

Papers regarding the amendment to Lunatics (Scotland) Bill, promoted by the chartered asylums (including Gartnavel) to enable them to refuse admission to criminal lunatics

Publication/Creation

1871

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A

B I L L

TO

Amend the Law relating to criminal and dangerous Lunatics A.D. 1871.
in Scotland.

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

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

1. This Act may be cited for all purposes as "The Criminal and Dangerous Lunatics (Scotland) Amendment Act, 1871." Short title.
2. When in terms of an Act of the twentieth and twenty-first years of the reign of Queen Victoria, entitled "An Act for the regulation of the care and treatment of Lunatics, and for the provision, maintenance, and regulation of Lunatic Asylums in Scotland," any person having been charged under indictment or criminal letters shall be ordered by the court to be kept in strict custody until Her Majesty's pleasure shall be known, any order which Her Majesty shall be pleased to issue in relation to the custody of such person may be renewed and varied from time to time, and it shall not be necessary in such order to specify any building in which the person to whom it applies shall be detained ; and such order may direct that the person to whom it applies shall be put in charge of any such person as may be therein named, subject to such conditions as may be set forth in such order : Provided, that in any case where the court has found that the person cannot be put on trial by reason of insanity, such person may be liberated or discharged on a direction to that effect under the hand of the Lord Advocate. Disposal of persons on indictment placed at Her Majesty's order. 20 & 21 Vict. c. 71. ss. 87 and 88.
3. When by judgment anterior to the time when the said Act of the twentieth and twenty-first years of Queen Victoria came in [Bill 117.] Provision as to persons detained by

A.D. 1871.
 judgment
 anterior to
 recited Act.

force any person charged on indictment or criminal letters has by reason of lunacy been detained until further order of court, or has been disposed of otherwise than by being placed at Her Majesty's disposal, the provisions of this Act, and all other statutory provisions authorising Her Majesty to dispose of persons 5 who by reason of lunacy have been ordered to be detained until Her Majesty's pleasure shall be known, shall apply to persons who have been so detained or otherwise disposed of by such judgment.

Relief of
 lunatic
 department
 in general
 prison from
 overcrowd-
 ing.

4. When in relation to any insane prisoner in the General Prison at Perth it is certified, on soul and conscience, by two 10 medical persons that they have personally visited and carefully examined such prisoner, and that in their opinion he is insane but that his insanity is of a kind which can be properly treated in a lunatic asylum, it shall be lawful for one of Her Majesty's Principal Secretaries of State, by a writing under his hand, to order that such 15 prisoner be removed to any district asylum, or to any chartered asylum in which pauper lunatics are maintained in terms of any contract for such maintenance; and the managers or other administrators of the asylum, named in the order shall, unless it be certified *one authorized* by Her Majesty's Commissioners in Lunacy that there is not 20 sufficient accommodation at their disposal, be bound to provide for the reception of the prisoner named therein, and for his detention and maintenance, so long as he may be legally detained in such asylum; and if such prisoner be under a sentence which has not expired, the amount to be paid for his detention and maintenance 25 until the expiry of his sentence shall be fixed by Her Majesty's Commissioners in Lunacy, and the same, when so fixed, may be charged in the accounts for the maintenance of the General Prison at Perth.

Removals
 to and from
 general
 prison.

5. Any insane prisoner who has been removed from the general 30 prison shall be conveyed back thereto on any order to that effect being issued under the hand of one of Her Majesty's Principal Secretaries of State, and all orders for removal, whether from or to the general prison in terms of this Act, shall be directed to the governor of the general prison, who shall be responsible for the 35 execution of the same.

Disposal of
 persons
 becoming
 insane in
 local prisons.

6. When in relation to any person confined in a local prison in terms of the "Prisons (Scotland) Administration Act," it is certified, on soul and conscience, by two medical persons that they have personally visited and carefully examined such prisoner, and that 40 in their opinion he is insane, it shall be lawful for the sheriff, on summary application at the instance of the administrators of such

prison, by a warrant under his hand, to order such prisoner to be removed to a lunatic asylum; and if the asylum named in such order be a district asylum, or a chartered asylum, in which pauper lunatics are maintained in terms of any contract for such maintenance, the managers or other administrators thereof shall, unless it be certified by Her Majesty's Commissioners in Lunacy that there is not sufficient accommodation at their disposal, be bound to provide for the reception of such prisoner, and for his detention and maintenance for the period during which he would have been liable to detention in such prison had he not been so removed; and the amount to be paid for the removal of such prisoner to an asylum, and for detention therein, shall be charged against the assessment for current expenses under the administration of the Prison Board of the county in which the offence wherewith such prisoner is charged was committed, and in case of dispute the amount of such payment shall be fixed by Her Majesty's Commissioners in Lunacy.

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

8. For the removal of certain doubts in an Act of the twenty-fifth and twenty-sixth years of the reign of Queen Victoria, entitled "An Act to make further provision respecting Lunatics in Scotland," the provisions therein concerning lunatics charged with assault or other offence inferring danger to the lieges, or found in a state threatening danger to the lieges, or in a state offensive to public decency, shall not be limited to pauper lunatics, but shall apply to any person so charged or found, although he may not, by receiving parochial relief, or in any other form, come within the definition of a pauper.

A.D. 1871.

Persons in custody may be reconveyed to prisons from which they have been removed.

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

withheld

Lunatics (Scotland).

A

B I L L

To amend the Law relating to criminal
and dangerous Lunatics in Scotland.

*(Prepared and brought in by
The Lord Advocate, Mr. Secretary Bruce, and
Mr. Adam.)*

*Ordered, by The House of Commons, to be Printed,
27 April 1871.*

[Bill 147.]

Under 1 oz.

A

B I L L

INTITULED

An Act for amending the Lunacy Regulation Acts. A.D. 1871.

WHEREAS it is expedient to amend the Lunacy Regulation Acts :

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 :

1. This Act may be cited for all purposes as "The Amendment Act (Lunacy Regulation), 1871." Short title of Act.
 2. This Act shall be construed as one with the Lunacy Regulation Acts, 1853 and 1862, and unless there is something in the subject matter or context repugnant to such construction, the expression "the Lord Chancellor intrusted as aforesaid," and all other expressions having a special or defined meaning in the last-mentioned Acts, or either of them, shall have the same meaning in this Act. Construction of Act.
 3. The expression "person of weak mind," as used in this Act, shall be construed to mean any person whose mental capacity is so affected by sickness or any other temporary cause as to render him incapable of managing himself or his affairs. Definition of "person of weak mind."
 4. Where, on a petition presented in a summary manner, it is established to the satisfaction of the Lord Chancellor intrusted as aforesaid that any person is of weak mind, the Lord Chancellor intrusted as aforesaid may, in a summary way, and without directing any inquiry under a commission of lunacy, by an order to be made in the matter of such person of weak mind, appoint a guardian of the person and property or of the person or property of such person of weak mind, and may invest the guardian so appointed with such powers over the person or property of such person of weak mind, and generally may make such orders as he may consider expedient for the purpose of rendering the property of such person or the income thereof available for his maintenance or
- (171.)

A.D. 1871. benefit, or for carrying on his trade or business, or for the support, maintenance, or education of his family.

Provision may be made in any order under this section for all costs incidental to or consequential on the making of such order, and for the purpose of carrying into effect the provisions of this section, the Lord Chancellor intrusted as aforesaid shall have all the powers conferred by the thirteenth section of the said Lunacy Regulation Act, 1862; and the Lord Chancellor may likewise for the like purpose from time to time exercise all or any of the powers of making general orders vested in him by the Lunacy Regulation Acts, 1853 and 1862.

Provided as follows:

- (1.) Personal notice of the application for any order under this section shall be served on the person alleged to be of weak mind, and the hearing of the case of such person, and all proceedings in relation to or consequent on any order made shall be in private: 15
- (2.) No order made under this section shall be of any force beyond the period of six months from the date thereof, nor shall any such order be renewed more than once: 20
- (3.) Every such order shall contain a direction to the visitors to visit such person of weak mind at such times and in such manner as to the Lord Chancellor intrusted as aforesaid may seem fit and necessary, and to report on the case of such person at such times as the Lord Chancellor intrusted as aforesaid may direct: 25
- (4.) No sale shall be made of any real property of such person of weak mind, in pursuance of the powers of this section, nor shall any lease be granted of such property, in pursuance of the same powers, except agricultural leases, for a period not exceeding twenty-one years: 30
- (5.) Every guardian appointed under this section shall once at the least in every month file in such manner as may be directed by any special or general order of the Lord Chancellor an account of his receipts and expenditure as such guardian during the preceding month, and of the mode in which such receipts have been derived and expenditure incurred, together with a statement of the balance (if any) of funds remaining in his hands at the date of such account: 35
- (6.) Every such guardian shall pay over any balance found to be due from him on any account in the same manner as if he had been regularly appointed a receiver in a matter of 40

lunacy or in such other manner as the Lord Chancellor may by special or general order direct. A.D. 1871.

4. Whereas by section twenty of the Lunacy Regulation Act, 1862, it is enacted that "every lunatic shall be personally visited
5 "and seen by one of the said visitors four times at least in every
"year, and such visits shall be so regulated as that the interval
"between successive visits to any such lunatic shall in no case
"exceed four months: Provided always, that lunatics who are re-
"sident in licensed houses, asylums, or registered hospitals shall
10 "not necessarily be visited by any of the said visitors more than
"once in the year, unless the Lord Chancellor intrusted as afore-
"said shall otherwise direct;" and it is expedient that such visits
should be permitted to be made at longer intervals than are
required by the said enactment: Be it enacted, that the said
15 section shall be construed as if the word "twice" had been inserted
therein instead of the words "four times," and as if the words
"eight months" had been inserted therein instead of the words
"four months."

All lunatics
to be visited
twice a year.

Lunacy Regulation
Amendment. [H.L.]

A
B I L L

INTITLED

An Act for amending the Lunacy
Regulation Acts.

(Presented by The Lord Chancellor.)

Ordered to be printed 12th June 1871.

(171.)

Under 1 oz.

27, Abingdon Street,

Westminster

187

S. W.

London Wednesday

My dear Sir

Yesterday afternoon we had a very satisfactory meeting with the Marquis of Salisbury who has frankly entered into our views & in the absence of Lord Salisbury has undertaken to present our amendments. But today these have been corrected. Look into your copy of the Bill - page 2. line 18. after the word "maintained" insert the words "and which" is supported by a precedent."

and on page 3 lines 4-5 - the
same words are proposed after
the word "maintenanced."
These words were suggested by
me & adopted by all the
gentles here and they
have been copied out as an
amendment. I adopted
them effectually some as
apt the Merchant's
the Bill.

We are again in
the look out for Lords
today - a very gratifying
business. Mr. Ken
I hope something will
come out of Ed. Smith's transaction

MS

3, Prince's Street, Westminster,

London, 19 June 1871.
S.W.

My dear Sir

We have been turned
out of Court by the Lord
Advocate. He will not
accept even his own Bill
framer (Mr Portman's)
amendment! In short he
refuses to accept any one
of the three amendments!
There is therefore nothing left
for us but to fight or retreat.
Before determining what to do

to some Lord Coleridge is to be
consulted, and I think also
of consulting Mr. Parnell;
but our Directors also sh.
consider whether we sh.
undertake a fight. in other
words whether the object to
be gained is worth the
fight & the chance of a
total defeat. The Advertiser
is stubborn & may drive
liberal pieces & support the
measure, and all our con-
suls can only reach a few
Lords - so that we have a

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W. K.

X.R. 1840

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us a

pressing question before us, &
it may become an expressive
one. The Adver: too always
tells us that we are absurdly
alarmed, that not half a
dozen patients are likely to
be sent to the different
hospitals (I mention hospitals
being more) & that not one
will be sent who is not
proved to be harmless & will
give us no trouble.

I have put matters
before you, & I shall
communicate further when
Lord Salisbury has been seen or
Mr. Bonville.

Yours
John Kerr

S.R. Strong Esq

London Tuesday
4 p.m.

Mr. Pitt

I telegraphed briefly
to you today, from which the
Directory might infer that
our business here is not in
a very satisfactory state. The
Lord Advocate will not listen
to my one - the "proofs" ^{by} proofs
all - and indeed all but
turns you out when you get to
him. Yesterday I had inter-
views with Sir Colman
and Murray & Lord Ailes.
The first & third are somewhat
cautious in their promises, but
I think will support us, and

beyond these & Lord Stratthmore
who offered his support, we
are not enabled to calculate
on any one. Mr. Brownie
strongly recommended us to
get if possible the Duke of
Richmond & G. of Newcastle.
The former we have applied
to for a meeting but as we
have not received any an-
swer - the latter is with
his Germanys in Scotland
& not to be in town till next
Saturday or Tuesday. Thus
we are met with obstacles
on every hand.

I telegraphed to you today
first that our Directors might en-
deavour to get the Duke of

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accurately the state of matters
I secondly that they might con-
sider deliberately whether it
will be worth while continuing
the fight. My own opinion
on the matter is that we are
not ~~entitled~~ ^{entitled} to counter vic-
tory in the Lords unless the
Duke of Richmond is decidedly
for us, and that if we found
him disinclined to interfere or
to support us, we should not
continue our opposition - on
the other hand, if he is in our
favor & will give us any
hope of success we will go on.
If again if successful in the
Lords, the Bill will be sent
back to the Commons, where

we undertake to follow it and
to fight the Abolition in his
own domain, & where we might
probably succeed, but only of
course at any considerable ex-
pense. And I'm? be reluctant
to incur this expense if it is
possibly be avoided.

You have now before
you my views & I wish be
glad to learn those of the
Directors. Very faithfully
John R. R.

J. Rowan Strong Esq

J. R.

23 Parliament St.

London

10, Westbourne Park.

16 June 1871 W.

My dear Sir

I send you the letter I clause received this morning from Edinburgh. I thought I had only to see Dr. Burton & get him to add the clauses to the Bill. We have carried accomplished this, but its effect was a simple announcement that he must see the Lord Advocate before anything is said

on the subject. This led to
a subsequent appointment
at which instead of an
adoption of the Edinburgh
clause he produced one
of his own! Still the latter
same effect so far as we
are concerned & I adopted
it at once. Then I came
to the point - could he
oppose us that his clause
would form part of the bill?
No - the h. Co. was still
to consider, & he could say
more. So we are at sea
still.

I have now managed

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that the Ct. shall have the
remains of today to consider
the clause & that he is to be
asked to give us an inter-
view tomorrow. What will
follow I know not.

Annexed is the clause
framed by W. Boston.

Wm. Lantry
John Kerr

Provided that if the Asylum
named in such order be not
supported by assessment the
consent of the administrators thereof
shall have been obtained to the
admission of the person named
in the order before his removal

but if the Asylum named in
such order be supported by assessment
the Administrators thereof shall be
bound —

London,
Thursday, 7 P.M.

Dear Sir

Lord Thurstly proposed
his amendments, whereupon
Lord Morley, after a few
remarks, agreed to introduce
the Edinburgh Lunacy Board
Clause into the Bill. This
Lord Thurstly accepted and
so our labours ended. —

Dr. Horie and I leave for
Scotland tonight.

Trusting that you
are enjoying your well
earned holiday, and
with best thanks for your
energetic lesson and
example in the way of work

I am, Yours faithfully,

R. Bruce

e for

John Kerr Esq;

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J.R. Strong Esq

Paris - Saturday

My dear Sir

After I had sent my letter to you to the post office I received this note from the American Delegate, one of the two who remained in London till Thursday night & whom I had instructed to communicate with me in case of need. You will see that Earl of Dudley has selected the British clause (of which I sent you a copy) which is the clause the advocates presumptively reject

obtaining Bill Buttrick to put
it aside & frame another. This
is a very agreeable piece of
news to me & I think our
Directors will like it also. So
I send it to you for their
information. It is a very illi-
ciously chosen clause but
I think will doubtless
relish it as it goes to work in
a direct Celtic fashion.

Yours faithfully
John Kerr

London 18 June 1891

My dear Sir

I did not get word of
the success of Lord's last night
till too late to write you.

The bill was in the
Lord's last night, but has
been continued till Monday
first - not for the amendment
we wish, but because the Lord
Advocate has failed to introduce
an explicit clause providing
for the payment of the transfer
of patients fee. I saw him
twice yesterday & I got him down
once to him, but he wd listen to

nothing we said. He told us our
fears were groundless, our ob-
jections "infinite-moral," and the
bill a really beautiful one that
we should introduce any ^{impediment} ~~fraternal~~
terms. I pled as well as I could
for permissive power to our
Directors I assured him they
would be liberally used, but he
turned on me with the
cutting remark that he had
always set his face against
any man being judge in
his own case. Mr. Bourne
thinks he will not yield, &
to me he boldly said that I
~~had~~ had convinced him that he

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ought to alter a word or a line.

Twice also visited by I saw
and Colman. He is rather friendly
but is not absolutely promised
support, tho' he indicated as
much.

and Dallman promised
his support freely.

Today the Secretary of
the Aberdeen Bazaar has
appeared - and at 4 P.M. we
are all to assemble to ar-
range future movements.

I am now writing at
2 P.M. If tho' we have been
meeting one influential
person after another since ten
o'clock, I cannot say that much
progress has been made.

I send you a copy

of the Memorandum sent to the
Peas by W. M. M. The altera-
tions he suggests are not in
my opinion so good for us as
those suggested by your uncle
& I tried had yesterday to get
these letters adopted, but I
was obliged to give way &
take what was offered in the
Memorandum on the agents &
gentles here expressing a
positive opinion that we had
a much better chance of
carrying these.

I will not determine

Very truly
yours
John Peters

J. Rockledge Strong Esq

London 27 June / 71

My Dear Sir

I write you hurriedly
last night of the postponement of
the Amalgam Bill & I may now
add that the cause assigned is
that Sir John Aspley an official
in the Peers' House gave an opinion
in that one of the two amend-
ments proposed by Government
related to expenses of patients
& that this relation to money
would be an infringement of the H. of
Coms. privilege & so the Bill was
put off till Thursday to get the
Coms. sanction. In all this we
have no interest.

There was a large turnout
of Peers peers last night & no doubt

was felt that we sh^d have suc:
ceeded. After the sudden break-up
of the House the Duke of Richmond
spoke to Lord Morley who has
charge of the Bill and told him
he had better give in as he tho:
Duke was resolved to carry Lord
Huntly's amendment. Morley re:
plied that he c^d not give in
tho' he thought the amendment
w^d be carried aft^r him, but the
Lord advocates w^d not allow
him to accept the amendment.
Still he said he w^d not divide
the House on it. The Duke im:
mediately replied "I shall di:
vide the House." Whether this
spirited threat w^d lead to the
quint-essence of the amend^t
I cannot say, the law speaks su:
posed

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played by Edw. Aberdeen think
that it will. But the A. C. has acted
in such a dogmatic overbearing way
that I scarcely think he will give
in without a vote.

At our conference this
forenoon, the two agents told us
that we deputed John C. Adams
more - that the P. of N. had al-
ready taken some interest
in the question that he must
not be further troubled - that they
w^d attend to the matter especially
if we might leave - & that un-
less some trick was played our
case would succeed. I visited them
that Ev^g. leave, but I have pre-
sented with the Aberdeen and
Gundee representatives to remain
till Thursday & watch the pro-
ceedings, & take care that the agents
fulfill their pledge. These agents
not being employed by us, I could not

Is now.

The ^{last} ~~fortnightly~~ anniversary work
has had its effect on me. I
feel I require a holiday, & have
no scruple in taking it, as I leave
the manuscript as secure as I
can make it were I to remain
longer. I trust Thursday next
will gratify us all.

Yours faithfully
John Stern

J. R. Strong Esq

n n

Royal Edinburgh Asylum for the Insane
John Kerr Esq
Treasurer's Chambers
17 Duke Street
Edinburgh 15 June 1841

My dear Sir,

I have just found
to send copy of a clause
which with the approval
of the Commissioners in
London the delegates at
the conference today
agreed to insert ~~at~~ at
the end of each of
clauses 4. & 6. The

Charge To be inserted at the
end of clauses 4 & 6.

" provided always that in the
" case of charters, asylums the
" consent of the Managers or
" other Administrators thereof both
" as to the reception of such
" patients, & as to the rate
" of board shall be previously
" had and obtained, without prejudice
" always to existing Contracts."

to the
446
at in the
columns the
pages or
of both
of such
the rate
previously
out prejudice
acts.

effect is much the same
as in the amendment pro-
posed by you - The Com-
missioners are to write
today to S. Hill Burton
advising him of their
views - You must see
him & press the matter
home.

Yours truly
S. Northwicke

Hotel de Ville et d'Albion
Paris 1 July 1841.

My dear Sir

My letter of Tuesday will
prepare our Directors for the success
of our amendment on the January
Bill. The Earl of Morley however did
not give way till the last moment,
thus proving his allegiance to the
Ingenious Lord Advocate & that we
would have received no justice
from this obstinate official if the
Duke of Richmond had not taken
up our case & resolved to conquer.

One good effect of the con-
cession, instead of a fight & victory, is
that no attempt can now be made

in the Commons to revert to the old
compulsory enactment, and this is
something, for had we fought and
conquered our enemy might have
followed us to the Commons & fought
us again whereas he cannot get
out of his own conception. This
maybe regarded as small comfort
but it is something - and it enhances
in my mind the triumph we
have obtained over our dogged foe
for our "infinitesimal" objection to
his impudent legislation.

After my work was over I
left London for Dover & returned by the
seaside, & I have felt so much better
in health that I have taken a run

across
the
Dover
Dun

across the Channel to see for myself
the results of mob rule & human
depravity in this once fair city. I
do not intend however to be long a
prisoner of Paris.

Yours faithfully
John Kerr.

J Roxburgh Strong Esq
N N

through the channel to sea for myself
the account of what was done
at present in the various parts
of the various business to be done
of the various parts
of the various parts
of the various parts

John Brown
of the various parts
of the various parts
of the various parts
of the various parts
of the various parts
of the various parts

after my work was over
left London in favor of account by the
seaside. I have felt so much better
in health that I have taken a run

3. Prince's Street, Westminster,

London, Monday 6th M

S.W.

My dear Sir

Am very sorry
affair postponed till
Thursday. This is very
provoking for the Duke
of Richmond had a
splendid House collected.
The Agents say it is quite
unnecessary for the various
Representatives to remain in
London & accordingly I

do not intend to wait beyond
tomorrow. We have a
conference fixed for
eleven o'clock, and
after that is finished
I will write,

I am hurried to
catch the post.
Yours truly
J. Kern

J. R. Kern

163 Inp am 110

My dear Sir

I understand Mr Roxburgh
is going to London to night
In his hands and Mr Kerr
we are quite safe to leave
the matter both are very
cautious and I am sure
they will not continue the fight
unless they see great cause
for so doing

Yours truly
Wm Brown Jun
21 June 1871

Royal Asylum Cartmel,

Glasgow. 22nd June 1871,

My dear Sir,

I beg to send you
Copy Dundee Advertiser
in wh. you will find
an article on the
Bible & your subject

W. H. K. M. S.

J. H. Thomson Esq;

W. H. K. M. S.