

ANNO SEPTIMO & OCTAVO

VICTORIÆ REGINÆ.

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CAP. XXXIV.

An Act to amend and continue until the First Day of *September* One thousand eight hundred and sixty-one, and to the End of the then next Session of Parliament, the Law with respect to Prisons and Prison Discipline in *Scotland*.

[19th *July* 1844.]

WHEREAS an Act was passed in the Third Year of the Reign of Her present Majesty, intituled *An Act to improve Prisons and Prison Discipline in* Scotland, and another Act was passed in the Sixth Year of the Reign of Her present Majesty, intituled *An Act for the better regulating the Number of Prisoners admitted to the General Prison at* Perth: And whereas it is expedient to make further Provision for the Improvement of Prisons and Prison Discipline in *Scotland*: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That from and after the Commencement of this Act the last-recited Act shall be repealed. 2 & 3 Vict. c. 42. 5 & 6 Vict. c. 67. Last-recited Act repealed.

II. And be it enacted, That so much of the first-recited Act as provides that all the Expences of the General Board of Directors of Part of first-recited Act repealed.

of Prisons in *Scotland* (excepting the Salary of the Secretary) shall be defrayed by Assessment upon the Counties of *Scotland*, and Burghs situated therein, shall from and after the Commencement of this Act be repealed.

Sheriffs of Edinburgh and Perth to be Members of the General Board.

III. And be it enacted, That after the present Sheriffs of the Counties of *Edinburgh* and *Perth* (who have been appointed Members of the General Board of Directors of Prisons in *Scotland* by Her Majesty) shall respectively cease to hold their said Offices, the Sheriff of the County of *Edinburgh* for the Time being and the Sheriff of the County of *Perth* for the Time being shall be Members of the said General Board, in addition to those named or referred to in the first-recited Act; and that of the Fourteen Persons other than those referred to by their official Titles in the first-recited Act, whom Her Majesty is empowered to appoint as Members of the said General Board, Three only shall necessarily be Persons holding or who shall have held the Office of Sheriff Depute, instead of Five, as required by the first-recited Act.

General Board empowered to classify Prisoners.

IV. And whereas Doubts exist as to the Classification of certain Classes of Prisoners as Civil or Criminal Prisoners, and as to the Classification and Modification of the Discipline and Treatment of Criminal Prisoners, under the Provisions of the first-recited Act, and it is expedient that such Doubts be removed; be it enacted, That from and after the passing of this Act it shall be in the Power of the said General Board from Time to Time to direct the Classification of all Prisoners as Civil or Criminal Prisoners, in so far as may regard their Discipline and Treatment in Prison, and to direct the Classification of Criminal Prisoners with reference to Age, Strength, Conduct, or other Circumstances, and to modify the Discipline and Treatment in regard to Separation or otherwise of any such Prisoners or Classes of Prisoners: Provided always, that a Copy of the Regulations of the General Board for these Purposes shall be transmitted to One of Her Majesty's Principal Secretaries of State, who shall have Power to rescind or amend the same in such Manner as to him shall seem fit.

General Board may issue Declarations as to the General Prison being open for Reception of Prisoners of certain Descriptions.

V. And be it enacted, That it shall be lawful for the said General Board from Time to Time, by any Writing under the Hands of Five or more of them, which shall be published in the *Edinburgh Gazette*, and in such other Manner as they shall think proper, to make Regulations for specifying what Description of Prisoners shall be received into the said General Prison, having regard therein to the Principle, so far as the same shall be compatible with the Discipline and due Management of the said General Prison, that, all other things being the same, those Prisoners whose Sentences of Imprisonment have the longest Time to run shall be preferably received into the Prison, and that no Prisoner shall be received therein the Expiration of whose Sentence shall occur within Six Months from the Date of his being so received, and to order and cause to be removed to the said General Prison all or any Prisoners falling within the Description specified in such Regulations, but so as in no ways to overcrowd the said General Prison: Provided always, that a Copy of all such Regulations shall

be transmitted to One of Her Majesty's Principal Secretaries of State, who shall have Power to rescind or amend the same in such Manner as to him shall seem fit.

None but such Prisoners to be sent to the General Prison.

VI. And be it enacted, That while any such Regulations shall be in force it shall not be lawful for any Criminal Court to insert in any Sentence of Imprisonment an Order that any Prisoner not within such Specification shall be conveyed to or confined in the said General Prison, or to order such Prisoner to be conveyed to or confined in the said General Prison; and any Sentence containing any such Order shall be effectual only to the Extent of authorizing the Confinement of the Prisoner in the Prison in which he would have been legally confined if no such Order had been inserted in the Sentence of Imprisonment.

Prisoners for a Year may be sentenced to another Prison.

VII. And be it enacted, That nothing contained in the first-recited Act or this Act shall be taken to preclude any Criminal Court of competent Jurisdiction from sentencing to Imprisonment for One Year or upwards, in any lawful Prison other than the said General Prison, any Prisoner for whose Crime such Imprisonment shall be a suitable Punishment, and who, according to the Regulations of the said General Board, cannot be at that Time received into the said General Prison.

General Board may remove Prisoners from the General Prison to the Local Prison from which they have been removed.

VIII. And be it enacted, That it shall be lawful for the said General Board, at any Time or Times when they may deem it necessary for the proper Accommodation of Prisoners in the said General Prison, to order and cause to be removed from the said General Prison to the several Local Prisons from which they may have been removed such Number of Prisoners as to the said General Board shall appear to be expedient; and such Removal shall be made under similar Regulations and conducted in the same Manner in which the Removal of Prisoners before the Expiration of their Sentences from the said General Prison to the Prison nearest their Residence, or in the County where their Crimes may have been committed, is by the first-recited Act directed to be made.

Removals by Prison Officers.

IX. And be it declared and enacted, That all Removals of Prisoners made by Order of the said General Board, and also by Order of any Criminal Court, directing any Prisoner to be conveyed from the said General Prison to any Local Prison, or from any Local Prison to the said General Prison, or from any one Prison to any other Prison, may be carried into effect by means of Prison Officers, or by means of Constables or other Criminal Officers.

Return of Sentences of Imprisonment to be transmitted to the General Board.

X. And be it enacted, That when any Criminal shall have been sentenced to Imprisonment for any Period not less than Six Months, the Clerk of the High Court of Justiciary, if such Sentence shall have been pronounced by the said High Court, or the Clerk of the Circuit Court of Justiciary, if such Sentence shall have been pronounced by the Circuit Court of Justiciary, or the Sheriff Clerk of the Sheriffdom, if such Sentence shall have been pronounced by the Sheriff Court, shall, within Eight Days after such Sentence shall have

have been pronounced, make a Return thereof to the Secretary of the General Board of Directors of Prisons in *Scotland*, which Return shall be in the Form of the Schedule hereto annexed.

Sheriffs may authorize the Removal of sick Prisoners.

XI. And be it enacted, That Sheriffs within their respective Sheriffdoms shall have Power, upon summary Application by the Prison Board of the County, accompanied by proper and satisfactory Medical Certificates, to authorize the Removal of any Civil Prisoner or any Criminal Prisoner undergoing Sentence of Imprisonment who may be afflicted with any contagious or infectious Disease, or any Disease which threatens immediate Danger to Life, and cannot be treated in Prison, from any Prison within the County to any Hospital or other proper Place within the same, or to any Hospital near the same, for such Period, and under such Precautions for the safe and proper Custody of the Prisoner, and of his Re-imprisonment, as they may direct.

Certain Provisions in first-recited Act extended to Insane or Lunatic Prisoners.

XII. And be it enacted, That the Provisions made in the first-recited Act relative to the proper Custody, Treatment, and Maintenance of certain Insane or Lunatic Prisoners in a Lunatic Asylum or otherwise, and the Reservation of all competent Right of Relief of the Expences thereby incurred, shall be extended to all Insane or Lunatic Prisoners; and the Provisions made in the first-recited Act and this Act relative to the Removal of such Prisoners to a Lunatic Asylum may be carried into effect either by the said General Board, or by any County Prison Board acting under the Authority of the said General Board; and the said General Board shall also have Power to order and cause to be removed to the General Prison any Insane or Lunatic Prisoners from any Lunatic Asylum in which they may have been or may be placed under the Provisions of the first-recited Act or this Act, or from any Local Prison: Provided always, that the Insanity or Lunacy of every such Prisoner, if not previously ascertained in a Court of Law, shall be certified by the Certificates on Soul and Conscience of Two or more Medical Men, being Physicians or Surgeons, who have personally visited and carefully examined the Prisoner.

Sheriffs may dispose of Applications for Aliment and Liberation of Civil Prisoners.

XIII. And be it declared and enacted, That Sheriffs within their respective Sheriffdoms shall have the like Powers and Jurisdictions as have been possessed by Magistrates of Royal Burghs, within their respective Burghs, with respect to Applications and Proceedings for Aliment and for Liberation of Civil Prisoners.

Penalty for introducing prohibited Articles into Prisons.

XIV. And be it enacted, That if any Person shall carry or bring, or attempt or endeavour, by throwing over the Walls or any other Means, to introduce into any Prison in *Scotland* any Letters, Tobacco, Spirits, or other Articles not allowed by the Rules of such Prison, it shall be lawful for any Person to apprehend such Offender, and to carry him or her before the Sheriff or the Sheriff Substitute of the County, or any Two Justices of the Peace of the County, who are hereby empowered to hear and determine such Offence in a summary Way; and if the Person complained of shall be lawfully convicted of such Offence, the Sheriff, Sheriff Substitute, or Justices shall forthwith

with commit such Offender to the Common Gaol or House of Correction, there to be kept, with or without hard Labour, for any Time not exceeding One Calendar Month, unless such Offender shall immediately pay down such Sum of Money, not exceeding Five Pounds nor less than Forty Shillings, as such Sheriff, Sheriff Substitute, or Justices shall impose; and such Fine shall be applied towards the Expence of such Prosecution, and the Surplus, if any, towards the Maintenance of such Prison.

Orkney and Zetland separate Counties for the Purposes of Prisons.

XV. And be it enacted, That *Orkney* and *Zetland*, with their respective Dependencies, shall be taken to be separate Counties for the Purposes of the first-recited Act and this Act; and the said General Board shall be empowered to make such Division of the Assessments imposed under the first-recited Act on the said County, and of the Scale of Proportions of Assessment falling on *Orkney* and *Zetland*, and of the Number of Members of the County Prison Board thereof, and to adopt such other Measures as they shall deem just and necessary to carry this Enactment into effect; and that the Property belonging to the Crown in *Orkney* shall be assessed in like manner as the Property belonging to other Proprietors in the Landward Part of the said County is assessed for the Purposes of the said first-recited Act and this Act.

Union of Counties.

XVI. And be it enacted, That Resolutions to form Unions, for the Purpose of erecting and maintaining Local Prisons for the joint Use of Two or more Counties, may be entered into by the Commissioners of Supply of such Counties and the Magistrates of the Burghs in the said Counties, either at their respective Meetings to elect Members of their several County Boards in *April* annually, or at any other Meeting between the Day of the annual Meeting and the Thirtieth Day of *November* in any Year; and any such Resolutions may be carried into effect by such Committees as may be agreed upon; and in any Case where it shall appear to the General Board to be proper, such Unions may be formed for the Purpose of erecting and maintaining a Prison for the Custody of all Kinds of Prisoners; and when any such Union shall be formed it shall be lawful for the Sheriffs and other Magistrates of the Counties forming the same to exercise the same Jurisdiction with respect to such common Prison, and the Removal of Prisoners to and from the same, as if it were locally situated within the Limits of their respective Jurisdictions.

Meetings of County Prison Boards.

XVII. And be it enacted, That the first Meeting of any County Prison Board after the annual Appointment of Members may, instead of being held on the Third *Wednesday* of *May*, as provided by the first-recited Act, be held on the Day on which the Meeting of Commissioners of Supply of such County, usually holden on the Thirtieth Day of *April* in each Year, is held, provided that Notice of such Meeting of such County Board shall have been given according to the Provisions of the said first-recited Act, and such Meeting may be adjourned to a future Day, if necessary; and at such first Meeting the Sheriff of such County, or in his Absence the Sheriff Substitute acting at the Place where the Meeting is held, shall preside until a Chairman and Convenor shall be elected, and in case of Equality of

Vacancies may be supplied in County Boards.

Votes previous to such Election shall have a double or casting Vote; and the said Commissioners of Supply, and the Magistrates and Councils of Burghs authorized to appoint Members of County Boards, shall severally have Power from Time to Time to supply any Vacancies which may occur in their Appointment of Persons to form a County Board; and it shall be lawful to County Boards from Time to Time to supply any Vacancy which may occur in the Office of their Chairman and Convenor; and it shall not be held to invalidate the Acts of any County Board that any Commissioners of Supply or Magistrates of Burghs have failed duly to appoint the several Numbers of Persons authorized to be appointed by them as Members of County Boards, but that each County Board may act if Three Members thereof shall assemble: Provided always, that in case of Failure as aforesaid, the General Board may authorize such Commissioners of Supply or Magistrates to do what may seem to the General Board to be expedient for the due Execution of the Purposes of the first-recited Act and this Act.

County Boards may dismiss Officers, and establish a Retiring Fund.

XVIII. And be it enacted, That the County Prison Boards shall have the Power of dismissing at pleasure all Officers of Prisons and other Persons appointed by them, and shall also have Power, subject to the Approval of the General Board, to make Rules for setting apart a Portion of the Salaries or Wages of their Officers towards establishing a Fund for granting Allowances to discharged or retired Officers.

County Boards may hold Property, &c.

XIX. And be it declared and enacted, That the several County Prison Boards may acquire and hold heritable and moveable Property, Monies, Goods, and Effects; and all Titles, Securities, and Investments, and Evidences taken for the same, may be taken to the said Boards by the Name and Description of the Prison Board of the County wherein the same shall be established, without further Description; and all such Property, Monies, Goods, and Effects which shall have been or may be so taken and vested shall be deemed to be held for the Use of such Boards for the Time being, and shall pass and be transmitted to such Boards for the Time being, without the Necessity of any Conveyance or Assignation from one Board to another; and the said County Prison Boards may also, for all Purposes of civil or criminal Action or Diligence, or Reference or Arbitration, institute, defend, or enter into civil or criminal Proceedings in the Name of such Board or of their Clerk for the Time being; and no such Proceedings shall discontinue or abate by any Vacancy in any of the said Offices, but may be proceeded in to all Intents and Purposes in the Name of the Board or Clerk for the Time being; and no Judge or Sheriff or Sheriff Substitute shall be disqualified from acting as such in any such civil or criminal Proceedings by reason of being a Member of such Board.

County Boards may give up Parts of Prison Grounds or Buildings for Court Rooms.

XX. And be it enacted, That it shall be lawful for County Prison Boards, with the Approbation of the said General Board, to give up or dispose of any Part of the Ground or Buildings belonging to them which may not be required for their Prisons, for the Purpose of providing Accommodation for Courts of Justice.

XXI. And

Table of Assessment on Population and Crime may be altered, and last Census used.

XXI. And be it enacted, That it shall be lawful for the said General Board to alter, as they shall think just, the Scale of Proportions of Assessment on the several Counties, for the Purpose of converting the Buildings at *Perth* into a General Prison, and of furnishing and completing the same, framed by them in Terms of the first-recited Act, according to a combined Estimate of the Amount of Population and Crime in such Counties, and from Time to Time frame a new Scale or Scales of Proportions of the said Assessment on similar Principles, having regard to the then last general Account of the Population taken by Authority of Parliament, and the more recent Materials for estimating Crime; and also to apportion and divide the whole Sums to be assessed upon each County, including the Burghs therein, in pursuance of the first-recited Act and this Act, according to the relative Population of such Burghs, and the Landward Part of such Counties respectively, as determined by such general Account of the Population, or by any Agreements made in pursuance of the first-recited Act or this Act.

Power to reduce Estimate of Population in Burghs.

XXII. And be it enacted, That it shall be in the Power of the Commissioners of Supply of each County, or of each County Prison Board, with the Approbation in the latter Case of the General Board, to agree that the Estimate of the Population of any Burgh within such County shall, for the Purposes of Assessment under the first-recited Act and this Act, be diminished by deducting therefrom such Amount as to the said Commissioners of Supply or County Prison Board may seem expedient; and in case of any such Agreement being made by the Commissioners of Supply, the Amount so deducted from the Estimate of the Population of any Burgh shall be added, for the Purposes aforesaid, to the Estimate of the Population of the Landward Part of such County.

Burghs may consent to additional Assessment at other Meetings than in April.

XXIII. And be it enacted, That the Magistrates and Town Councils of Burghs authorized to choose Members of County Prison Boards may consent to an additional Assessment for building, altering, and repairing Local Prisons, either at their annual Meeting in *April* for the Purpose of choosing such Members, or at any Meeting to be holden between the annual Meeting and the Thirtieth Day of *November* in any Year.

General Board may apportion additional Assessment consented to by Three Fourths.

XXIV. And be it enacted, That in case any additional Assessment for building, altering, and repairing Local Prisons in any County shall be consented to by the Commissioners of Supply of such County on behalf of the Landward Part thereof, or by the Magistrates and Town Councils of Burghs situated therein entitled to choose Members of the County Prison Board on behalf of their respective Burghs, and it shall appear that the Persons on whose Behalf such Consent has been given shall have contributed or been liable to contribute not less than Three Fourths of the Assessments imposed on such several Counties and Burghs situated therein under the first-recited Act and this Act in the preceding Year, it shall be in the Power of the said General Board, if they shall think fit, to apportion and divide such additional Assessment so consented to on behalf of the Persons contributing Three Fourths of the Assessments as aforesaid, in like manner

manner, and as effectually, to all Intents and Purposes, as if the same had been duly consented to by the Commissioners of Supply of such County and the Magistrates and Town Councils of all the Burghs situated therein entitled to choose Members of the County Prison Boards.

County Boards may determine current Expences at other Meetings than in September.

XXV. And be it enacted, That County Prison Boards may from Year to Year fix the Amount of Assessment upon the several Counties and Burghs situated therein, to defray the Expence of removing Prisoners from one Local Prison to another, the Expence of the Aliment of Prisoners in the County Prison, and generally the current Expences of such Prisons, at any Meeting to be held for that Purpose in the Month of *April* or of *May* annually, if they shall think proper so to do, instead of in the Month of *September* annually, as required by the first-recited Act.

Prolongation of Time for Repayment of additional Assessments.

XXVI. And be it enacted, That in every Case in which an additional Assessment for building, altering, or repairing Local Prisons in any County shall have been consented to and assessed under the Provisions of the first-recited Act, it shall be competent for the Commissioners of Supply of such County and the Magistrates of the several Burghs therein entitled to choose Members of County Boards, with Consent of the said General Board, to alter the Distribution of such Assessment, so as to distribute the same over a greater Number of Years, but not exceeding those which may have to elapse before the Expiration of the first-recited Act as extended by this Act; and in every Case in which an additional Assessment for building, altering, or repairing Local Prisons shall be consented to under the Provisions of the first-recited Act and this Act, it shall be competent for the said General Board, with Concurrence of the Parties consenting to such Assessment, to distribute the same over any Number of Years that shall be agreed upon, not exceeding those which may have to elapse before the Expiration of the first-recited Act as extended by this Act.

New Valuations to be made when deemed necessary by Commissioners of Supply.

XXVII. And whereas by the first-recited Act Power was given to the Commissioners of Supply of any County to assess the Sums annually apportioned on the Landward Part of such County, according to the real annual Value of the whole Lands and other Subjects there specified, or in any other Manner in use in such County, for any general Assessment therein for any public Purpose, and it was provided that any Valuation required to be made in order to such Assessment should from Time to Time, at Intervals of not less than Three Years, be made by and under the Direction and at the Expence of such Commissioners: And whereas such frequent Revaluations of whole Counties will be attended with much Expence, and may be unnecessary; be it enacted, That in future it shall not be compulsory on the Commissioners of Supply to make fresh Valuations at Intervals of not less than Three Years, but that the Commissioners of Supply shall at Intervals of not less than Three Years take into consideration the Valuation then last made, and any Objections that may be stated thereto, and it shall be competent for the said Commissioners of Supply, at such Intervals, and as often as they shall deem

deem necessary, to cause a new Valuation to be made, either of the whole County or of any Part or Parts thereof, or to cause the last Valuation to be corrected in any Particulars in which it shall be found to be erroneous or defective.

Property under Two Pounds may be exempted from annual Assessment.

XXVIII. And be it enacted, That it shall be lawful for the Commissioners of Supply of any County to exempt from the annual Assessment to be levied from the Landward Part of such County all and every Property the annual Value of which shall not exceed Two Pounds Sterling, provided the Proprietor of such Property shall not be possessed of Property exceeding the annual Value of Two Pounds in the whole within the Landward Part of such County liable to be assessed for such annual Assessment.

Interpretation of "Property" in Burghs.

XXIX. And whereas Doubts are entertained as to the Interpretation of the Expression "Property" in Burghs, in the Construction of the first-recited Act; be it declared and enacted, That in the Construction of the said Act "Property" in Burghs shall extend to and include Houses, Shops, Warehouses, Mills, Manufactories, Cellars, Canals, Railways, Gardens, Yards, and all Lands, Buildings, and Pertinents thereof.

Further Continuance of 2 & 3 Vict. c. 42.

XXX. And be it enacted, That the first-recited Act as amended by this Act shall continue in force until the First Day of *January* One thousand eight hundred and sixty-one, and from thence to the End of the then next Session of Parliament.

Assessment for raising 20,000*l.* not to exceed 1,200*l.* in any One Year.

XXXI. Provided always, and be it enacted, That the Assessment not exceeding Two thousand Pounds in any one Year, for the Purpose of raising the Sum of Twenty thousand Pounds mentioned in the said first-recited Act to be paid by the different Counties of *Scotland* and Burghs situated therein, shall not, from and after the Determination of the Assessment made for the current Year, exceed the Sum of One thousand two hundred Pounds in any succeeding Year during the Continuance of the said Act as extended by this Act.

This Act to be in force for same Time and to be construed with former Act.

XXXII. And be it enacted, That this Act shall commence on the First Day of *September* One thousand eight hundred and forty-four, except in so far as herein otherwise directed, and shall continue in force for the Period during which the first-recited Act as amended by this Act shall be in force, and shall be taken to be Part thereof, and be construed in like manner therewith, and shall be held to alter or repeal the same in so far as the same is at variance or inconsistent with the Provisions of this Act: Provided always, that all Assessments which shall have been made, or which according to the Provisions of the said recited Act should have been made, before the said First Day of *September* One thousand eight hundred and forty-four, shall be levied and applied in the Manner and for the Purposes by the said Act directed.

Act may be amended or repealed.

XXXIII. And be it enacted, That this Act may be amended or repealed by any Act to be passed during this Session of Parliament.

SCHEDULE.

Name.	Sex.	Age.	Occupation.	Married or Unmarried.	Offence.	County where Offence committed.	Date of Offence.	No. of previous Convictions, and from what Courts.	Sentence.	Date of Sentence.

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