority of a prison. And any reports, acts, or things required to be made or done to or by or in relation to the prison authority of a prison by any Act of Parliament, or by any such rules, shall, except in so far as is otherwise provided by this Act, be made or done to or by or in relation to the Prison Commissioners, or any one or more of them, or to or by or in relation to such persons or person as the Secretary of State may from time to time appoint.

The Prison Commissioners shall, in the exercise of their powers and jurisdiction under this Act, conform to any directions which may from time to time be given to them by the Secretary of State.

Reports by Prison Commissioners.

11. The Prison Commissioners shall, at such time or times as the Secretary of State may direct, make a report or reports to the Secretary of State of the condition of the prisons and prisoners within their jurisdiction, and an annual report to be made by them with respect to every prison within their jurisdiction shall be laid before both Houses of Parliament.

Report to contain information as to manufacturing processes in prison.

12. Whereas it is expedient that the expense of maintaining in prison prisoners who have been convicted of crime should in part be defrayed by their labour during the period of their imprisonment, and that, with a view to defraying such expenses, and also of teaching prisoners modes of gaining honest livelihoods, means should be taken for promoting in prison the exercise of and instruction in useful trades and manufactures, so far as may be consistent with a due regard on the one hand to the maintenance of the penal character of prison discipline, and on the other to the avoidance of undue pressure on or competition with any particular trade or industry: Be it enacted, that the annual report of the Prison Commissioners required by this Act to be laid before both Houses of Parliament shall state the various manufacturing processes carried on in each of the prisons within their jurisdiction, and such statement shall contain such particulars as to the kind and quantities of, and as to the commercial value of the labour on the manufactures, as to the number of prisoners employed, and otherwise, as may, in the opinion of the Secretary of State, be best calculated to afford information to Parliament.

Return of punishments to be made yearly.

13. The Prison Commissioners shall make a yearly return to Parliament of all punishments of any kind whatsoever which may have been inflicted within each prison, and the offences for which such punishments were inflicted.

Visiting Committee.

Appointment of visiting committee of prisons.

14. A visiting committee shall annually be appointed for every ordinary prison under this Act, consisting of such number of persons being commissioners of supply or justices of the peace of counties, and magistrates of burghs, to be appointed in such manner, and to be chosen at such time as the Secretary of State, having regard to the locality of the prison, to the prison authority heretofore having jurisdiction over such prison, and to the class of prisoners to be confined in such prison, may from time to time by any general or special rule prescribe.

The commissioners of supply of any county shall appoint members of a visiting committee when assembled at such general or special meeting as may be prescribed by the Secretary of State.

The magistrates of a burgh shall hold a special meeting at such time as may be prescribed by the Secretary of State for the purpose of appointing any members of a visiting committee they may be required to appoint.

Nothing in this Act, or in any rules to be made under this Act, shall restrict any member of the visiting committee for any prison from visiting the prison at any time, and any such member shall at all times have free access to every part of the prison, and to every prisoner therein.

Duties of visiting committee.

15. The Secretary of State shall, on or before the commencement of this Act, make and publish, and may hereafter from time to time repeal, alter, or add to, rules with respect to the duties of a visiting committee, and such committee shall conform to any rules so made, but, subject as aforesaid, the members of such committee shall from time to time and at frequent intervals visit the prison for which they are appointed, and hear any complaints which may be made to them by the prisoners, and if asked privately. They shall report on any abuses within the prison, and also on any repairs which may be urgently required in the prison, and shall further take cognizance of any matters of pressing necessity, and do such acts and perform such duties in relation to a prison as they may be required to do or perform by the Secretary of State.

The visiting committee shall report to the Secretary of State any matters with respect to which they may consider it expedient, and shall report to the Secretary of State as soon as may be, and in such manner as he may direct, any matter respecting which they may be required by the Secretary of State to report.

Visit to prison by any sheriff or justice.

16. Any sheriff or justice of the peace, having jurisdiction in the place in which a prison is situate, or having jurisdiction in the place where the offence in respect of which any prisoner may be confined in prison was committed, may, when he thinks fit, enter into and examine the condition of such prison, and of the prisoners therein, and he may enter any observations he may think fit to make in reference to the condition of the prison, or abuses therein, in the visitors book to be kept by the governor; and it shall be

the duty of the governor to draw the attention of the visiting committee, at their next visit to the prison, to any entries made in the said book; but he shall not be entitled, in pursuance of this section, to visit any prisoner under sentence of death, or to communicate with any prisoner, except in reference to the treatment in prison of such prisoner, or to some complaint that such prisoner may make as to such treatment.

PART II.

SUPPLEMENTAL PROVISIONS.

As to Obligation to maintain Prisons.

Termination of local obligation to maintain prisons.

17. On and after the commencement of this Act, the obligation of any prison authority or any county or burgh to maintain a prison or to provide prison accommodation for its prisoners shall cease.

Compensation to be made in place of prison accommodation.

18. Where at the time of the commencement of this Act any prison authority has no prison of its own, or has not a prison or prisons of its own adequate to the accommodation of the prisoners belonging to such authority, it shall pay into the receipt of the Exchequer one hundred and twenty pounds in respect of each prisoner belonging to such prison authority for whom cell accommodation has not at such time as last aforesaid been provided by such authority in a prison of its own.

Any sum payable by a prison authority in pursuance of this section shall be deemed to be a debt due from the prison authority to the Crown, and may be recovered accordingly from the county and burgh or burghs at the passing of this Act within the jurisdiction thereof, subject to the allocation herein-after provided.

Where one prison authority has contributed a sum of money towards the construction by some other prison authority of cell accommodation for the use of the prisoners of the contributing authority, and such cell accommodation has been constructed accordingly, then in assessing the sum payable into the Exchequer by the contributing authority under this section, the contribution so made shall be taken into consideration, and a proportionate deduction be made accordingly.

Any sum payable by a prison authority in pursuance of this section shall be allocated upon and recovered from the county and burgh or burghs at the passing of this Act within the jurisdiction of such prison authority in such proportions as shall be determined by the Secretary of State, having regard to the valuations of such county and burgh or burghs respectively. Any sum so allocated upon a county shall be a charge upon the county general assessment thereof, and any sum so allocated upon a burgh shall be a charge upon such municipal or police assessment or upon the yearly proceeds of the common good and revenues of the burgh as the magistrates may determine.

For the purposes of this section the commissioners of supply of a county, and the magistrates of a burgh, may borrow, and the Public Works Loan Commissioners may advance by way of loan, to bear interest at such rate per centum as the Treasury may determine to be sufficient to prevent any loss to the Exchequer, such sum as may be required, so that the whole amount so borrowed be discharged within a period not exceeding thirty-five years.

Compensation to be made to prison authority in respect of accommodation provided for prisoners of some other authority.

19. Where before the first day of January one thousand eight hundred and seventy-seven, any prison authority having more than sufficient cell accommodation for the number of prisoners belonging to such prison authority, and which prison authority is in this section called the receiving authority, has contracted with any other prison authority, in this section called the sending authority, that the receiving authority is to receive into its prisons any prisoners belonging to such sending authority, and such receiving authority has in the performance of such contract provided cell accommodation for the prisoners of the sending authority, there shall be paid to the receiving authority, out of moneys provided by Parliament, any loss it may have so sustained in relation to such contract for cell accommodation by reason of the passing of this Act, so that the expense of providing cell accommodation for any one prisoner shall not in any case be held to have exceeded the sum of one hundred and twenty pounds.

For the purposes of this section any public department of State which has made contracts with respect to prisoners shall be included under the term "prison authority."

Where it appears that any contract under this section is intended to be renewed at the expiration of its subsisting term, the intention of renewal shall be taken into consideration in estimating the loss sustained by the receiving authority.

Where a prison authority has provided a prison or prisons of its own more than adequate for the accommodation of its prisoners, it shall be entitled to receive, out of moneys to be provided by Parliament, compensation to the extent of one hundred and twenty pounds in respect of each cell provided in such prison or prisons over and above the number of cells required for the average maximum number of prisoners maintained at the expense of such authority in its own prison or prisons during the five years immediately preceding the first day of January one thousand eight hundred and seventy-seven: Provided always, that in case the Prison Commissioners shall report to the Secretary of State that the prison accommodation is in excess of the probable requirements of such prison authority for its own prisoners, or that the buildings are dilapidated or unsuitable, it shall be lawful for the Secretary of State to decline to recommend to the Treasury to make such compensation, in whole or in part, as the circumstances of the case may demand.

Provided also, that no compensation shall be payable under such provision as last aforesaid in respect of any prison discontinued within two years after the commencement of this Act.

A prison authority shall not be entitled to receive under this section more than one hundred and twenty pounds in the whole in respect of the same cell.

"Probable requirements" means the probable future requirements of a prison authority calculated as from the passing of this Act.

The average maximum number of prisoners of a prison authority maintained in any prison in any period of five years shall be calculated by finding the greatest number of such prisoners confined therein on the day on which such prison contained most of such prisoners as aforesaid in each of the said five years, and dividing the aggregate so found by five, excluding fractions.

Any sums which a prison authority shall be entitled to receive under this section shall be payable and divisible in the same manner and subject to the same conditions as hereinafter provided in regard to any balance due to a prison authority.

Allowance to be made to prison authority in respect of uncompleted prison.

20. Where at the time of the commencement of this Act a prison authority has contracted to construct a building to be used as a prison, but such building has not been completed or become a prison within the meaning of this Act, the Secretary of State may, if he thinks fit so to do, allow the prison authority time to complete such building as a prison, and when so completed it shall pass over to and vest in the Secretary of State as a prison completed at the commencement of this Act; but if the Secretary of State does not think fit to allow time for the completion of such prison as aforesaid, he shall, nevertheless, in assessing the amount of compensation payable in respect of cell accommodation, make, with the consent of the Treasury, from the compensation payable as aforesaid, such deduction as, having regard to all the circumstances of the case, may be agreed upon, or as may, in the event of disagreement between the Secretary of State and the prison authority, be determined by arbitration.

Power to prison authority to erect new prison.

21. Where any prison authority has, at the passing of this Act, a prison or prisons containing cell accommodation, one half of which is not satisfactory to the Secretary of State, such prison authority may build a new prison or prisons containing adequate cell accommodation in terms of this Act, in such situation or situations and in accordance with such plans as may be approved of by the Secretary of State; and upon such new prison or prisons being completed to the satisfaction of the Secretary of State within such time or extended time as he may fix, the same shall pass over to and vest in him as a prison or prisons completed at the commencement of this Act; or otherwise such authority may agree with the Secretary of State, with the consent of the Treasury, to make payment of a sum or sums of money in lieu of building such new prison or prisons.

For the purposes of building such new prison or prisons, and of acquiring land therefor, and of paying the cost thereof, or of making payment of a sum or sums of money as herein-before provided, the provisions of "The Prisons (Scotland) Administration Act, 1860," and of the Act of the session of the twenty-eighth and twenty-ninth years of Her present Majesty, chapter eighty-four, relating to the acquiring of lands, the building of prisons, and the imposing, levying, collecting, and recovery of building assessments, shall be applicable thereto, and the prison authority may for said purposes borrow money, and assign such building assessments in security thereof. 23 & 24 Vict. c. 105.

Upon the new prison or prisons vesting in the Secretary of State under the provisions of this section, or upon payment of a sum or sums of money as herein-before provided, the existing prison or prisons and land and premises appertaining thereto shall by virtue of this Act be and the same are hereby reinvested in and transferred to the prison authority of the county within which the same are situated, and be sold and disposed of by such authority by public auction.

If the price received shall, after deducting the expenses of and incident to such sale, be insufficient to meet the costs of and incident to the erection of the new prison or prisons, including therein any moneys borrowed for the purpose, the deficit shall be allocated and recovered in the same way as any sum payable by a prison authority in respect of inadequate cell accommodation is by this Act provided to be allocated and recovered, and the powers of borrowing and advancing by way of loan by this Act conferred on the commissioners of supply of a county, the magistrates of a burgh, and the Public Works Loan Commissioners respectively, for the said purposes, shall apply to such deficit. If there be an overplus such overplus shall be disposed of in like manner as is herein-after provided in regard to any balance due to any prison authority in respect of building assessments or assessments for current expenses.

The prison authority and all other authorities, and their clerks, treasurers, and other officers, shall continue to exercise the powers, duties, and functions conferred on them under any statute so far as necessary for the purposes of this section, except where by this section it is otherwise specially provided.

The members of the prison authority who are in office at the commencement of this Act, and the survivors and survivor of them, shall, for the purposes of this section, continue without re-election to be the prison authority, and there shall be no election of members or supplying of vacancies after the commencement of this Act.

As to Contracts and Debts.

General saving of rights of creditors.

22. Nothing in this Act contained shall (save as in this Act mentioned with respect to contracts and obligations between prison authorities) affect any right or claim of any creditor of a prison authority under any contract legally made or in respect of any dealing legally had before the commencement of this Act, and between such creditor and the prison authority of which he is a creditor such contract may be enforced in the same manner in all respects as if this Act had not passed.

Determination of contracts between prison authorities.

23. Any contract made or obligation undertaken by any prison authority with any other prison authority for or in relation to the maintenance of any prison or prisoners, or any matter relating to such maintenance, shall be deemed to be determined on and after the commencement of this Act, without prejudice nevertheless to any moneys which may have accrued due under or in respect of such contract or obligation at or before the commencement of this Act.

Existing debts to be defrayed by prison authorities.

24. There shall be defrayed by a prison authority in the same manner as if this Act had not passed,—

(1.) All debts due and sums of money payable in respect of contracts performed, dealings completed, or any matter or thing done before the commencement of this Act; and,

(2.) All debts on account kept with any bank or any person (together with interest from time to time accruing thereon) due at the commencement of this Act in respect of any prison.

A debt in this section shall include any moneys borrowed or contracted to be borrowed by or advanced to a prison authority on the security or credit of any assessment applicable to the payment of the expenses of a prison; provided, that having regard to the exceptional circumstances of Orkney and Zetland, these counties shall, as regards the prisons just built or being built at Kirkwall and Lerwick, be entitled to borrow from the Public Works Loan Commissioners the amounts expended by them in the erection and furnishing of such prisons, so far as not already assessed for, as if the said amounts had been moneys authorised to be borrowed by the commissioners of supply of the said counties for the purposes of this Act.

Provision as to continuing contracts.

25. Where any contract or dealing, in which any prison authority is concerned, is a continuous contract or dealing to be performed partly before and partly after the commencement of this Act, and is not a contract or dealing which is declared by this Act to have determined, or a debt of the nature referred to in the preceding section, such contract or dealing shall be deemed to be divisible, and as to so much thereof as is performable before the commencement of this Act, shall create a debt or obligation to be discharged or performed by the prison authority concerned therein, and as to so much thereof as is performable after the commencement of this Act, shall create a debt or obligation to be discharged or performed out of moneys provided by Parliament.

For the purpose of enforcing the obligations laid upon or reserved against prison authorities in this and the three preceding sections, "prison authority" shall mean the commissioners of supply of the county at the passing of this Act within the jurisdiction of the prison authority; and all such obligations shall be a charge against the county general assessment of such county, but with a right of relief against the burgh or burghs at the passing of this Act within the said jurisdiction, and the municipal or police or other assessments thereof, in the proportion of the valuation of such burgh or burghs respectively to the valuation of such county.

As to Assets.

Provision as to assets.

26. Where there is any balance due to any prison authority, either in respect of building assessments or assessments for current expenses, such balance shall be payable to the commissioners of supply of the county at the passing of this Act within the jurisdiction of such prison authority; but the said commissioners shall be bound to pay to the magistrates of the burgh or burghs at the passing of this Act within the said jurisdiction a portion or portions thereof in the proportion of the valuation of such burgh or burghs respectively to the valuation of such county. The sums ultimately payable to such commissioners and magistrates respectively shall be placed to the credit of the county general assessment of the county, or municipal, or police, or other assessments of the burgh or burghs, as the case may be.

As to Classification and Commitment of Prisoners.

Confinement of prisoners before and during trial.

27. The Secretary of State may from time to time by any general or special rule appoint in any county or burgh a convenient prison or prisons in which prisoners are to be confined before and during trial, or at either of such times, and any prisoner who might, if this Act had not passed, have been lawfully confined in a prison situate within the area of such county or burgh may be lawfully confined in any prison or prisons so appointed: Moreover, the Secretary of State may by any general or special rule from time to time appoint any convenient prison or prisons in any adjoining or adjacent county or burgh to which prisoners may be committed for trial, safe custody, punishment, or otherwise, and any prisoners may be committed to such prison accordingly.

Confinement of prisoners after conviction.

28. The Secretary of State may from time to time by any general or special rule appropriate either wholly or partially particular prisons within his jurisdiction to particular classes of convicted criminal prisoners, and may remove any convicted criminal prisoner from any one prison to any other prison within his jurisdiction for the purpose of his undergoing the whole or any portion of his punishment in such prison; provided that a prisoner who is confined in a prison situate beyond the limits of the county or burgh in

which he was convicted of his offence shall, at the time of his discharge, be taken back at the public expense to the county or burgh in which he was so convicted.

Confinement of civil prisoners.

29. The Secretary of State may from time to time by any general or special rule appoint in any county or burgh, or in any adjoining or adjacent county or burgh, a prison or prisons in which civil prisoners are to be confined during the period of their imprisonment, and it shall be lawful to confine in any prison so appointed during the period of his imprisonment any civil prisoner who might, if this Act had not passed, have been confined during such period in any prison situate within the area of the county or burgh.

Secretary of State may legalise police cells as places of detention for short periods.

30. In any county or burgh in which there are police cells or other premises in the possession of the police authority of such county or burgh, the Secretary of State may from time to time, on the application of such police authority, by any general or special rule, declare that such cells or any number of them, or such other premises or any part of them, shall be a legal prison for the detention of prisoners before or during or after trial, for any period not exceeding fourteen days; and any person charged with or convicted of any crime or any offence committed within such county or burgh, as the case may be, who might, if this Act had not passed, have been lawfully confined in a prison situate within the area of such county or burgh, may be lawfully confined in such police cells or other premises for such period: Provided always, the police authorities shall, in all cases, and at all times, have a prior claim to the use of such cells, and shall in no case be interfered with in their use thereof.

The maintenance of prisoners confined in such police cells or other premises shall be deemed to be the maintenance of prisoners in terms of this Act, and the expense incurred in respect thereof shall be defrayed out of moneys provided by Parliament, subject to this proviso, that the police authority shall not be entitled to make any claim in respect of the use of the police cells or other premises, or of the personal services rendered by any of their officers in detaining or removing the prisoners therein confined.

For the purposes of this section the police authority of any county or burgh, and all persons in their employment, shall be subject to the provisions of this Act, and of any rules made in pursuance thereof.

"Police authority" shall mean the body having the charge or management of the police of a county or burgh under the provisions of any general or local Act of Parliament.

Saving as to commitment of prisoners.

31. Subject to this Act, and any rules made in pursuance thereof, prisoners may be committed to the same prison to which they might have been committed if this Act had not passed.

The committal or imprisonment of a prisoner to or in a prison, if otherwise valid, shall not be illegal by reason only that such prisoner ought, according to the law for the time being in force, to have been committed to, or imprisoned in, some other prison, but any such prisoner as is mentioned in this section shall, on application made on his behalf in a summary manner to any judge of the Court of Justiciary, be entitled to be removed at the public expense to such other prison as aforesaid.

Legal custody of prisoner.

32. A prisoner shall be deemed to be in legal custody whenever he is being taken to or from, or whenever he is confined in, any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the walls of any such prison in the custody or under the control of a prison officer belonging to such prison; and any constable or other officer acting under the order of any sheriff, justice of the peace, or magistrate having power to commit a prisoner to prison may convey a prisoner to or from any prison to or from which he may be legally committed or removed, notwithstanding such prison may be beyond the jurisdiction of such constable or officer, in the same manner and with the same incidents as if such prison were within such jurisdiction.

Discharge of Prisoners.

Provision where term of imprisonment

33. Any prisoner confined in a prison whose term of imprisonment would, according to his sentence, expire on any Lord's day, shall be entitled to his discharge on the Saturday next preceding such Lord's day; and every governor of every prison having the custody

expires on Sunday.

of any such prisoner as aforesaid is hereby required and authorised to discharge such prisoner on the Saturday next preceding any such Lord's day.

Power to Secretary of State to grant certificates to Prisoners Aid Societies, and to revoke or suspend the same.

34. The Secretary of State, upon the application of any one or more member or members of any society formed for the purpose of finding employment for discharged prisoners, and enabling them by loans and grants of money to live by honest labour, and after examining the rules of such society, and receiving such evidence as he thinks fit as to the condition of such society, may issue a certificate under his hand to the effect that such society is approved by him for the purposes of this Act, and he may subsequently at any time, upon due cause shown, by a writing under his hand, revoke or suspend such certificate, and any society in respect of which such certificate as aforesaid has been granted and remains in force shall be deemed to be a "Certified Prisoners Aid Society."

Allowance to discharged prisoner.

35. Where any prisoner is discharged from prison, the Prison Commissioners may, on the recommendation of the visiting committee or otherwise, order a sum of money not exceeding two pounds to be paid by the governor to the prisoner himself, or to the treasurer of a certified Prisoners Aid Society or Refuge, out of any moneys voted by Parliament for the purpose, on the governor receiving from such society an undertaking in writing, signed by the secretary thereof, to apply the same for the benefit of the prisoner.

Discharged prisoner may be provided with means of returning to his home.

36. When a prisoner is discharged from prison the Prison Commissioners may provide such prisoner, out of any moneys voted by Parliament for the purpose, with the means of returning to his home by causing his fare to be paid by railway, or in any other convenient manner.

As to Jurisdiction.

Jurisdiction of sheriff and other officers.

37. The Secretary of State may from time to time, if he think it expedient so to do, by any general or special rule direct that any prison not locally situate within the county or burgh is to be considered to be the prison of such county or burgh, but subject to any such rule as in this section mentioned, and until the same be made, the transfer under this Act of the prisons to which this Act applies, and of the powers and jurisdiction of prison authorities, shall not affect the jurisdiction, save as provided by this Act, of any sheriff, magistrate, justice of the peace, or other officer having at the commencement of this Act jurisdiction in, over, or in respect of such prison.

All powers, authorities, and jurisdictions necessary for giving effect to the provisions of this Act are hereby conferred upon all courts, judges, sheriffs, magistrates, justices of the peace, and officers thereof.

Prisoners under sentence of death.

38. Nothing in this Act contained shall affect the jurisdiction or responsibility of the magistrates of burghs in respect of prisoners under sentence of death, and confined in any prison within their jurisdiction, or their jurisdiction or control over the prison where such prisoners are confined, and the officers thereof, so far as may be necessary for the purpose of carrying into effect the sentence of death, or for any purpose relating thereto; and in any prison in which sentence of death is required to be carried into effect on any prisoner, the magistrates shall, for the purposes of carrying that sentence into execution, be deemed to have the same jurisdiction with respect to such prison as they would by law have had with respect to the prison within their burgh if this Act had not passed.

As to Discontinuance of Prisons.

Power of Secretary of State to discontinue prisons.

39. The Secretary of State may by order from time to time discontinue any prison or prisons which are vested in him by this Act, and any order made by the Secretary of State in pursuance of this section shall be laid before both Houses of Parliament forthwith, if Parliament be sitting at the time of the order being made, or if not then sitting, within one month after the commencement of the then next session of Parliament.

Effect of discontinuance of prison.

40. When a prison to which this Act applies is discontinued the Secretary of State may direct the same to be sold by public auction, at an upset price to be named in the advertisement of sale, and after paying the expenses of such sale, and also after making

payment into the Exchequer, for the public use, of one hundred and twenty pounds in respect of each prisoner maintained by the prison authority to whom such prison originally belonged, for whom cell accommodation was provided in such discontinued prison at the time of the passing of this Act, he shall render the overplus (if any) to the commissioners of supply of the county and magistrates of the burgh or burghs at the passing of this Act within the jurisdiction of such prison authority in such proportions as he shall determine, having regard to the valuations of such county and burgh or burghs respectively.

The commissioners of supply of a county or magistrates of a burgh may purchase such discontinued prison, and if they do so they may sell or otherwise dispose of the same in such manner as they think fit; provided that any price obtained by them shall, in the first instance, be applied in extinguishing, or towards the extinction of, any sums borrowed in pursuance of this Act, and the overplus, if any, shall be applied as such commissioners or magistrates may think fit.

Where any discontinued prison forms part of or is immediately contiguous to any buildings belonging to the commissioners of supply of a county or the magistrates of a burgh, as the case may be, such commissioners of supply or magistrates, as the case may be, may, at any time before such prison is sold by public auction, require the Secretary of State to sell the same to them at the upset price named in the advertisement of sale, and thereupon such prison, but without any furniture or effects belonging thereto, shall belong to such commissioners of supply or magistrates, as the case may be, in the same manner as if they had purchased it at a public auction under this section.

Any sum payable by commissioners of supply or magistrates of burghs in pursuance of this section shall be deemed to be a debt due from such commissioners or magistrates to the Crown, and may be recovered accordingly.

For the purposes of this section such commissioners or magistrates may borrow, and the Public Works Loan Commissioners may advance by way of loan, to bear interest at such rate per centum as the Treasury may determine to be sufficient to prevent any loss to the Exchequer, such sum as may be required, so that the whole amount so borrowed be discharged within a period not exceeding thirty-five years.

For the purposes of this section the cell accommodation provided by a prison authority in all its prisons may be calculated, and if it appears from such calculation that sufficient accommodation has been provided by such authority in any one prison or prisons belonging to such authority no sum shall be payable under this section by such prison authority in respect of the discontinued prison, and a proportionate deduction shall be made in the sum payable under this section by a prison authority in the event of any partial accommodation in excess of the necessary accommodation having been provided in such other prisons belonging to that authority.

Status of Officers.

Position and duties of existing officers of Managers of General Prison at Perth.

41. The clerks and other officers in the office in Edinburgh of the Managers of the General Prison at Perth at the time of the commencement of this Act shall hold their offices by the same tenure, and upon like terms and conditions, and receive the same or equivalent salaries and emoluments as if this Act had not passed. Such existing officers shall perform such duties as they may be required to perform by the Secretary of State, so that such duties are the same or analogous to those they performed previously to the commencement of this Act; and, subject as aforesaid, they shall perform the same duties as nearly as may be as they are performing at the commencement of this Act. In estimating at any time after the commencement of this Act the period of service of any such officer for the purpose of superannuation in terms of the Superannuation Act, 1859, such officer shall be entitled to take into account the number of years service passed by him under the late General Board of Directors of Prisons in Scotland and the said Managers of the General Prison at Perth, along with the years service passed by him under this Act.

22 Vict. c. 26.

Position and duties of exist-

42. The officers attached to prisons at the time of the commencement of this Act (in this Act referred to as existing officers of a prison) shall hold their offices by the same

ing officers of prisons.

tenure, and upon like terms and conditions, as if this Act had not passed, and shall receive salaries of not less amount than those which they have hitherto received.

Such existing officers as aforesaid may be distributed amongst the several prisons to which this Act applies in such manner as may be directed by the Secretary of State, and they shall perform such duties as they may be required to perform by the said Secretary of State, so that such duties are the same or analogous to those they performed previously to the commencement of this Act, and, subject as aforesaid, they shall perform the same duties as nearly as may be as they are performing at the time of the commencement of this Act.

An existing officer of a prison who is at the commencement of this Act in the receipt of military or naval half-pay, or who has, at or before such commencement as aforesaid, commuted his pension in pursuance of the Pensions Commutation Act, 1871, or is in receipt of any pension payable out of public moneys, shall not be subject to any deduction from his salary, or to be deprived of any portion of his half-pay or of his pension, by reason of his salary being thenceforward paid out of public moneys, or of his employment becoming a public employment or an employment of profit under Her Majesty within the meaning of the Acts of Parliament providing for such deduction of salary or deprivation of half-pay, nor be disqualified from receiving such half-pay or pension by reason of his becoming by virtue of this Act a civil servant of Her Majesty.

34 & 35 Vict. c. 36.

Superannuation of officers and abolition of offices.

43. If at any time after the commencement of this Act it appears to the Treasury that any existing officer of an ordinary prison has been in the prison service for not less than twenty years, and is not less than sixty years of age, or that any existing officer of a prison has become incapable from confirmed sickness, age, or infirmity, or injury received in actual execution of his duty, of executing his office in person, and such sickness, age, infirmity, or injury is certified by a medical certificate, and there shall be a report of the Prison Commissioners testifying to his good conduct during his period of service under them, and recommending a grant to be made to him, the Treasury may grant to such officer, having regard to his length of prison service, an annuity, by way of superannuation allowance, not exceeding two thirds of his salary and emoluments, or a gratuity not exceeding the amount of his salary and emoluments for one year.

If any office in any ordinary prison to which this Act applies is abolished, or any officer is retired or removed, any existing officer of such prison who by reason of such abolition, retirement, or removal is deprived of any salary or emoluments, shall be dealt with in manner provided by the Superannuation Act, 1859, with respect to a person retiring or removed from the public service in consequence of the abolition of his office, or for the purpose of facilitating improvements in the organisation of the department to which he belongs.

22 Vict. c. 26.

"Prison service," for the purposes of this section, means, as respects the period before the commencement of this Act, service in a particular ordinary prison, or in the prisons of the same authority, transferred to the Secretary of State, and, as respects the period after the commencement of this Act, service in any such prison or in any other prison transferred to the Secretary of State under this Act.

Any annuity by way of superannuation allowance or gratuity granted under this section shall be apportioned between the period of service before the commencement of this Act and the period of service after the commencement of this Act; and so much of such annuity or allowance as is payable in respect of service before the commencement of this Act, regard being had to the amount of salary then paid, but without taking into account any number of years added to the officer's service on account of abolition of office, or for facilitating the organisation of the department, shall be paid, in such proportions as the Secretary of State shall determine, by the commissioners of supply of the county and the magistrates of the burgh or burghs at the commencement of this Act within the jurisdiction of the prison authority of the prison in which the officer to whom such annuity or allowance is granted was serving at the date of the commencement of this Act, out of the county general assessment or any municipal or police or other assessment of the burgh, as the case may be, and the residue shall be paid out of moneys provided by Parliament.

As to Miscellaneous Matters.

Regulations as to hard labour.

44. A court of law having jurisdiction to sentence to imprisonment may also sentence to hard labour, either for the whole or a portion of the sentence, and the Secretary of State may make any general or special regulations in regard to carrying out sentences of hard labour, and may from time to time vary any regulation so made. In making any regulations in pursuance of this section, the Secretary of State shall have regard to the previous convictions, the industry, and the conduct of the prisoners.

Special rules as to treatment of unconvicted prisoners and certain other prisoners.

45. Whereas it is expedient that a clear difference shall be made between the treatment of persons unconvicted of crime and in law presumably innocent during the period of their detention in prison for safe custody only, and the treatment of prisoners who have been convicted of crime during the period of their detention in prison for the purpose of punishment, and that, in order to secure the observance of such difference there shall be in force in every place in which prisoners are confined for safe custody only, special rules regulating their confinement in such manner as to make it as little as possible oppressive, due regard only being had to their safe custody, to the necessity of preserving order and good government in the place in which they are confined, and to the physical and moral well-being of the prisoners themselves: Therefore be it enacted, that the Secretary of State shall make, and when made may from time to time repeal, alter, or add to, special rules—

(1.) With respect to the retention by a prisoner of the possession of any books, papers, or documents in his possession at the time of his arrest, and which may not be required for evidence against him, and are not reasonably suspected of forming part of property improperly acquired by him, or are not for some special reason required to be taken from him for the purposes of justice;

(2.) With respect to communications between a prisoner, his solicitor, and friends, so as to secure to such prisoner as unrestricted and private communication between him, his solicitor, and his friends as may be possible, having regard only to the necessity of preventing any tampering with evidence, and any plans for escape, or other like considerations; and

(3.) With respect to arrangements whereby prisoners may provide themselves with articles of diet, or may be furnished with a sufficient quantity of wholesome food, and may be protected from being called upon to perform any unaccustomed tasks or offices; also any matter which the Secretary of State may think conducive to the amelioration of the condition of a prisoner who has not been convicted of crime, regard being had to such matters as are in this section directed to be regarded.

Treatment of prisoners convicted of sedition, &c.

46. The Prison Commissioners shall see that any prisoner under sentence inflicted on conviction for sedition or seditious libel shall be treated in the manner provided in special rules to be made, and which when made may be repealed, altered, or added to, by the Secretary of State in regard to the treatment of such prisoners.

Treatment of persons committed for contempt of court.

47. Any person who shall be imprisoned for contempt of any court shall be treated in the manner provided in special rules to be made, and which when made may be repealed, altered, or added to, by the Secretary of State in regard to the treatment of persons so imprisoned.

Test of malingering to be made only with authority of visiting committee, &c.

48. Where the prison medical officer considers it necessary to apply any painful test to a prisoner to detect malingering or otherwise, such test shall only be applied by authority of an order from the visiting committee or a prison commissioner.

Duties of medical officer.

49. The medical officer shall visit the prison at least twice in every week, and oftener if necessary, and shall see every prisoner in the course of the week. He shall daily visit the prisoners, if any, confined in punishment cells, and he shall visit daily, and oftener if necessary, such of the prisoners as are sick, and when necessary shall direct any prisoner to be removed to the sick cells.

The medical officer shall enter daily in a register to be kept in the prison an account of

the state of every sick prisoner, the name of his disease, a description of the medicines and diet, and any other treatment which he may order for such prisoner.

The medical officer shall, once at least in every three months, inspect every part of the prison, and enter in his register the result of each inspection, recording therein any observations he may think fit to make on any want of cleanliness, drainage, warmth, or ventilation, any bad quality of the provisions, any insufficiency of clothing or bedding, any deficiency in the quantity or defect in the quality of the water, or any other cause which may affect the health of the prisoners.

Whenever the medical officer has reason to believe that the mind of a prisoner is or is likely to be injuriously affected by the discipline or treatment, he shall report the case in writing to the governor, together with such directions as he may think proper, and he shall call the attention of the chaplain to any prisoner who appears to require his special notice.

The medical officer may, in any case of danger or of difficulty which appears to him to require it, call in additional medical assistance; and no serious operation shall be performed without a previous consultation being held with another medical practitioner, except under circumstances not admitting of delay, such circumstances to be recorded in his register.

Limitation of time of confinement in a punishment cell.

50. It shall not be lawful for the governor to order any prisoner to be confined in a punishment cell for any term exceeding twenty-four hours; nor shall it be lawful for the visiting committee to order any prisoner to be punished by confinement in a punishment cell for any term exceeding fourteen days.

Duties of governor.

51. The governor shall, as far as practicable, visit the whole of the prison, and see every male prisoner once at least in every twenty-four hours, and, in default of such daily visits, he shall state in his journal how far he has omitted them and the cause thereof.

The governor shall, without delay, call the attention of the medical officer to any prisoner whose state of mind or body appears to require attention, and shall carry into effect the written directions of the medical officer respecting alterations of the discipline or treatment of any such prisoner.

The governor shall notify to the medical officer without delay the illness of any prisoners, and shall deliver to him daily a list of such prisoners as complain of illness, or are removed to the sick cells, or confined to their cells by illness, and he shall daily deliver to the chaplain and medical officer lists of such prisoners as are confined in punishment cells.

Upon the death of a prisoner the governor shall give immediate notice thereof to the procurator fiscal of the jurisdiction within which the prison is situated, and to one of the visiting committee, as well as to the nearest relative of the deceased, where practicable.

As to insane prisoners.

52. The governor shall without delay report to the visiting committee any case of insanity, or apparent insanity, occurring among the prisoners.

Procurator fiscal shall hold public inquiry on prisoner who has died in prison.

53. It shall be the duty of the procurator fiscal of the jurisdiction within which a prison is situated to hold a public inquiry before the sheriff or sheriff substitute of the county on the body of every prisoner who may die within such prison. Where it is practicable, sufficient time shall intervene between the day of the death and the day of the holding the inquiry, to allow the attendance of the next of kin to the deceased.

Transfer of duties of existing inspectors of prisons.

54. On and after the commencement of this Act, any duties required by Act of Parliament or otherwise to be performed by an inspector of prisons appointed in pursuance of the Act of the session of the fifth and sixth years of King William the Fourth, chapter thirty-eight, may, subject to any directions to be given by the Secretary of State, be performed by any Prison Commissioner or Inspector appointed under this Act.

The persons who at the commencement of this Act hold the offices of Inspectors of Prisons under such last-mentioned Act shall become inspectors under this Act, in the same

manner and liable to the performance of the same duties as if they had been appointed inspectors in pursuance of this Act, subject to the following qualifications; namely,

(1.) Every such inspector shall hold his office by the same tenure, and upon like terms and conditions, as if this Act had not passed, and shall receive a salary of not less amount than that which he has hitherto received; and

(2.) Any duties they may be required to perform in pursuance of this Act shall be the same or analogous duties to those which they performed previously to the commencement of this Act.

The seventh section of the Act of the session of the fifth and sixth years of William the Fourth, chapter thirty-eight, shall be repealed from and after the commencement of this Act, in so far as respects Scotland.

Power of authority to borrow on rate.

55. The commissioners of supply of a county and the magistrates of a burgh may borrow any moneys authorised to be borrowed by them under this Act as one loan or as several loans, on the security of the county general assessment of the county, or the municipal, or police, or other assessment of the burgh, as the case may be.

The period for the discharge of a loan under this Act shall be deemed to begin at the date of the first advance of money made on account of any such loan or loans.

Power of Public Works Loan Commissioners to lend.

56. The Public Works Loan Commissioners may advance to the commissioners of supply of a county, or the magistrates of a burgh, on the security of such assessments as aforesaid, and without any other or farther security, any moneys authorised to be borrowed by such commissioners of supply or magistrates for the purposes of this Act.

Legal estate in prison to be in the Prison Commissioners.

57. The legal estate in every prison to which this Act applies, and in the site and land belonging thereto, and in the furniture and effects, shall on and after the commencement of this Act be deemed to be vested in the Prison Commissioners and not in the Secretary of State, but shall from time to time be disposed of by such Commissioners in such mode as the Secretary of State, with the consent of the Treasury, may direct.

As to rules of Secretary of State, and repeal of inconsistent enactments.

23 & 24 Vict. c. 105.

31 & 32 Vict. c. 37.

58. Any rule made by a Secretary of State, in pursuance of this Act, or of the Prisons (Scotland) Administration Act, 1860, may be proved in manner in which regulations made under the authority of one of Her Majesty's Principal Secretaries of State are capable of being proved in pursuance of the Documentary Evidence Act, 1868; and all enactments inconsistent with this Act are hereby repealed: Provided always, that all rules and regulations made under or in pursuance of the foresaid Acts shall be forthwith laid in a complete form, after the same shall have been settled and approved by such Secretary of State, before both Houses of Parliament, if Parliament be sitting, or if not, then within three weeks after the beginning of the next ensuing session of Parliament; and if any such rules or regulations shall be disapproved by either House of Parliament within forty days after the same shall have been so laid before Parliament, such rules or regulations, or such parts thereof as shall be so disapproved of, shall be void and of no effect: Provided also, that no such rules or regulations shall come into force or operation until the same shall have been so laid before Parliament for forty days.

Saving clause as to pensions.

23 & 24 Vict. c. 105.

59. Nothing in this Act contained shall entitle any existing officer of a prison to any superannuation or other allowance the conditions of whose office would not have entitled him to superannuation or other allowance under the Prisons (Scotland) Administration Act, 1860.

Superannuation to clerk or treasurer, &c.

60. At any time after the passing of this Act a prison authority shall have a discretionary power to grant to any clerk or treasurer, or other officer of such authority in office at the passing of this Act, such superannuation allowance or other compensation to take effect on his ceasing to hold office, as they shall deem fit, and may declare the proportions in which such allowance or compensation shall be payable by the commissioners of supply of the county and the magistrates of the burgh or burghs at the passing of this Act within the jurisdiction of such prison authority: Provided always, that any such grant made by such prison authority may be reduced or rescinded by such commissioners of supply or magistrates, as the case may be, in so far as payable by them, if such commissioners of supply or magistrates shall consider the same excessive or improper.

Any sums payable under this section shall be a charge against the county general assessment of a county, or any municipal, or police, or other assessment of a burgh, as the case may be.

Repeal of section 50 of 20 & 21 Vict. c. 71., and constitution of District Boards of Lunacy.

61. Section fifty of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, is hereby repealed, and in lieu thereof it is enacted as follows:

The District Boards of Lunacy elected in terms of the repealed section shall continue in office until the election of district boards elected in terms hereof.

There shall be chosen for each of the districts into which Scotland is or may hereafter be divided for the purposes and in terms of the last-recited Act and any Act amending the same, a board to be called the District Board of Lunacy, the number of the members whereof shall be fixed by the General Board of Lunacy in Scotland, who shall also fix the number of the members of each district board to be elected by the commissioners of supply and magistrates of burghs respectively in each county within such district, and such number shall be proportioned, as nearly as may be, to the valuation of the property situated in each such county and burgh. The members of such district board shall be elected annually by the commissioners of supply and magistrates of burghs at such time as shall be determined by the said General Board of Lunacy; and any vacancy occurring by the death or resignation of any member shall be filled up by the same body by whom the member so vacating was elected. Such district boards shall meet at such times and places as shall be fixed by the General Board of Lunacy from time to time, and shall have power to adjourn and also to appoint a chairman, who, in case of an equality of votes, shall have a casting vote, and committees of their number, to whom may be delegated all or any part of the powers by the said recited Act committed to such district boards. Three shall be a quorum of a district board.

Provision for expense of Lunacy District Board where there is no district asylum.

62. Where it shall happen that in any such district as is mentioned in the preceding section there shall be no district asylum, the clerk of the district board shall divide and apportion the total amount of the expenses incurred by the district board of such district between the landward part of the county and the burghs situated therein, according to the total value of lands and heritages as appearing in the valuation rolls of such county and burghs respectively, and shall transmit to the convener of the commissioners of supply of the county, and to the chief magistrate of each burgh situated therein, a notification of the total amount of such expenses, and of the proportion thereof to be paid by the landward part of the county and by each burgh respectively.

The sums so apportioned as due by the landward part of the county shall be a charge upon and shall be paid out of the county general assessment of such county, and the sums so apportioned as due by each burgh shall be a charge upon and shall be paid out of any assessment levied in such burgh, and payable one half by the owner and one half by the tenant or occupier of the lands and heritages within the burgh, and if there be no such assessment, then out of any other assessment levied in such burgh.

Provision for levying certain assessments heretofore levied along with the prison assessment. 23 & 24 Vict. c. 105.

63. Where assessments under any Act of Parliament may be imposed, levied, and recovered in the same way and manner as the assessments imposed and levied under the Prisons (Scotland) Administration Act, 1860, such assessments may be imposed, levied, and recovered in the same way and manner and with the like powers as any other assessment which may be leviable by the commissioners of supply within any county or the magistrates within any burgh upon the lands and heritages within the same, as appearing on the valuation roll thereof; provided that in a county such assessments shall be payable wholly by the owner of lands and heritages within the county, and that in a burgh such assessments shall be payable one half by the owner and one half by the tenant or occupier of the lands or heritages within the burgh, but the whole of such last-mentioned assessments may be levied on and recovered from the tenant or occupier who, on production of a receipt by the collector therefor, shall be entitled to deduct one half of the amount from the rent payable to the owner: Provided also, that it shall be lawful for such commissioners of supply to exempt from such assessments in any county

any lands and heritages the annual value of which, as appearing from the valuation roll, shall not exceed two pounds sterling, on account of the poverty of the owner thereof; and that it shall be lawful for such magistrates to exempt from the whole or any part of such assessments in any burgh the tenant or occupier of any lands and heritages the annual value of which, as appearing from the valuation roll, shall not exceed five pounds sterling, on account of the poverty of such occupier. And all such assessments shall in the case of bankruptcy or insolvency be paid out of the first proceeds of the estate, and shall be preferable to all other debts of a private nature due by the persons assessed.

Nothing herein contained shall prejudice the power of levying any assessments in any other way or manner not affected by the repeal of certain provisions of the Prisons (Scotland) Administration Act, 1860. 23 & 24 Vict. c. 105.

64. For enabling the Prison Commissioners to purchase, take, and acquire lands for the purposes of this Act, "The Lands Clauses Consolidation (Scotland) Act, 1845," excepting section one hundred and sixteen thereof, and any Act amending the said Act, shall be incorporated with and form part of this Act: Provided that the clauses of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement shall not be incorporated herewith, except for the purpose of acquiring lands adjoining or adjacent to a prison for the purpose of enlarging, improving, or isolating such prison; and the expression "the special Act" in the said Lands Clauses Consolidation Acts shall mean this Act, and the expression "the promoters of the undertaking" in the said Act shall mean and include the said Prison Commissioners. 8 & 9 Vict. c. 19. incorporated with this Act for acquisition of lands.

65. The clerk of every court, judge, sheriff, magistrate, justice of the peace, or other judicial officer, by whom any warrant for imprisonment or any sentence of imprisonment or penal servitude is pronounced, shall make a return thereof to the Prison Commissioners at such time and in such form and under such penalty as the Secretary of State may determine. Returns of warrants of imprisonment and sentences.

Judicial Statistics.

66. The Prison Commissioners shall be the department of judicial statistics under the Judicial Statistics (Scotland) Act, 1869, and shall discharge the duties of the said department, and all statutory returns relating to such statistics shall be made to them accordingly. The Secretary of State shall from time to time appoint a superintendent of the said department at such salary as shall be determined with the sanction of the Treasury, and such superintendent may, with the consent of the Treasury, fill any other office under the said Prison Commissioners. Prison Commissioners to discharge duties of department of Judicial Statistics. 32 & 33 Vict. c. 33.

Reformatories and Industrial Schools.

67. The commissioners of supply of any county or the magistrates of any burgh may resolve to contribute to any reformatory or industrial school in any part of Scotland which has been certified by one of Her Majesty's Principal Secretaries of State, in terms of an Act passed in the seventeenth and eighteenth years of Her present Majesty, intituled "An Act for the better care and reformation of youthful offenders in Great Britain," or the Industrial Schools Act, 1866, or any Act amending the same, and on such resolution, stating the name of the reformatory or industrial school to which they propose to contribute, being transmitted to the Secretary of State for the Home Department, being one of Her Majesty's Principal Secretaries of State, he shall intimate whether he approves or disapproves of such resolution; and if he intimate that he approves thereof, such commissioners or magistrates may from time to time pay over such sum as they may think fit to the directors and managers of such reformatory or industrial school, and such sum shall be a charge on the county general assessment or on any municipal or police or other assessment of any burgh, as the case may be: Provided, that if at any time such Secretary of State shall notify his withdrawal of such his approval, it shall no longer be lawful for the commissioners or magistrates to contribute to such reformatory or industrial school. Commissioners of supply of counties or magistrates of burghs may contribute to reformatories or industrial schools. 17 & 18 Vict. c. 86. 29 & 30 Vict. c. 118.

Arrangement and Arbitration.

Power of Secretary of State and prison authority to compromise and refer to arbitration.

68. The Secretary of State on the one hand (with the assent of the Treasury so far as any public moneys are concerned), and a prison authority on the other, may, with a view to carry into effect the purposes of this Act, compromise any matter, or settle any difference, or refer to a single arbiter any matter or difference.

Definitions.

Definition of "furniture and effects belonging to a prison."

69. The expression "furniture and effects belonging to a prison" includes all furniture, beds, bedding, clothes, linen, implements, machinery and stores, except goods manufactured for sale and materials in store for the purposes of such manufacture, also all books, papers, registers, and documents whatsoever relating to such prison or to the prisoners therein, also all articles whatsoever, whether or not of the same kind as those previously described, belonging at the commencement of this Act to the prison authority of any prison for the purposes of such prison.

Definition of "prisoner" and "maintenance of prisoner."

70. A "prisoner" for the purposes of this Act means any person committed to prison for trial, safe custody, punishment, or otherwise; and "the maintenance of a prisoner" includes all such necessary expenses incurred in respect of a prisoner for food, clothing, custody, safe conduct, and removal to or from any place of confinement or otherwise, from the period when the order for his committal to prison is made until his death or discharge from prison, as would if this Act had not passed have been payable by the managers appointed under the Prisons (Scotland) Administration Act, 1860, or by a prison authority, with this proviso, that nothing in this Act shall exempt a prisoner from payment of any costs or expenses in respect of his conveyance to prison or otherwise which he would have been liable to pay if this Act had not passed.

23 & 24 Vict. c. 105.

Nothing herein contained shall alter the law with respect to the aliment of civil prisoners, or with respect to the powers and jurisdiction at present possessed by the sheriff of a county or the magistrates of a burgh with respect to applications and proceedings for aliment, and for liberation of civil prisoners.

For the purposes of this Act, sufficient accommodation for the prisoners belonging to a prison authority shall, as nearly as can be ascertained, be deemed to be the average daily number of prisoners maintained at the expense of such authority, whether in its own prison or in a prison belonging to some other prison authority during the five years immediately preceding the first day of January one thousand eight hundred and seventy-seven.

"Cell accommodation for a prisoner."

"Cell accommodation for a prisoner" means a cell for the separate confinement of such prisoner certified in pursuance of this Act by the Secretary of State as in respect of its cubical contents and other particulars proper for the detention of prisoners.

Definitions of other terms used in this Act.

71. In the construction of this Act, unless there is something inconsistent in the context,—

"County" shall not include a county of a city:

For the purposes of this Act, Orkney and Zetland shall be taken to be separate counties:

31 & 32 Vict. c. 50.

For the purposes of this Act the northern prison district and the southern prison district of the county of Lanark, as defined by the "Prisons (Scotland) Administration Acts (Lanarkshire) Amendment Act, 1868," shall be taken to be separate counties; and the duties, rights, and obligations arising under this Act shall, in the said districts, exist and be discharged, as nearly as may be, in conformity with the provisions of the last-mentioned Act; and if any question shall arise in regard thereto, it shall be determined by the Secretary of State; and any order under his hand shall have the same effect as if it were contained in this Act: Provided always, that after the commencement of this Act no district prison board shall be elected for either prison district of the said county:

"Burgh" shall include and apply to the cities, burghs, and towns which are royal burghs, or which send or contribute as burghs to send a member to Parliament:

For the purposes of this Act the boundaries of a burgh shall be the boundaries thereof at the passing of this Act for prison purposes, under the provisions of the Prisons (Scotland) Administration Act, 1860: 23 & 24 Vict. c. 105.

"Magistrates" shall include the magistrates and town councils of burghs:

"Sheriff" shall include sheriff substitute:

"Prison authority" shall mean a county prison board appointed in terms of the Prisons (Scotland) Administration Act, 1860:

"Prison" shall include all legal prisons in Scotland, and in respect to those existing at the commencement of this Act, whether the same have been administered by the Managers appointed in terms of the Prisons (Scotland) Administration Act, 1860, or by county prison boards appointed under that Act, but shall not include military prisons, or, except in so far as expressly provided, police cells or other places of detention: Provided always, that it shall include any land or building bought or contracted to be bought before the commencement of this Act by a prison authority for the purpose of enlarging or altering any prison, or adding to the appurtenances of any prison, subject to this proviso, that if the Secretary of State is of opinion that any portion of the lands so bought or contracted to be bought, whether included or not within the walls of the prison, was not at the time of the passing of this Act necessary for the then subsisting purposes of such prison, he shall either direct that such portion shall be re-conveyed to the prison authority, or retain such portion, or any part of such portion, on payment out of moneys provided by Parliament of such sum as may be agreed upon, or, in the event of difference, may be determined by arbitration in manner provided by this Act, on the transfer of any such prison to him, and the vesting thereof in him as by this Act provided:

"Ordinary prisons" shall include all legal prisons under this Act other than the general prison at Perth or any prison which may be hereafter declared by Her Majesty in Council to be a general prison:

"Civil prisoner" shall include all persons imprisoned for civil debts due to subjects; prisoners for debts or taxes due to the Crown, not being fines or penalties inflicted on conviction of offences; prisoners on meditatione fugæ warrants granted at the instance of creditors for performance of civil obligations; prisoners ad factum præstandum; prisoners under the Employers and Workmen Act, 1875; and prisoners until they find caution under writs of lawburrows: 38 & 39 Vict. c. 90.

"Criminal prisoner" shall include all prisoners who are not civil prisoners:

"Valuation" shall mean the total annual value of the lands and heritages within a county or burgh as appearing from the valuation roll thereof for the time being in force:

"Governor" shall mean the chief male officer of a prison:

"Matron" shall mean the chief female officer of a prison.

Repeal of Acts.

72. The Acts specified in the schedule to this Act are hereby repealed, from and after the commencement of this Act, to the extent specified in the third column of the schedule. Repeal of Acts.

Provided that the repeal enacted by this section shall not affect—

(1.) Anything done or suffered, or any right, obligation, or liability acquired or incurred under any enactment hereby repealed; or

(2.) Any penalty, forfeiture, or punishment incurred in respect of any offence committed against any enactment hereby repealed; or

(3.) Any investigation, legal proceeding, or remedy in respect of any such right, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceeding, and remedy may be carried on as if this Act had not passed; or

(4.) The execution, after the commencement of this Act, of any of the Acts repealed by this section, so far as necessary to give effect to any of the provisions of this Act.

SCHEDULE.

ACTS REPEALED.

Session and Chapter.	Title.	Extent of Repeal.
23 & 24 Vict. c. 105.	The Prisons (Scotland) Administration Act, 1860	The whole Act, except sections seventy-two to seventy-five, both inclusive.
26 & 27 Vict. c. 109.	An Act for remedying certain defects in the law relating to the removal of prisoners in Scotland.	Section two.
27 & 28 Vict. c. 53.	The Summary Procedure Act, 1864	Sections thirty-six and thirty-seven.
28 & 29 Vict. c. 84.	An Act to amend the Prisons (Scotland) Administration Act, 1860, and to explain the fifty-second and seventy-seventh sections of the said Act.	The whole Act.
32 & 33 Vict. c. 35.	The Prisons (Scotland) Amendment Act, 1869	The whole Act.

CHAPTER 54.

An Act to amend the Public Libraries Acts. [14th August 1877.]

WHEREAS by the Public Libraries Acts, 18 & 19 Victoria, c. 40., for Ireland; 29 & 30 Victoria, c. 114., for England; and 30 & 31 Victoria, c. 37., for Scotland, the mode by which the Act is to be adopted is prescribed to be by public meeting, and it has been found that in many cases a public meeting is a most incorrect and unsatisfactory mode, and fails to indicate the general opinion of the ratepayers, and it is desirable to ascertain these opinions more correctly:

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:

Ratepayers opinions may be ascertained by voting papers.

1. It shall be competent for the prescribed local authority in any place or community which has the power to adopt one of the above recited Acts, to ascertain the opinions of the majority of the ratepayers either by the prescribed public meeting or by the issue of a voting paper to each ratepayer, and the subsequent collection and scrutiny thereof, and any expense in connexion with such voting papers shall be borne in the same way as the expense of a public meeting would be borne, and the decision of the majority so ascertained shall be equally binding.

Ratepayers may stipulate for modified assessment.

2. In addition to the simple vote "Yes" or "No" to the adoption of the Act, such voting paper may stipulate that its adoption shall be subject to a limitation to some lower rate of assessment than the maximum allowed by Act of Parliament in force at the time, and such lower limit, if once adopted, shall not be subsequently altered except by public vote similarly taken.

Definition.

3. "Ratepayer" shall mean every inhabitant who would have to pay the Free Library assessment in event of the Act being adopted.

Short title.

4. This Act may be cited as the Public Libraries Amendment Act, 1877.