CAP. LX.

An Act to alter and amend certain Acts regulating Madhouses in *Scotland*; and to provide for the Custody of dangerous Lunatics. [22d *June* 1841.]

'WHEREAS an Act was passed in the Fifty-fifth Year of the Reign of His Majesty King *George* the Third, intituled *An Act to regulate Madhouses in* Scotland; and another Act was passed in the Ninth Year of the Reign of His Majesty King *George* the Fourth, intituled *An Act for altering and amending an Act passed in the Fifty-fifth Year of the Reign of His late Majesty, intituled 'An Act to regulate Madhouses in Scotland:'* And whereas it is expedient that the said recited Acts should be altered and amended;' be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Expiration of One Calendar Month after the passing of this Act, any Person who shall send or deliver, or be accessary to the sending or delivering, without a Licence for that Purpose, in Terms of the said recited Acts, any furious or fatuous Person, or any Lunatic, or any Person as such, to the Custody or Keeping of any Person having or keeping a House for the Reception of furious or fatuous Persons or Lunatics, whether such House shall be licensed or not in Terms of the said recited Acts, shall for such Offence forfeit and pay a Penalty of Two hundred Pounds, and the Expences of recovering the same; and such Penalty shall be recovered and applied in such and the like Manner as Penalties are by the said first-recited Act directed to be recovered and applied.

55 G. 3. c. 69.

9 G. 4. c. 34.

Penalty on Persons sending any Lunatics to a Madhouse without a Licence.

II. And be it enacted, That it shall be lawful for the Court before whom any Person who shall be convicted of keeping a House for the Reception and Care or Confinement of furious or fatuous Persons or Lunatics, or detaining therein, or of receiving, concealing, harbouring, entertaining, or confining, any furious or fatuous Person or Lunatic, or any Person as such, without a Licence for that Purpose in Terms of the said recited Acts, or who shall be convicted of receiving any furious or fatuous Person or Lunatic for Care or Confinement therein, without the Order or Licence for the Reception of such furious or fatuous Person or Lunatic required by the said recited Acts and this Act, or who shall be convicted of sending or delivering or being accessary to sending or delivering, without a Licence for that Purpose in Terms of the said recited Acts and this Act, any furious or fatuous Person or Lunatic, or any Person as such, to the Custody or Keeping of any Person having or keeping a House for the Confinement of furious or fatuous Persons or Lunatics, either to find the Person so convicted liable in any Penalty by the said recited Acts or this Act imposed, or to find such

Persons convicted of receiving Lunatics without a Licence, or the required Order, may be imprisoned in default of Penalty.

such Person liable to Imprisonment for each such Offence, for any Space not exceeding Three Calendar Months; and in case the Sentence shall be for a Penalty, it shall be lawful for the Court to declare, and to grant Warrant accordingly, in the Decree, that in the event of the Penalty not being paid within a Period to be specified by the Court the Party found liable in such Penalty shall in lieu thereof be imprisoned for a Period not exceeding Three Calendar Months.

Sheriff, on Application of Procurator Fiscal, may commit dangerous Lunatics.

III. And be it enacted, That where any furious or fatuous Person or Lunatic shall have been apprehended charged with Assault or other Offence inferring Danger to the Lieges, or where any furious or fatuous Person or Lunatic being in a State threatening Danger to the Lieges shall be found at large, it shall be lawful for the Sheriff, upon Application by the Procurator Fiscal, accompanied by a Medical Certificate as to the Condition of such Person from some Medical Person who is either a Physician or has a Diploma from the Royal College of Surgeons in *Edinburgh* or *London*, or from the Faculty of Physicians and Surgeons of *Glasgow*, or who has a Right to practise from having served in the Army or Navy, forthwith to commit such furious or fatuous Person or Lunatic unto some Place of safe Custody; and the Sheriff shall thereupon direct Notice to be given to the next of Kin (if known) or other known Relatives of such furious or fatuous Person or Lunatic, and shall also direct Notice to be given in some Newspaper circulated within the County of such Commitment, and of his Intention to inquire into the Condition of such furious or fatuous Person or Lunatic on an early Day to be named; and the Sheriff shall at the Time named proceed to take Evidence of the Condition of such furious or fatuous Person or Lunatic, and upon being satisfied that he or she is furious or fatuous, or a Lunatic, and dangerous, he shall commit him or her to any private Madhouse licensed under the said recited Acts, or into any public Hospital or public Asylum willing to receive him or her; and in case there shall be no private licensed Madhouse, or public Hospital or public Asylum, within the Jurisdiction of such Sheriff, he shall commit such furious or fatuous Person or Lunatic to some licensed private Madhouse, or public Hospital or public Asylum, of some adjoining County, willing to receive him or her; and a Licence shall be granted in respect of every such Commitment to any licensed private Madhouse, as prescribed by the said recited Acts, and such furious or fatuous Person or Lunatic shall be there detained until his or her Cure, or until Caution shall be found for his or her safe Custody, in which last Case it shall be lawful for the Sheriff, upon being satisfied as to such Caution, and the Safety and Propriety of such Custody, to authorize the Delivery of the furious or fatuous Person or Lunatic to the Person so finding Security; and the Procurator Fiscal is hereby authorized and required to contract with the Keeper of the Madhouse, Hospital, or Asylum to whose Care such furious or fatuous Person or Lunatic is committed, for the Expence of his or her Keeping or Maintenance therein.

IV. And

Power to Sheriff to transmit such Lunatic to another County.

IV. And be it enacted, That if any furious or fatuous Person or Lunatic, in respect of whom Application shall be made to the Sheriff of any County as aforesaid, shall have his known Domicile or Settlement or usual Place of Haunt and Resort in another County, then it shall be lawful for the Sheriff, either to follow out the Provisions of this Act in regard to such furious or fatuous Person or Lunatic, or, before further proceeding, to transmit along with the said Application such furious or fatuous Person or Lunatic, in safe Custody, to the Sheriff of such other County, to whom it shall be lawful to proceed as if the Application had been made to him in the first instance.

Expences how to be defrayed.

V. And be it enacted, That the Expences of the Procurator Fiscal incurred in respect of any such Application to the Sheriff (being first taxed by the Sheriff) shall be paid out of the Rogue Money of the County, and the Clerk of Supply is hereby required to pay the same, as also such Expence as may be incurred in keeping and maintaining any such furious or fatuous Person or Lunatic committed upon such Application: Provided always, that such Expence of Keeping and Maintenance, together with the Licence Duty, shall be defrayed by such furious or fatuous Person or Lunatic, if he or she has the Means of defraying the same; or if such Expence cannot, in the Opinion of the Sheriff, be immediately recovered from such furious or fatuous Person or Lunatic, or out of his or her Estate, then the same shall be defrayed by the Parish which would be liable for the Maintenance of such furious or fatuous Person or Lunatic if he or she were a Pauper; and it shall be competent to the Sheriff, at the Time of granting Warrant of Commitment to such licensed Madhouse or public Hospital or public Asylum, if such furious or fatuous Person or Lunatic shall not be known to be in the Possession of any adequate Means or Estate, also to pronounce Judgment in favour of the Procurator Fiscal for such Sum as may be necessary for the Maintenance of such furious or fatuous Person or Lunatic in such licensed Madhouse or public Hospital or public Asylum, against the Parish which in the Opinion of the Sheriff would be liable, either *ad interim*, or permanently or ultimately, or with Relief for the Maintenance of such Person; which Judgment shall be final and conclusive, and not subject to Review, by Suspension, Advocation, or Reduction, or otherwise; but reserving always to the Parish paying such Sum and Expences its Recourse against all others liable therefor, as accords of Law: Provided also, that the Procurator Fiscal shall repay to the Clerk of Supply, out of the Monies so to be recovered, the Sums which such Clerk of Supply shall have advanced for the keeping and maintaining of such furious or fatuous Person or Lunatic, as hereinbefore provided.

Lunatic may be removed on Application by Procurator Fiscal.

VI. And be it enacted, That if the Procurator Fiscal of any County shall make Application to the Sheriff for the Removal of any furious or fatuous Person or Lunatic from any licensed Madhouse, accompanied by a Certificate of Two Medical Men, qualified as aforesaid, to the Effect that such licensed Madhouse

house is unfit or unsuitable for the Confinement of such furious or fatuous Person or Lunatic, it shall be lawful for the Sheriff thereupon to grant Warrant for the Removal of such furious or fatuous Person or Lunatic from such licensed Madhouse to some other licensed Madhouse or public Hospital or Asylum, either in his own or in some adjoining County: Provided always, that Intimation of the intended Application shall be given (to be proved to the Satisfaction of the Sheriff) to the Party at whose Instance such furious or fatuous Person or Lunatic was confined; and the Expences attending such Application for Removal, and of the Keeping and Maintenance of such furious or fatuous Person or Lunatic in the public Hospital or Asylum or licensed Madhouse to which he or she shall be so removed, shall be defrayed by the Party liable for the Expence of the Keeping and Maintenance of such furious or fatuous Person or Lunatic in the public Hospital, public Asylum, or licensed Madhouse from which he or she shall be so removed.

Parish Pauper Lunatics to be confined in public Hospitals.

VII. And be it enacted, That all Parish Paupers, furious or fatuous Persons, or Lunatics, to be confined under the Power of the said recited Acts and this Act, shall be sent to a public Hospital or public Asylum, unless the Sheriff, on Cause shown to his Satisfaction, shall be of opinion, that in the special Circumstances of the Case it is more expedient to commit any such Parish Pauper, furious or fatuous Person, or Lunatic, to a licensed Madhouse.

If no public Hospital in the County, the Sheriff may send Lunatics to an adjoining County.

VIII. And be it enacted, That it shall be lawful for any Sheriff, in whose County there shall be no public Hospital or public Asylum, to authorize the Confinement of any furious or fatuous Person or Lunatic in a public Hospital or public Asylum or licensed Madhouse of any adjoining County: Provided always, that in the Case of a Parish Pauper, furious or fatuous Person, or Lunatic, proposed to be so sent to any licensed Madhouse, the Consent of the Sheriff of the County in which such licensed Madhouse is situated shall be first had and obtained thereto.

Death of Lunatic to be intimated.

IX. And be it enacted, That the Death of any furious or fatuous Person or Lunatic in any licensed Madhouse shall, within Twenty-four Hours after the same shall have happened, be intimated in Writing by the Person keeping such Madhouse to the Sheriff of the County in which the same is situated, accompanied by a Certificate from the Medical Person who shall have attended such deceased Person, setting forth the Nature of the Disease occasioning the Death, how long such Disease had continued, and when such Medical Person was first required to give special Attendance upon the Deceased, and how often he thereafter visited him or her; and such Certificate shall also set forth whether any undue Delay had occurred in calling for the Assistance of such Medical Person; and any Person keeping or in the Care and Management of any

licensed Madhouse, failing to make such Intimation, shall be liable in a Penalty not exceeding Twenty Pounds, and in default of Payment of such Penalty the Defaulter shall be liable to Imprisonment, by Warrant of the Sheriff, for any Period not exceeding Three Calendar Months.

Register to be kept.

X. And be it enacted, That in every licensed Madhouse there shall be regularly kept a Book, to be intituled "Madhouse Register," in which shall be distinctly set forth all the Particulars relating to every furious or fatuous Person or Lunatic who shall be received or detained in such Madhouse enumerated in the Schedule hereunto annexed.

Register Book to be transmitted yearly to the Sheriff Clerk.

XI. And be it enacted, That such Register Book, exhibiting all such Particulars up to the latest possible Date, shall, after being carefully sealed up, be transmitted, on or before the Fifth Day of *January* in each Year, to the Sheriff Clerk of the County in which such licensed Madhouse is situated, or if any such Madhouse shall be given up or discontinued as such during the Currency of the Year, then within a Week of the giving up or discontinuing the same; and any Keeper of any such Madhouse, disregarding or neglecting any of these Provisions, either as to the keeping of such Register, or duly transmitting the same, shall for every such Offence be liable in a Penalty not exceeding Twenty Pounds.

Register Book to be preserved.

XII. And be it enacted, That the Sheriff Clerk of every County receiving such Register Book shall, without breaking the Seals affixed thereto, exhibit the same to the Sheriff, who, after making such Examination thereof as he may deem proper, shall again seal up such Register Book, and shall cause the same to be preserved in the Sheriff Clerk's Office; and it is hereby specially provided that such Seals shall not be broken, or any Inspection of the Contents of such Register Book take place, without any Cause shown to the Satisfaction of the Sheriff, or without his written Authority; and any Person removing any such Seals, or taking or admitting to be taken any Inspection of the Contents of such Register Book, without such written Authority, shall be liable in a Penalty not exceeding Twenty Pounds.

Fees of Licences may be diminished.

XIII. And be it enacted, That where it shall appear, from the annual Accounts rendered by the Sheriff of the Expences incurred by his Direction in carrying the said recited Acts and this Act into effect, that the Monies received by the Sheriff Clerk for Licences granted under the said Acts, together with the Monies received by the Procurator Fiscal for Penalties imposed by virtue of the said recited Acts and of this Act, exceed the Sums required for carrying the same into execution, it shall be lawful for the Sheriff and he is hereby required from Time to Time to take and direct to be taken for each of such Licences such smaller Sum as will in his Estimation be adequate to defray such Expences, and no more; and thereafter, if such smaller Sum shall not be found to prove adequate, again to raise

raise the same to such Sum as shall in his Estimation be adequate to meet such Expences, and no more; such Sum in no Case to exceed the Sums authorized to be taken by the said recited Acts and this Act.

Recited Acts to be interpreted with this Act.

XIV. And be it enacted, That the said recited Acts shall apply to and be interpreted with this Act for the more effectually in all respects carrying the same into execution.

Act may be amended, &c.

XV. And be it enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE referred to in the Act.

FORM of REGISTER to be kept in all licensed MADHOUSES in SCOTLAND.

House, where situated, and by whom kept.	Names and Designations of Individuals confined.	Date of Reception.	At whose Instance confined, and on whose Medical Certificate.	Whether supposed curable or incurable.	Date of Removal or Discharge, and Authority for either.	Date of Death.	Disease or Cause of Death, and Duration of Disorders.	Name of Medical Practitioner; when first called to give special Attendance, and how often he afterwards visited the Deceased.	Place of Burial.