

A guide to the Mental Deficiency Act, 1913 : containing a legal and general exposition of the Act, with suggestions to local authorities, managers and others for the organization and administration of the work dealing with the mentally defective / by John Wormald and Samuel Wormald ; with a preface by T. Edmund Harvey.

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A GUIDE
TO THE
MENTAL DEFICIENCY ACT
1913

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MENTAL HOSPITALS DEPARTMENT *

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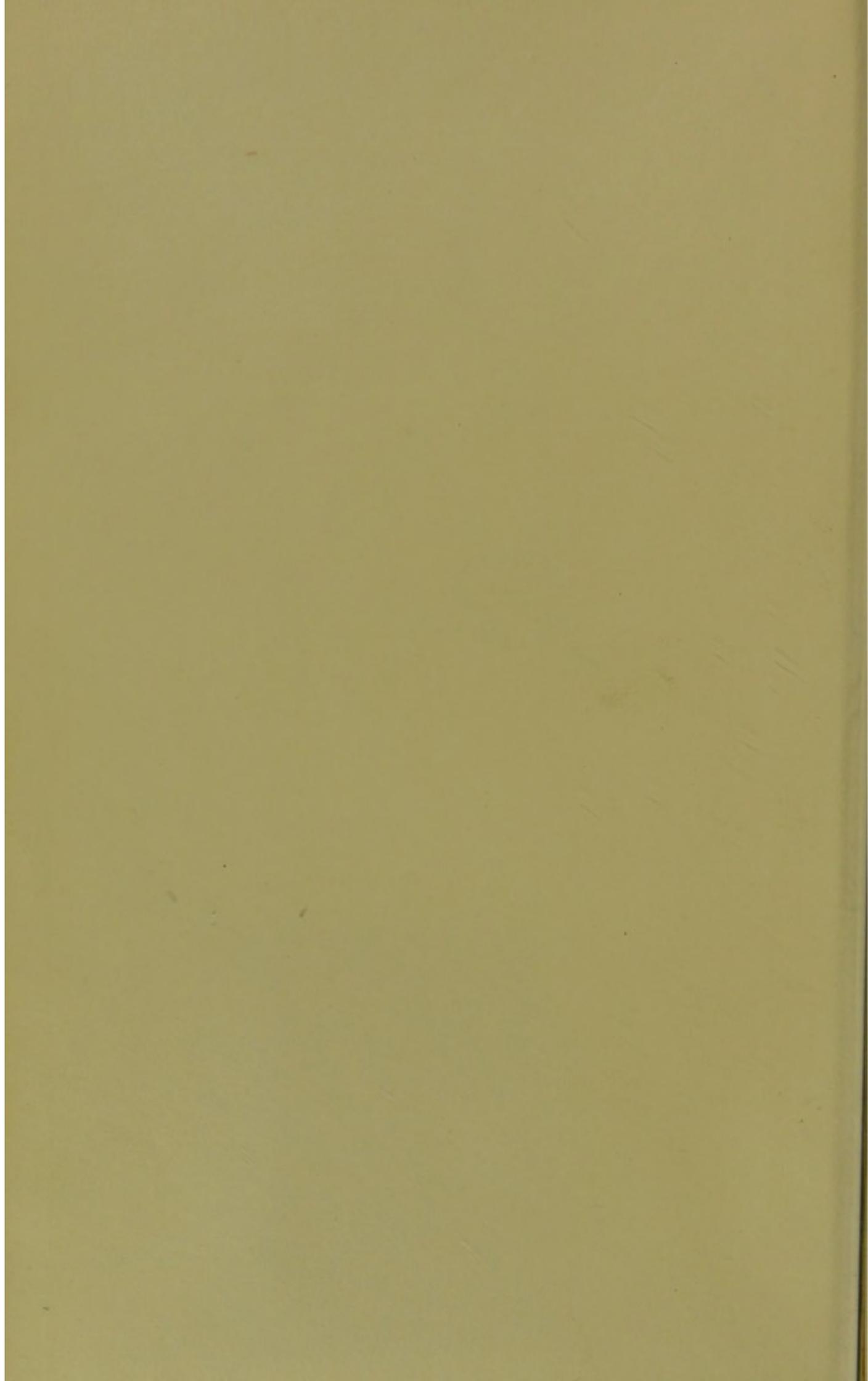
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A GUIDE TO
THE
MENTAL DEFICIENCY
ACT, 1913

Containing
A legal and general exposition of the Act, with
suggestions to Local Authorities, Managers
and others for the Organization and
Administration of the work dealing
with the Mentally Defective

BY

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PREFACE

THOSE who have to undertake the carrying out of the duties imposed by the Mental Deficiency Act and others who are actively interested in the welfare of feeble-minded or defective persons will be grateful to the Authors for putting at their service this exposition of the Act with the addition of a convenient copy of its text.

The Authors have special qualifications for their task, as they have given much time and thought to the problems which called the Act into being and have had opportunities of coming into close relation with many aspects of these problems. Mr. John Wormald is both able to speak as a Lawyer and as one who knows and cares for the objects at which the Law aims, with special experience of its relation to children, which is perhaps its most important side.

The Mental Deficiency Act of 1913 marks an important stage in the growth of the responsibility of the community for its weakest and most backward members. Hitherto, apart from the Elementary Education (Defective and Epileptic Children) Act, 1899, which is permissive only and has not been adopted by many local authorities, the only method by which the community has offered assistance to the Mentally Deficient has been by voluntary charity or in its default the antiquated machinery of the Poor Law.

The Report of the Royal Commission made clear what those who have given time to the care of the feeble-minded have long realized, that our neglect of this duty in the past has involved, not only much needless suffering and hardship to those immediately concerned, but a great

waste of the national resources, both in actual money and in human life and well-being.

Imprisoned in our jails, confined in our Industrial Schools and maintained in the wards of our Workhouses are a large number of people who ought not to be there at all, and who are too often only injured by their present treatment, which is both costly and ineffective. Even where, as in London, elaborate provision has been made at great expense for the wise educational development of mentally deficient children in Special Schools, in which small classes are taught under the best hygienic conditions, the results of this care and training have been frequently lost through the absence of any effective supervision of the child, which hitherto has ceased at the statutory age of sixteen, just when in the more difficult cases such care has been most needed. The new powers of guardianship will be welcomed by those who are familiar with after care work in connection with these children. Very often such children will never need institutional treatment if these powers be wisely exercised, but they will need the guiding and protecting hand whose continued presence the Act makes possible. There are many people, however, who can only be properly helped by means of institutional care, in well managed farm colonies, which give their inmates the opportunity of open-air life and the development of manual skill. It is not too much to hope that the few existing voluntary institutions which deal with defectives in this way may be supplemented by many others which the financial provisions of the Act will now make possible. They will afford scope for the noblest exercise of the religious spirit, in training, tending and cheering lives, which at present are needlessly darkened, but which are capable of a real, though it may be a limited, development ; and are keenly sensitive to many simple joys of which they are now deprived.

In creating, managing and assisting in the life of such colonies there is a wide field of new service awaiting the self-sacrifice and devotion of men and women who are anxious to help those who have most need of aid.

The Authors have wisely called attention to the possibility of adopting in connection with the institutional treatment of the feeble-minded and defective a carefully limited system of boarding-out, which under proper supervision will afford greater elasticity and a wider variety of life to those under care ; while it may effect a substantial saving in capital and annual charges by avoiding the unnecessary erection of expensive buildings. The truer economy will always lead us to save in bricks and mortar in order to be able to spend more freely upon the men and women who are to make use of them.

The Mental Deficiency Act did not become law without strenuous opposition from a number of men and women eager to protect industrial liberty from the growing power of officialism. In some cases at least those who led this opposition failed to understand what a cruel mockery of liberty has hitherto been offered to the feeble-minded, whose weakness has been exploited by the selfishness of others. This is especially the case with those unhappy mothers who at present come to the workhouse to give birth to child after child and are often incapable of fulfilling even the simplest maternal duties to their unhappy children. But although the opponents of the Act were mistaken in their view of its nature, their criticism led to its improvement in many important particulars, and the watchful love of liberty to which they made appeal is in fact the surest guarantee that the Act will be worked, as it was intended to be by its framers, in the best interest of the mentally defective themselves.

The community is taking up to-day a new burden, borne in the past by shoulders ill-fitted for

the load. Our success in the task must depend not upon the fresh powers which the Act provides, so much as upon the generous wisdom and the kindly spirit inspiring its administration, the self-sacrifice and enthusiasm of the civic volunteers whose co-operation it will call forth.

T. EDMUND HARVEY.

THE MENTAL DEFICIENCY ACT, 1913.

Section I.

INTRODUCTION.

IN 1904 a Royal Commission was appointed to consider the existing methods of dealing with defective persons not certified under the Lunacy Laws in Great Britain, and to report as to any amendments in the law which should be adopted. In 1906 the original Reference was extended so as to bring within the scope of the inquiry the constitution, jurisdiction and working of the Commission in Lunacy and of Local Authorities in England and Wales.

The Royal Commission on the Care and Control of the Feeble-minded.

An exhaustive inquiry into almost every phase of the subject was held, and in 1908 the Minutes of Evidence and the Report of the Commission were published in eight volumes. These publications contain a mass of valuable information and scientific data together with a scheme of a far-reaching and drastic character for solving one of the most pressing problems of the age.

The Report of the Royal Commission stated (1) that a local and permissive system of education was available here and there for a limited section of mentally defective children which, even if it were useful during the years of training, was often misdirected and unserviceable, since it was not supplemented by any subsequent supervision and control ; (2) that the practice of committing to prison

Report of the Royal Commission.

for repeated offences large numbers of mentally defective persons was ineffective ; (3) that the Lunatic Asylums were crowded with patients who did not require the careful hospital treatment that well-equipped asylums afforded and who could be more efficiently and economically treated in many other ways ; (4) that there were at large many mentally defective adults, young persons and children, who were incapable of self-control and were exposed to constant danger, and were a source of lasting injury to the community.

Extent of
mental de-
ficiency.

The Royal Commission estimated that 149,628 persons in England and Wales other than certified lunatics were mentally defective, or .46 per cent. of the population. Of that number 66,509 or 44.45 per cent. were in urgent need of provision either in their own interests or for the public safety. The total number of mentally defective persons, including certified lunatics, was 271,607 or .83 per cent. of the population.

Recom-
mendations
of the Royal
Commission.

The Royal Commission recommended inter alia—

- (1) That there should be one Central Authority for the general protection and supervision of mentally defective persons to be designated "The Board of Control," and which should consist of the present Lunacy Commission to be enlarged and strengthened so as to enable it to cope with the new work to be entrusted to it.
- (2) That the duties of Poor Law, Education and other Authorities so far as they appertain to mentally defective persons should be transferred to the new Authority.
- (3) That the Local Authority should be the Council of each County and County Borough who should exercise its powers through a statutory Committee which should be named "The Committee for the Care of the Mentally Defective," and should take over the duties of the existing Asylum or Visiting Committee.
- (4) That in order to carry out the Recommendations

of the Commission, the Acts under which the Education, Poor Law and Lunacy Authorities are performing their administrative duties should be repealed or amended as may be necessary and that a new Act should be passed to contain all the necessary provisions for bringing a complete scheme into operation.

The Report was received with considerable satisfaction throughout the country and a large number of Public Authorities and voluntary organizations subsequently urged the Government to bring in a Bill on the lines recommended with a view to remedying the evils arising from lack of suitable provision for the feeble-minded.

Proposed Legislation on Mental Deficiency.

It was not until the 16th May, 1912, that the Secretary of State (the Right Hon. Reginald J. McKenna, M.P.) introduced to the House of Commons "The Mental Deficiency Bill, 1912," but two other Bills had already preceded it, namely:—

1. The Mental Defect Bill by Mr. Hills, M.P., on behalf of the Eugenics Education Society and the National Association for the Care of the Feeble-minded; and
2. The Feeble-Minded Control Bill by Mr. Stewart, M.P.

The Bill by Mr. Hills was a practical embodiment of the Recommendations of the Royal Commission and aimed at a complete re-organization of the existing machinery, its object being to bring the entire work under one Authority by repealing and re-enacting all legislation dealing with the subject.

The Mental
Defect Bill.

One of the merits of the Bill was that overlapping and duplication of both central and local administration would have been obviated, but the pressure of parliamentary business and the strong opposition likely to be encountered, were considered prejudicial to the prospects of the Bill becoming law, and it was subsequently withdrawn.

The Feeble-minded Control Bill.

The Bill by Mr. Stewart was an endeavour to incorporate the new work with the machinery of the existing Lunacy Laws and thereby to increase and strengthen the jurisdiction of the Lord Chancellor and of the Commission in Lunacy. The effect of the Bill, if passed into law, would have been to emphasize the defects of lunacy administration in a new and distinctive branch of work which was recognized as needing an entirely new leadership, in order that it might have a chance of securing the confidence of the people who would be most affected by it. Mr. Stewart's Bill was by common assent referred to a Committee of the House of Commons, as it was recognized that it was capable of being moulded into a useful Measure, should anything arise to interfere with the passage of the Government Bill. One of the demerits of the Bill, like all Private Members' Bills, was that no parliamentary grant could be provided towards the heavy expenditure to be incurred in carrying out the administrative work and in providing and maintaining Institutions for Defectives.

The Mental Deficiency Bill.

It is important that a question presenting many difficulties affecting family life and social conditions, and with certain phases of which many branches of the public service were already dealing, should secure the co-operation and support of all parties in the construction of practical and sound legislation, providing adequate safeguards against an unreasonable interference with the liberty of the subject, humane in its methods of treatment and capable of conferring great benefits upon the nation. It is gratifying, therefore, to record that the Government Measure was dealt with on non-Party lines and that it received the support of persons representing all shades of politics and creeds, who assisted in endeavouring to make it as perfect and as useful a Measure as possible. The Bill underwent a searching and close scrutiny both in Committee and in the House of Commons, with the result that it was considerably revised and improved. The definition of defectives and the circumstances render-

ing them subject to be dealt with, together with the conditions of certification and detention, were considerably modified, their main purpose being to provide all possible safeguards against an undue invasion of the principles of personal liberty, and instead of the Secretary of State undertaking the general superintendence and supervision of the work, a Board of Control was established to act as the Central Authority. Owing to the heavy programme of the Government, the 1912 Bill was withdrawn, to the great disappointment of its many supporters, but it was revived during the following Session, when it secured a place on the Statute Book.

The Liberty of the Subject.

Much criticism was levelled against the Bill both in and outside Parliament mainly on the ground that it would interfere with the liberty of the subject and might be used as an instrument for the capricious detention of persons without satisfactory cause. The evils arising from the feeble-minded classes being allowed their freedom were admitted on all sides, nor was any practical method alternative to that proposed in the Bill suggested. The deduction to be drawn from the criticisms of the Bill was that feeble-minded persons should be allowed the liberty to act as they pleased without check or interference, in so far as they did not violate the criminal laws. The tenets of such a position cannot be maintained on the ground of public morality. The liberty of the subject does not consist in allowing persons who are not responsible nor accountable for their actions to commit crime, to drift into intemperance and immorality, to be cruelly treated or neglected or to injure the community by reason of the uncontrolled reproduction of their type, but rather by an organization that is humane and adaptable to mould their lives and conduct so as to secure for them a maximum of comfort and happiness conformable with social order. Liberty without restraint

Principles of
Liberty.

degenerates into license and tyranny, and as Bentham said, "Liberty cannot be protected except at the expense of liberty." The security and development of national and family life are dependent upon a legal restriction upon the actions of individuals when such actions are socially dangerous. The mentally defective almost more than any other class of afflicted persons need care and protection rather than liberty.

The effects
of liberty.

It has been the lot of members of Care Committees and other social workers to witness the physical and moral misery of large numbers of the feeble-minded and to see them exposed in the street and in the home to temptations of the gravest kind, which they were powerless to resist. The law has been hopelessly inadequate to provide for their protection and many of them have ultimately drifted into Institutions or Homes after the hand of crime and debauchery has been heavily laid upon them. Furthermore by being allowed to repeat their type, the feeble-minded are increasing the ranks of the degenerate and wastrel classes, with disastrous consequences to the entire community. Under a false conception of liberty, mentally defective persons have been entrusted with the responsibility of citizenship and the stage has long been reached when it has become necessary that the paternal care and protection of the State should be extended towards them. It is the object of the following pages to set forth the various provisions of the Mental Deficiency Act for dealing with a problem of serious moral and economic importance to the State.

Legal precedents for restricting liberty.

No new principle has been introduced in regard to the power of the State to regulate and control the lives of the feeble-minded. The Education Acts already make provision for the compulsory detention of blind, deaf and epileptic children up to sixteen years of age, and the Reformatory and Industrial Schools Acts, or the Children Act, give power for the detention and control up to the age of eighteen or twenty-one years of children or young persons of normal intelligence who are neglected or cruelly

treated, or living in unsatisfactory surroundings. Mentally defective persons are never likely to attain a normal state of intelligence or to reach a minimum standard of citizenship. They are in reality infants, and should be regarded as such. The precedents of the Lunacy Acts with regard to the safeguards against improper certification have been more rigidly followed in the cases to be dealt with under the Mental Deficiency Act. The Lunacy Acts have more than justified their existence by abolishing the cruel and inhuman methods of treating the insane which were formerly practised in this country, and have falsified the prophecies of opponents that they would be used for locking up innocent persons without a justifiable cause. When the Mental Deficiency Bill was in Committee, the Home Secretary intimated that no feeble-minded person would be dealt with compulsorily unless such person for some reason or other had already come into conflict with the existing law, and, when being so dealt with, was found by a Judicial Authority to be mentally defective.

Section II.

THE OPERATION OF THE MENTAL DEFICIENCY ACT.

Extent and Date of Commencement.

The Act which is cited as "The Mental Deficiency Act, 1913," does not extend to Scotland or Ireland and comes into operation on the first day of April, 1914, except that with a view to making the necessary preliminary arrangements, authority has been obtained for constituting the Board of Control as from the 1st November, 1913. (Section 72).

Definitions and Classification of Defectives under the Mental Deficiency, Lunacy, Idiots and Education Acts.

Section 1 defines and classifies mentally defective persons within the meaning of the Act into the following four groups which graduate from a low to a high type :—

**Degrees of
mental
defect.**

- Idiots, that is to say persons so deeply defective in mind from birth, or from an early age as to be unable to guard themselves against common physical dangers.
- Imbeciles, that is to say persons in whose case there exists from birth, or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or in the case of children of being taught to do so.
- Feeble-minded, that is to say persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision and control for their own protection or for the protection of others, or in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools.

Moral imbeciles, that is to say persons who from an early age display some permanent defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

As will be observed from these definitions, defectiveness must be of a permanent and incurable character and have manifested itself from birth or from an early age. Acute lunacy is excluded from the definitions. The Idiots Act, 1886, recognized the legal difference between "idiots" or natural fools and "lunatics," with the result that lunatics have been excluded from admission to institutions certified under the Idiots Act. The Lunacy Acts make no such distinction, as "lunacy" or "unsound mind" has been interpreted in the Law Courts (*Reg. v. Shaw*) to include imbecility and loss of mental power arising from whatever cause. The institutions certified under the Lunacy Acts were primarily established for the treatment and cure of lunacy, but owing to the state of the law a large number of chronic defectives have been certified under the Lunacy Acts, resulting in an indiscriminate mixing of lunatics with chronic feeble-minded patients in the Asylums, and a considerable amount of confusion in lunacy administration.

It is anticipated that the Mental Deficiency Act will in the passage of time remove this chaos and that a clearly defined boundary, such as appears in Section 1, will be of considerable assistance to Local Authorities and to Administrative Officers.

The definition "feeble-minded" under the Act as applicable to children between the ages of seven and sixteen, refers to educable mentally defective children who are certifiable under Section 1 of the Elementary Education (Defective and Epileptic Children) Act, 1899. A number of Education Authorities have adopted the Act of 1899 and have made provision for the education of feeble-minded children in Special Schools or Classes. Under a Minute of the Board of Education children may be admitted to Special Schools at five years of age. A

Legal
definitions.

The
Elementary
Education
(Defective
and
Epileptic
Children)
Act, 1899.

certificate in the following form is issued in the case of every child who is certified as suitable for admission to a Special School or Class : —

“ I., A. B. . . . a duly qualified practitioner approved by the Board of Education, certify that . . . C. D. . . . not being imbecile and not being dull or backward, is, by reason of mental defect, incapable of receiving proper benefit from the instruction in an ordinary public elementary school, but is not incapable by reason of such defect of receiving benefit from instruction in a certified special school or class. (Signed) . . . E. F. . . . ”

“ Feeble-minded ” and “ Dull or Backward ” children.

Little, if any, question should arise with regard to certifying low grade defectives, namely, “ idiots ” and “ imbeciles ” or “ moral imbeciles,” or the “ feeble-minded ” class approaching to imbecility, but fears were expressed during the debates in Parliament that persons might be branded as “ feeble-minded ” who were in reality merely “ dull or backward.” Persons who come within the group “ feeble-minded ” will in most cases have been so classified under the Education Authority long before they come within the operation of the Act.

The question as to the certification of children on the border line of being “ dull or backward ” on the one hand and of “ mentally defective ” on the other hand, will no doubt receive additional attention by Education Authorities so as to ensure that the Special Schools will only be used for the instruction of mentally defective children. In cases of doubt a child should be retained in the Elementary School for a probationary period of training and in any case a “ provisional ” certificate of admission to a Special School should be issued in the first instance. The final test of such a child’s mental condition must rest largely with the capable and experienced teacher under whose charge the child is placed. It may be that one effect of the Mental Deficiency Act will be to hasten the introduction of Schools or Classes for Dull and Backward Children, rather than to use the Special Schools for Mentally Defective Children for such a purpose. Under a

careful system of selection and certification there need be little ground for fear that any other but mentally defective persons will be brought within the scope of the Act, as the dividing line between the normal and the defective should be clearly discernible long before the age of sixteen is reached, when such cases will come under the operation of the Act, and especially as before any person is certified as "feeble-minded" a family, medical and school history should be available for information.

The following statement of Sir J. Batty Tuke, M.D., in his article on Insanity in the *Encyclopædia Britannica* in regard to this question is of interest :—

"As the scale of imbeciles ascends it is found that the condition is evidenced not so much by obtuseness as by irregularity of intellectual development. This serves to mark the difference between the extreme stupidity of the lowest of the healthy and the highest forms of the morbidly deprived type. The two conditions do not merge gradually one into the other. . . .

"Where in theory the morbid (in the sense of deprivation) and the healthy types might be supposed to approach each other in practice, we find that no debatable ground exists. The uniformity of dulness in the former stands in marked opposition to the irregularity of mental conformation in the latter."

Classification of Defectives by the Royal Commission.

The Royal Commission grouped mental deficiency into nine classes, three of which refer to mental defect associated with epilepsy, inebriacy, deafness and blindness, and which may be included in one or other of the classes as defined in the Act.

The remaining groups, "persons of unsound mind" or lunatics—who are already dealt with under the Lunacy Acts—and "persons mentally infirm" or suffering from senile decay, are excluded from the operation of the Act. The definitions of defectives recommended by the Royal Commission were founded upon the suggestions of the Royal College of Physicians and were of consider-

able value as a basis for framing the definitions under Section 1 of the Act.

Senile
dements.

According to a recent return issued by the Local Government Board, there are 10,000 mentally defective persons over 60 years of age in the Workhouses of England and Wales, or 32 per cent. of the total number of mentally defective indoor paupers. There are also many other cases detained in Lunatic Asylums. The Royal Commission considered that the present method of dealing with these cases was both unsuitable and costly, and the question might with advantage receive the attention of Parliament in the immediate future.

Circumstances rendering Defectives subject to be dealt with.

One of the most important Sections of the Act, at least from the public point of view, is Section 2, which contains the circumstances under which defectives may be dealt with. An examination of Section 2 should remove any misconception as to the Act containing compulsory powers of detention of all feeble-minded persons.

Powers of
voluntary
detention.

Section 2 (1) (a) provides that a defective may be sent to or placed in an Institution for Defectives, or placed under Guardianship at the instance of his parent or guardian if he is an idiot or imbecile as defined in Section 1, or at the instance of his parent only, if, though not an idiot or imbecile, he is under the age of twenty-one.

A serious disturbance and demoralization of family life and an impairment of the health of parents are frequently experienced, especially in the homes of the working classes, by reason of the presence of a feeble-minded member who often requires as much, if not more, care than an infant, and whose mischievous or wandering propensities are a constant source of anxiety to the parents.

Many silent tragedies of family life will be averted by reason of the provisions which are contained in Sub-Section 2 (1) (a). In the discussion of this Sub-Section

during the Report stage of the Bill, it was, however, felt that precautionary measures were necessary to prevent abuses which might arise by reason of parents or guardians from ulterior or improper motives endeavouring to get rid of children or young persons under their control. An amendment by Mr. Wedgwood was accepted by the Home Secretary and carried which limits the power, to the parent only, to place a defective under the age of twenty-one other than an idiot or imbecile in an Institution or under Guardianship, and it is also necessary that a Judicial Authority should countersign the medical certificate after such inquiry as he shall think fit.

Safeguards
against
improper
detention.

The precedents of the Idiots Act, 1886, have been followed with respect to the placing of infants in Institutions. Section 4 of that Act provides that a parent or guardian may place an idiot or imbecile from birth or from an early age if under age, in a Hospital, Institution or Licensed House upon a Certificate in writing on a prescribed form by a qualified medical practitioner. With the consent of the Lunacy Commissioners such idiot or imbecile may be detained after he is of full age.

The Idiots
Act and the
detention of
infants.

The circumstances rendering defectives liable to be sent to Institutions or placed under guardianship are contained in Section 2 (1) (b) and are applicable to defective persons who are—

Powers of
compulsory
detention.

- (i) Found neglected, abandoned, or without visible means of support, or cruelly treated; or
- (ii) Found guilty of any criminal offence, or who are ordered or found liable to be ordered to be sent to a Certified Industrial School;
- (iii) Undergoing imprisonment (except imprisonment under civil process) or penal servitude, or undergoing detention in a place of detention by order of a Court, or in a Reformatory or Industrial School, or in an Inebriate Reformatory or under detention in an Institution for Lunatics or a Criminal Lunatic Asylum; or
- (iv) Habitual drunkards within the meaning of the Inebriates Act, 1879 to 1900.
- (v) In whose case such notice has been given by the Local

Education Authority as is mentioned in Section 2 (2) (post).

- (vi) In receipt of poor law relief at the time of giving birth to an illegitimate child or when pregnant of such child.

Defective persons coming under the provisions of Section 2 (1) (b) are liable to be placed under detention or supervision either by order of a Judicial Authority or Court or by order of the Secretary of State.

The Court procedure and the conditions to be observed will be dealt with in a later chapter and after the administrative machinery under the Act has been explained.

The cases coming under Par. (i) are generally on similar lines to some of the provisions of Section 58 of The Children Act, 1908, which contain the circumstances rendering children liable to be sent to Industrial Schools.

Par. (vi.) refers to feeble-minded women known as the "ins and outs" of the Workhouses.

The remaining paragraphs, with the exception of Par. (v.), refer to defective persons who are already under control, in one way or another, and for whom a more suitable provision will be available under the Act.

Par. (v.) is of considerable importance, as it will necessitate an arrangement whereby uneducable mentally defective children and scholars leaving the Special Schools on reaching the age limit will be notified by the Education Authority to the Local Authority under the Mental Deficiency Act.

The Police Authority is another source from which cases coming within the provisions of Sub-Section (b) of Section 2 will be notified to the Local Authority to be constituted under the Act. Section 8 (5) imposes upon the Police Authority the duty of informing the Local Authority in the case of any person who is charged with an offence and who appears to be a defective.

The Act in its relation to the Local Education Authority.

The powers of the Local Education Authority to make provision for the education of feeble-minded

Notification
of cases by
the Educa-
tion and the
Police
Authorities.

children are not affected by the Mental Deficiency Act.

Under the provisions of Sections 2 (2), 30 (iv) and 31 the duty of ascertaining what children over the age of seven and under the age of sixteen are defectives within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899, rests with the Education Authority. At present that duty is optional, but the amended Elementary Education (Defective and Epileptic Children) Bill, 1913, if passed into law, will impose the duty upon all Education Authorities alike of ascertaining what children are defective within the meaning of the Mental Deficiency Act and also of making provision for the education of those who are educable. Subject to regulations to be made by the Board of Education and to be laid before Parliament, the Education Authority will be required to notify to the Local Authority under the Mental Deficiency Act the names and addresses of defective children, over the age of seven coming within the following groups.—

- (a) Children who are ascertained to be incapable by reason of mental defect of receiving benefit or further benefit in Special Schools or Classes, or who cannot be instructed in a Special School or Class without detriment to the interests of the other children, or as respects whom the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under the Act by way of supervision or guardianship.
- (b) Scholars on or before attaining the age of sixteen who are about to be withdrawn or discharged from a Special School or Class if the Education Authority is of opinion that it would be to their benefit that they should be sent to an Institution or placed under guardianship.

Cases of doubt as to whether a child is or is not capable of receiving benefit from instruction in a Special School or Class, or whether its retention in a Special School or Class would be detrimental to the interests of the other

children are to be determined by the Board of Education, (Sec. 31 (2)).

Education
Authority
empowered
to send
children to
Defective
Homes.

The Local Authority to be constituted under the Mental Deficiency Act will have no duties with respect to the training of feeble-minded children except by arrangement with the Education Authority. The Home Secretary informed the House of Commons that Education Authorities would be empowered under the Amended Defective and Epileptic Children Bill, when it becomes law, to send suitable cases to Homes for Defectives to be certified under the Mental Deficiency Act, but that they would be required to pay the charges of maintenance until the children attained the age of sixteen years when they would come under the Local Authority for the purposes of this Act.

Correlation with the work of the Education Authority will thus be established by means of notification of cases coming within the above mentioned categories.

If the arrangements are carried out in a complete manner, the new Local Authority should be in possession of information with respect to all mentally defective persons who are subject to be dealt with under the Act.

Section III.

THE AUTHORITIES UNDER THE ACT.

The Board of Control, its Constitution and Jurisdiction.

Sections 21 to 26 provide for the constitution of the Central Authority. The general superintendence of matters] relating to the supervision, protection and control of defective persons coming within the operations of the Act is to be carried out by a body corporate to be designated "The Board of Control," having a common seal and power to hold land without licence in mortmain for the purposes of their powers and duties. The Board is to be composed of not more than fifteen Commissioners who are to be appointed by His Majesty on the recommendation of the Secretary of State, except that the legal Commissioners are to be recommended for appointment by the Lord Chancellor. In making such recommendations regard shall be had to the desirability of the inclusion amongst the Commissioners of persons specially qualified to hold inquiries amongst Welsh-speaking persons. (Section 21 (2).) The Home Secretary is empowered to appoint one of the Commissioners to be Chairman. Not more than twelve of the Commissioners are to be paid salaries, and other remuneration as may be fixed by the Home Secretary with the consent of the Treasury, and with the exception of the Chairman who is to be paid a salary not to exceed eighteen hundred pounds per annum the maximum salary payable to the eleven Commissioners is fixed at fifteen hundred pounds a year. The eight paid Commissioners in Lunacy will, by virtue of their office, become paid Commissioners of the Board of Control, and will continue

Appoint-
ment of
Commis-
sioners.

Salaries of
Commis-
sioners.

Lunacy
Commis-
sioners.

to hold office by the like tenure and be entitled to the like salary as before the commencement of the Act. Four additional paid appointments are thereby authorized. Of the paid Commissioners, four must be practising Barristers or Solicitors and four duly qualified Medical Practitioners of at least five years' standing. As the eight paid Commissioners in Lunacy hold these qualifications, the remaining Commissioners may not necessarily possess such qualifications. One of the paid Commissioners and one of the unpaid Commissioners must be a woman. The Chairman and paid Commissioners are to hold office during His Majesty's pleasure, the unpaid Commissioners will hold office for such term as the Home Secretary may determine.

Commis-
sioners to
include
women.

Proposed
appoint-
ment of
Commis-
sioners at
inception of
Act.

Although the Act authorizes the appointment of fifteen Commissioners, the following statement made by the Home Secretary during the Report Stage of the Bill will indicate the manner in which it is proposed for the present to appoint Commissioners:—

“ I propose only to ask for, at the present time, and by the
“ present time I mean such time as I shall be responsible for
“ my present Office, the appointment of eleven out of the
“ twelve paid Commissioners. That will suffice for the im-
“ mediate work for some years to come. Of those eleven,
“ one will be a woman and eight more of the eleven will be
“ existing Lunacy Commissioners. . . . There remain over
“ and above the existing Lunacy Commissioners and the one
“ woman, two other appointments to make, one of whom,
“ whether of the new or of the existing Lunacy Commis-
“ sioners, will be Chairman, whose salary is not defined in the
“ Bill, but it is my intention to ask the Treasury to sanction
“ a salary of £1,800 per year to the Chairman. With regard
“ to the remaining paid Commissioners, I propose to ask the
“ Treasury to sanction not more than £1,200 a year as the
“ commencing salary, with an increment as time goes on.
“ Under the Bill under no circumstances will the salary of
“ the Commissioners exceed £1,500 a year.”

Disqualifica-
tions.

A person is disqualified as a Commissioner or as an Inspector, Secretary, Officer or servant of the Board of Control who is or becomes interested directly or indirectly in any Certified Institution or House for Defectives .10

an Approved Home under the Act, or in any house licensed under the Lunacy Acts, and any such person holding any such office when he is so disqualified shall be guilty of a misdemeanour. (Section 24.)

The Board of Control is to be assisted in the performance of its duties by a Secretary and by such Inspectors and other Officers as the Secretary of State, with the consent of the Treasury as to number, may determine. The staff is to be appointed by the Board subject to the approval of the Home Secretary who shall determine with the consent of the Treasury the amount of salaries or remuneration to be paid to them and the Inspectors and other Officers shall include women as well as men. With a view to facilitating the arrangements preparatory to the 1st April, 1914, the date when the Act comes into operation, authority has been obtained for constituting the Board of Control and appointing the Secretary and other Officers as from the 1st November, 1913. (Section 72 (3).)

Officers of
Board of
Control.

Date of
appoint-
ments.

The Home Secretary will be responsible to the House of Commons for the administration of the Act.

The powers and duties of the Board of Control are subject to regulations made by the Home Secretary and will include the supervision of local administration, the general supervision, protection and control of defectives, the approval, supervision and inspection and visitation of institutions, houses and homes for defectives and the arrangements made for the care and control of defectives detained therein; the provision and maintenance of institutions for defectives of criminal, dangerous or violent propensities; the taking of any necessary steps for ensuring suitable treatment of cases of mental deficiency; the preparation of annual and other reports that may be required by the Secretary of State and the administration of parliamentary grants.

Powers and
duties of the
Board of
Control.

Without prejudice to the powers and duties of the Board of Control under any regulations which the Secretary of State may make for further or more frequent

Inspection of
Institutions.

inspection and visitation, the Commissioners will be required on behalf of the Board of Control to inspect every certified institution, certified house and approved home at least once in each year and, either through themselves or their Inspectors, to inspect such Institutions or Homes one additional time in each year, and every defective under guardianship at least twice in every year. Any Commissioner is empowered to discharge at any time any person detained in a certified institution or certified house or under guardianship, except that such power of discharge shall not be exercised without the consent of the Home Secretary in the case of any person who is transferred from a prison, criminal lunatic asylum, place of detention, reformatory or industrial school, or inebriate reformatory by order of the Home Secretary so long as the term of detention in the place from which such person was transferred, remains unexpired.

The Royal Commission recommended the frequent personal visitation of mentally defective persons on behalf of the Central Authority, which should consist of not less than two visits a year to be paid to each defective.

**Duties of
Administrative
Committee.**

Section 22 (5) enacts that the Board of Control if so directed and subject to regulations to be made by the Home Secretary shall appoint an administrative Committee to be entrusted with administration, powers and duties as set forth in the following Schedule :—

1. The supervision of the administration by Local Authorities of their powers and duties under the Act.
2. The certification and approval of premises.
3. The provision and maintenance of State Institutions.
4. The administration of grants made out of moneys provided by Parliament.
5. Such other powers and duties of the Board of an administrative nature as the Secretary of State or the Board may assign to the administrative Committee.

The constitution of the Central Authority has apparently caused difficulty, as it has been the obvious aim of

the Government to establish a separate and independent authority and at the same time to take advantage of the expert knowledge and experience of the Lunacy Commissioners in the administration of this new work and to avoid duplicating the staff of Visiting Commissioners.

Principle adopted in constituting the Board of Control.

The Royal Commission came to the conclusion that the existing Commission in Lunacy was not capable of undertaking the duties of the care and control of the mentally defective, and pleaded for an entirely new leadership in the organization of the work. It recommended that the present Lunacy Commission enlarged and re-modelled should constitute the Board of Control, that England and Wales should be divided into at least eight suitable districts; that an Assistant Commissioner should be appointed to each district; that Honorary Commissioners should be appointed and that at least one woman should be a member of the Board of Control.

The Royal Commission and the Board of Control.

The Board of Control and the Commission in Lunacy.

The first draft of the Mental Deficiency Bill, 1912, proposed that the Home Secretary should be charged with the general superintendence of matters relating to the supervision, protection and control of defective persons, and that he should be assisted by not more than six Commissioners. This was subsequently withdrawn in Committee and an amendment submitted by the Home Secretary and carried that the Central Authority should consist of a Board of Control of not more than fifteen Commissioners, to include the eight paid Lunacy Commissioners who would serve in an ex-officio capacity. The effect of the proposal was that the Lunacy Commissioners would be required to carry out their present duties under the Lord Chancellor and their new duties under the Board of Control, and that dual authority would be exercised by two executive Officers of the Crown, namely the Lord Chancellor and Home Secretary. Except for the appointment of an administrative Council to undertake the chief executive duties the majority on

the Board of Control would have consisted of members who were independent of any State control, at least until four of the nominees of the Lord Chancellor retired. That Bill was, however, withdrawn and the new Bill presented to the House of Commons in 1913 was a much larger measure than was originally anticipated, as it repealed Sections 150 to 161 of the Lunacy Acts and under the provisions of Section, 65 (1) all the powers and duties of the Lunacy Commissioners, together with their existing staff, were transferred to the Board of Control.

Lunacy administration as affected by the Act.

The existing organization of lunacy work will probably be not interfered with to any appreciable extent, as the functions of the Commission are limited to that of an advisory or intermediate body and the Commissioners do not form part of any State Department. The powers of the Commissioners are chiefly restricted to inspecting institutions for the detention of lunatics and reporting to the Lord Chancellor on their general work, or to the Secretary of State on questions affecting asylum accommodation. They are required to visit every County and Borough Asylum, State Institution, Idiot Asylum and the Metropolitan Asylums under the Metropolitan Asylums Board once a year, and a large number of Workhouses in which lunatics are detained about once in three years. Every patient is seen and afforded full opportunities to make any statement as to mode of treatment, etc. The Commissioners also visit Hospitals and Provincial Licensed Houses twice a year and Metropolitan Licensed Houses at least six times a year. Plans, contracts and estimates for the purpose of asylum accommodation are submitted for approval to the Commissioners and to the Home Office, and to the Local Government Board, if borrowing powers are applied for.

Duties of Lunacy Commissioners.

The Royal Commission pointed out that the work of the Commission was beyond its powers and that in consequence the duties were carried out too hurriedly.

With the object of providing for a distribution of the

duties of the Lunacy Commissioners amongst the various Commissioners of the Board of Control, Section 65 provides that His Majesty may by Order in Council direct that anything which under the Lunacy Acts, 1890 to 1911, is required or authorized to be done by, to, or in respect of any one or more of the Lunacy Commissioners or an Officer of the Commissioners, shall be done by, to, or in respect of one or more Commissioners under the Mental Deficiency Act or the corresponding Officer of the Board of Control, provided that nothing in such Order in Council shall authorize anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two Commissioners, one a medical and the other a legal Commissioner, except that the order may provide that in the case of temporary illness or disability of a medical or legal Commissioner, the Lord Chancellor or the Secretary of State, as the case may be, may appoint a qualified person to act as substitute.

Distribution
of duties of
Lunacy
Commission-
ers.

The amalgamation of the paid Lunacy Commissioners with the Board of Control is a step in the right direction and is preparatory to a complete scheme when opportunity arises for a unified State Department controlling all sections of work affecting the mentally afflicted. Correlation in administrative duties under the Lunacy Acts and Mental Deficiency Act is thereby established, and at the same time a separate machinery for carrying out the provisions of the latter Act is maintained. Furthermore, difficulties which might otherwise have arisen in regard to the question of a revision in the classification of inmates of Lunatic Asylums will be reduced to a minimum and considerable economy in public expenditure be effected by reason of the inspection of institutions and the visitation of defectives throughout the country being undertaken by the same body of Commissioners, instead of two sets of Officers and Staffs being appointed to perform similar duties. The organization of the two

Lunacy
Commission
and amal-
gamation.

sections dealing with "lunacy" and "mental deficiency" under the present scheme is capable of separation upon a principle of bifurcation.

Administration of Property of Lunatics and of Mentally Defective Persons.

**The Judge
in Lunacy.**

Under the provisions of the Lunacy Acts, a Judicial Authority is constituted for the purpose of managing and administering the property of lunatics. The Judicial Authority is exercised by the Judge, and as regards administration and management by the Masters in Lunacy.

The jurisdiction of the Judge in Lunacy is exercised by the Lord Chancellor acting alone or jointly with one or more of the Judges of the Supreme Court. The Judge in Lunacy is required to deal with any special business, including appeals from the decision of the Masters, and may make orders for the custody of lunatics so found by inquisition and for the management of their estates.

**The Masters
in Lunacy.**

The Masters in Lunacy deal with the general business of the Judicial Authority as regards administration and management, and they are empowered to administer oaths, take affidavits and summon witnesses in connexion with any commission of inquiry which they may hold. There are at the present time two Masters who are Barristers of not less than ten years' standing and who receive their appointments from the Lord Chancellor.

**The Visitors
in Lunacy.**

The Chancery Visitors are required to visit all cases of lunacy "so found by inquisition" twice in each year and to visit all lunatics in "private houses" four times in each year during the two years next following inquisition. They also visit a number of special cases other than those "so found by inquisition" as required under the order of the Judge or Masters.

**Cases "so
found by
inquisition."**

The powers and provisions of the Lunacy Act, 1890, relating to management and administration are contained in Section 116 of Part IV of that Act. A distinction is made as between cases "so found by inquisition" of the

Judge or Masters in Lunacy to be of unsound mind and incapable of managing themselves or their affairs (Section 116 (a)) and cases "not so found by inquisition" (section 116 (b to f)). A lunatic "so found by inquisition" practically becomes a Ward of Court, and any contract entered into, or deed executed even during a lucid interval, is not valid. There are comparatively only a few inquisition cases, as the popular method is to obtain Reception Orders which can be arranged by private petition, and at the same time to secure the protection of the Court for the management and administration of the estate, subject to payment of fees of 2 per cent. instead of 4 per cent., which is the percentage charged under the former method of procedure.

The Royal Commission recommended that the powers and provisions of the Lunacy Acts relating to the management and administration of estates should apply to all mentally defective persons. That recommendation was made on the assumption that there would be one central authority, namely the Board of Control, to take over the entire work affecting both lunatics and mentally defective persons. Section 64 of the Mental Deficiency Act provides that Section 50 and Part IV of the Lunacy Act, 1890, in so far as they relate to the management and administration of the estate of a person lawfully detained as a lunatic, but not so found by inquisition (vide Section 116 (c)), or of a person who is through mental infirmity arising from disease or age incapable of managing his affairs (Section 116 (d)), should be applicable to the management and administration of the estates of persons sent to or placed in an Institution or to a Certified House or placed under guardianship within the meaning of the Mental Deficiency Act.

Recommendations of the Royal Commission.

The Mental Deficiency Act follows precedent of the Lunacy Acts.

Section 64, therefore, follows the precedents of the Lunacy Acts and contains ample powers for protecting the property of mentally defective persons who are lawfully detained in Institutions or placed under guardianship, or persons not so detained, but who owing to mental

infirmity are found to be incapable of managing their affairs. This Section does not apply to any Englishman residing outside the jurisdiction of the Act, in the same way that "lawfully detained" under the Lunacy Acts is not applicable to Englishmen detained in a foreign country under the laws of that country.

The effect of this Section of the Act will be to secure a distinctive supervision and treatment of mentally defective persons possessed of property as is now the case under the Lunacy Acts. The accommodation to be provided in registered "Private Houses" will probably be largely utilized by this class whose means will enable them to pay for special care and attention.

The Local Authority.

Committee
for the Care
of the
Mentally
Defective.

The Local Authority under the Act is the Council of a County or County Borough. It is required to constitute a Committee for the purposes of the Act, to be called "The Committee for the Care of the Mentally Defective," consisting of Members of the Council and of persons not being Members of the Council as it may determine. Women must be appointed Members of the Committee for the Care of the Mentally Defective and Poor Law Guardians or other persons having special knowledge of the work may be included in the number of co-opted members. This provision is similar to the scheme recommended by the Royal Commission who, however, considered that the number of co-opted members should not exceed one-third of the number of members of the Council. The proportion of non-members of the Council on the Committee to the elected representatives is a matter left to each Local Authority to determine, but of the whole Committee the majority shall be members of the Council (Sections 27 and 28).

Co-optation
of Members
including
women.

Disqualifica-
tions.

Persons are disqualified from being members of a Committee for the Care of Mentally Defectives who by reason of holding any office or place of profit, or having any share

or interest in a contract or employment are disqualified from being members of the Council appointing the Committee, but such disqualification does not apply to a person by reason only of holding office in a School or College aided, provided, or maintained by the Council (Section 28 (3)).

The presence of persons of special knowledge and experience of work connected with the care, control and treatment of defectives should be welcomed, especially in view of the numerous duties which are already imposed upon members of the Councils who in many cases can hardly afford the necessary time to enable them to specialize in more than one branch of public administration.

Duties of the Local Authority.

Under the provisions of Section 30 the Local Authority is required subject to regulations to be made by the Home Secretary,

Obligatory
duties of the
Local
Authority.

- (a) To ascertain what persons within its area are defectives subject to be dealt with otherwise than at the instance of their parents or guardians.
- (b) To provide suitable supervision for such persons, or if such supervision affords insufficient protection to take steps for securing that they shall be dealt with by being sent to Institutions or placed under Guardianship.
- (c) To provide suitable and sufficient accommodation for such defectives when sent to Certified Institutions by Orders and for their maintenance therein and conveyance to and from such Institutions.
- (d) To make provision for the guardianship of such defectives when placed under Guardianship by Orders.
- (e) To appoint or employ sufficient Officers to assist the Local Authority in the performance of its duties.
- (f) To make annual and other reports to the Board of Control as required.

Power to Enforce Duties.

Where a Local Authority is reported by the Board of Control to have made default in the performance of its

duties under the Act, and without prejudice to the right or power of the Secretary of State or any other Authority or person to take any other proceedings for requiring it to perform its duties, the Secretary of State may, after holding a local inquiry if he considers it desirable to do so and after being satisfied that such default has taken place, by Order require the Local Authority to take steps for remedying the default and any such Order may be enforced by mandamus. The expenses incurred in respect of any such default or inquiry shall, if the Secretary of State so direct, be expenses of the Local Authority and if not paid within two months after demand be recoverable as a debt due to the Crown (Section 32).

Mandamus.

A writ of mandamus is presumably the high prerogative writ of mandamus which is a command issuing in the King's name to any person, corporation or inferior tribunal to do some thing therein specified which appertains to their office and duty and which the Court of King's Bench has previously determined or at least supposes to be consonant to right and justice. Application for a writ of mandamus is usually made to the King's Bench Division by motion for an Order nisi in term time, or in vacation, if it is shown to the Judge in chambers that the matter is urgent.

Optional duties of the Local Authority.

The Local Authority is empowered if it thinks fit to maintain in an Institution or Approved Home defectives who may be dealt with at the instance of a parent or guardian or to contribute towards the expenses of their maintenance in an Institution or Approved Home or the expenses of guardianship, or it may provide for the burial of defectives dying in an Institution or when placed under Guardianship.

Proce lure.

Section 28 (2) provides that the powers of the Local Authority (except the power of raising a rate or borrowing money) shall stand referred to the Committee for the Care of the Mentally Defective and before exercising any such powers, unless in matters of urgency, the Local Authority shall receive and consider the reports of such

Committee. The Local Authority may if it think fit delegate any of its powers to the Committee with or without restriction except the power of raising a rate or borrowing money.

Methods of Local Administration.

Section 28 (1) (a) and (b) of the Act enacts that if the Council so determines the Visiting or Asylums Committees appointed under the Lunacy Acts, 1890 to 1911, shall also act as the Committee for the Care of the Mentally Defective, in which case at least two women must be added to the Committee; or the Members of such Visiting or Asylums Committees shall be the Members of the Council appointed by it to be Members of the Committee for the Care of the Mentally Defective. Under the provisions of Section 66 the Home Secretary may by Order authorize the Council or County Borough acting as a Local Authority under the Lunacy Acts to appoint the Committee for the Care of the Mentally Defective to be the Visiting Committee under the Lunacy Acts.

Visiting or
Asylums
Committee
may act.

Section 29 (1) empowers the Secretary of State with the concurrence of the Local Government Board to make by Order such provisions as appear to him to be necessary or expedient for the constitution of a Joint Committee, Joint Board or otherwise, if it appears to the Secretary of State that two or more Local Authorities should join for the purpose of exercising any of their powers or duties under the Act. The Order for constituting a joint Authority under the provisions of Section 29 (1) may be made on the application of one or more Authorities, but unless all the Authorities affected agree to the making of the Order, it shall be provisional only and shall not have effect unless confirmed by Parliament. An Order when made shall state in what proportion and out of what funds the expenses to be incurred shall be defrayed and any other conditions that may be necessary. The Order shall remain in operation for the period specified or until it is determined by mutual agreement between the Local

Joint
Action.

Authorities concerned with the consent of the Home Secretary, or it may be revoked or varied by an Order made on a like application and subject to the like provisions of the original Order. Sections 297 and 298 of the Public Health Act, 1875, relating to the making of Provisional Orders by the Local Government Board are applicable to the Mental Deficiency Act with the necessary modifications.

The
Lancashire
County
Asylums.

Section 34 enacts that the Lancashire Asylums Board shall as respects the County of Lancaster and the Councils of the County Boroughs represented on that Board, be the Local Authority for the purposes of the Act for that County and those County Boroughs, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts and audit shall apply accordingly in substitution for the provisions as to like matters contained in the Mental Deficiency Act.

Various
methods of
carrying out
the Act.

There are, therefore, several methods which a Council may adopt for carrying out its duties under the Act such as,

- (a) by appointing a Committee consisting of Members of the Council and co-opted Members, or of Members of the Asylums or Visiting Committees, whose procedure and powers of expenditure will be directly under the control of the Council;
- (b) by delegating any or all of its powers and duties except the power of raising a rate or borrowing monies to such Committees or to the Visiting or Asylums Committees;
- (c) by combining with one or more other Local Authorities for all or any of the purposes of the Act, as, for instance, by appointing such a Committee as is referred to in paragraph (a) for domiciliary supervision, or delegating that work to a Voluntary Society or Care Committee, and combining with any other Local Authority in regard to the establishment of Institutions.

The determining factor will very largely depend upon local circumstances, such as the size of the area and the number of cases to be supervised or dealt with. It is important that as far as possible the Local Authority should retain control of the work by appointing a

Committee to be directly responsible to it both in regard to procedure and expenditure, and the Committee for the Care of the Mentally Defective is the nearest approach to that principle. The facilities afforded by the Act for the delegation of powers to Asylum or Visiting Committees might be of advantage in the management of Institutions. In the case of the large County Boroughs, the work would appear to be more effectively carried out by the appointment of special Committees, in preference to the Local Authority delegating its powers to Visiting or Asylums Committees which under the Lunacy Acts possess independent powers of expenditure, and are primarily constituted for the purpose of visiting and managing Asylums, and over which the Local Authority exercises only an indirect control.

In many County Boroughs the basis for domiciliary treatment is already established by After-Care Committees composed of Members of Education Authorities, Poor Law Guardians and other persons experienced in the work, and a fusion of the Visiting or Asylums Committees mainly for the purpose of dealing with the Institutional side of the work should bring into existence an effective Committee to deal with local administration.

In scattered areas the work might be delegated to Asylums or Visiting Committees of the County Council, but it is a question that needs careful consideration, whether new work of this nature should be entrusted to a Lunacy Authority which could hardly be equal to undertaking the direct supervision of all defectives in scattered areas without considerable alteration in constitution. The Lunacy Acts do not make provision for the co-optation of Members, but in the event of an Asylums Committee being appointed there must be added to it at least two women. A Local Authority may find it convenient to adopt Section 48 of the Act by delegating the work of visitation and supervision of defectives, whilst not in Institutions, to a Voluntary Society or Care Committee.

Voluntary
Care Com-
mittees.

Recom-
mendation
of the
Royal Com-
mission.

The Royal Commission recommended that the Committee for the Care of the Mentally Defective should take over the duties of Asylum Committees, and in view of all the circumstances this would appear to be a sound principle to adopt, as by the Asylum or Visiting Committee becoming part of the Local Committee there need be no interference with its duties under the Lunacy Acts, and yet at the same time the new and distinctive features of the work would be maintained under a special Committee whose methods of constitution would be a reflex of the central Board of Control.

Section IV.

THE ADMINISTRATION OF THE ACT.

Manner of dealing with Defectives.

Having ascertained what persons within its area are mentally defective, the Local Authority should proceed to deal with them as empowered under Section 30 of the Act, namely :—

- (1) To provide suitable domiciliary supervision for defectives not needing detention, including cases discharged from Institutions.
- (2) To make arrangements for the care of defectives either by way of guardianship or by providing suitable accommodation for them in Institutions or Colonies.
- (3) To cause defectives needing custodial care in other than State Institutions to be sent to, or transferred to, and detained in Institutions or to be placed under guardianship.

The duties of the Local Authority are only obligatory in the case of defectives whose circumstances are such as to render them liable to be placed under detention by order of a Judicial Authority, although the Committee will receive many applications either by or on behalf of other defectives for assistance in one way or another.

Domiciliary Supervision.

With a view to the provision of a complete and effective scheme, the Committee for the Care of the Mentally Defective should consider the question of undertaking the work of supervising all defectives living with their own relations, who need the help and oversight of the Committee, as ancillary to its obligatory duties. In many areas this work has been carried out by Care

Visitation of
Defectives.

Committees, who have kept in touch with all the former Special School scholars, and considering the limitations of the work, owing to the lack of legal powers of dealing with acute cases and to the voluntary basis of their operations, the results have been very gratifying. Defectives should be visited at their own homes by members of the Committee, or by their officer, and a report in regard to their conduct, occupation and home environment should be submitted half-yearly. Such reports will be of much value in establishing records, in providing data for the annual report to the Board of Control, and in assisting the Committee to deal with special cases such as those requiring employment or detention. The value of the friendly visitor possessing special knowledge and experience cannot be over-estimated, and it is in this branch of work that co-opted members, and especially women, will be most useful. The plan of allocating definite cases to each visitor has been found to have special advantages over a system necessitating a constant change of visitor, as thereby a more personal and continuous interest in each case is made possible.

Cases not
needing
custodial
care.

The capacity of mentally defectives to follow a definite occupation will be a factor in determining whether they should be permitted to spend their lives with their own relatives. There is little if any justification for incurring the expense of maintaining high-grade defectives in Institutions or Colonies, if they are capable of becoming wage-earners, and are also under satisfactory control. As a matter of fact, returns show that about 30 per cent. of the scholars after finishing their training in Special Schools are able to support themselves or give promise of becoming self-supporting; in addition many others who are incapable of employment are under satisfactory home supervision, and all that is necessary in their case is a little friendly oversight.

Employment
of the
mentally
defective.]

Wherever possible mentally defectives should endeavour to obtain their own employment, as they are thereby more likely to feel the responsibility of personal effort,

which is of importance in stimulating them to retain their situations. In many of the Special Schools tailoring, boot-repairing, woodwork and gardening are taught to the boys, and homecraft and needlework are among the occupations taught to the girls, and the scholars are trained to be generally useful.

Occupations requiring little skill but plenty of energy should be selected according to the physical condition of the defectives. The influence of members of the Committee in obtaining the co-operation of employers with a view to the employment of those defectives who are capable of following it, should be exerted wherever possible.

Kinds of
occupation.

During the intervals between the visitation, arrangements should be made so that parents may notify the visitor or officer of the Committee of any special circumstances which may have arisen in regard to the habits, conduct, employment, etc., of defectives. Experience has shown that the parents welcome the visits and they have willingly co-operated with this branch of the work.

The Royal Commission recommended, in the case of defectives who are suitably provided for but liable by the loss of a parent or other change in circumstances to need the help of the Committee, that a voluntary arrangement should be made with the parent for the appointment of a friendly visitor who would keep in touch with the family so that the case would not be lost sight of.

Recom-
mendation
of the
Royal
Commission.

Provision of Accommodation for Defectives.

The classes of mentally defectives for which provision will be required will include blind, deaf, paralytic, epileptic and other defectives, including moral imbeciles and women who are in receipt of poor law relief at the time of giving birth to an illegitimate child or when pregnant of such child, as defined in Section 1 of the Act.

The accommodation to be provided should be on the following lines :—

I. Boarding-out or Family Care.

Kind of accommodation.

- II. Institutions or Colonies, or Private Homes.
- III. State Institutions for the Criminal classes.

Boarding-Out or Family Care.

Boarding-out.

It is probable that one of the methods of dealing with a number of mentally defectives, especially of the harmless type, will be by boarding them out in the homes and under the care of competent guardians. This method has been extensively adopted by Boards of Guardians, Education Authorities and by the Scotch Lunacy Board. The system was investigated by the Royal Commission, who recommended it as sound in principle and economical in practice. Poor Law Guardians have for many years past boarded-out sane pauper children under regulations of the Local Government Board at a weekly cost of about 5s. for board and lodgings. A number of Education Authorities in England have admitted mentally defective children into their Special Schools as day scholars, chiefly from rural areas, and have boarded them out with foster-parents. Under the boarding-out system many mentally defective children living in districts where no Special Schools are established have thus been able to benefit by attendance at Special Schools in other areas.

Regulations.

The Boarding-out Regulations of the Board of Education are very similar to those issued by the Local Government Board. The homes are visited by members of the Boarding-out Committee, or by an officer, and a report on the condition of the homes and on the health and well-being of the children is forwarded to the School Authority and to the parents monthly or quarterly.

Selection of foster-parents.

The foster-parents should be carefully selected and wherever possible the persons appointed should not be dependent upon that source of income, as otherwise there is a risk of the food supply and comfort of the patient being limited. Many good working-class homes are available for this purpose, where there is evidence of no stinting of the necessaries of life, and where the foster-

mother has the requisite time to devote and is willing to undertake the duty as an additional source of family income.

Boarding-out may be carried out either in scattered homes, as under the Scotch system or in connection with a central Institution, as in the case of a number of Colonies on the Continent.

The number of cases to be boarded-out is limited to one in each home except with the consent of the Board of Control, as Section 51 (1) enacts that a person who undertakes for reward the care and control of more than one defective person elsewhere than in an Institution for Defectives or in an Approved Home, or in a Certified House shall be guilty of a misdemeanour. A person receiving a defective for reward or care is required to give notice to the Local Authority and to the Board on a prescribed form within forty-eight hours of the reception of the defective, and if he fails to do so he shall be guilty of an offence.

Number of
defectives
to be
boarded-out.

Boarding-out in connection with a central Institution.

As an auxiliary to an institution or Colony for Defectives as the central organization, and with a view to a complete provision on a broad and elastic basis, boarding-out or family care might be considered. In this connection it will be of interest to refer to the Gheel Asylum and Village Colony.

This village, having a population of about 12,000 inhabitants is situated within twenty-five miles of Antwerp and there are approximately 2,000 mentally defective persons living as boarders in private houses or on small farms in the village. The central asylum accommodates comparatively few patients for whom institutional care is necessary. The colony is said to have been a gathering ground for large numbers of pilgrims who many generations ago visited the village and sought relief, for themselves or for their friends suffering from the affliction of insanity, by worshipping at the shrine of St. Dymphna, the patron saint. It became

The Gheel
Colony.

necessary for the friends of patients to find lodgings for them in the village. Although faith in the healing power of the [saint has gradually died out, the population of the Colony as a boarding centre has increased from 600 patients in the year 1803, when a system of organized Government control and inspection was commenced, to about 2,000 patients at the present time. The patients live chiefly as boarders in the homes of the villagers and are treated as members of the family. Nearly all the natives are farmers in a small way, and they have the reputation of being frugal and industrious. Many of them keep only a cow or two, and besides eking out sufficient to supply their own needs, they add to their income by boarding and attending to the insane. The central asylum serves as a hospital for a small number of patients who are unsuitable for family life, and it is also used as a reception station for pauper patients before they are placed out with their hosts. The charge for indigent patients is fixed by the Government and varies from sixpence to ninepence per day for each case, out of which amount twopence per day is retained by the Authorities for administrative expenses. The charges for private patients vary from about £15 to £200 per annum per patient according to their means.

Boarding-out colony in Germany.

Reference to the Colony of Jerichow in Germany may also be of interest. Dr. Cunningham Brown, who visited this Colony a few years ago, reported that about 200 patients were accommodated in the Institution and that the remainder of the patients, numbering about 563, were living in the cottages of the neighbourhood under the care of the householders and were visited at frequent intervals by Overseers and Medical Officers. The care and supervision were extraordinarily thorough and had been followed by the happiest results. The saving effected by this system of boarding-out in the year 1904 was about £14,350, not counting what was saved in the avoidance of new erections which would otherwise have been required. It has relieved the asylums of 14 per

cent. of the pauper population, it has been of material benefit to the guardians and of great benefit to the patients themselves.

Boarding-out not in connection with a Central Institution.

Although there are many advantages in boarding-out the mentally defective in close proximity to a central colony where their labour may be properly organized and supervised, at the same time it will not always be expedient nor is it desirable that such a course should be adopted. Especially during the initial stages of the Act, or until arrangements of a permanent character are made, local Committees will find it of advantage to resort to the boarding-out method in suitable districts or villages.

The Royal Commission was very favourably impressed with the Scotch boarding-out system and recommended that it should be extended to England and Wales. The arrangements work smoothly and satisfactorily and have prevented the erection of new Asylums and the enlargement of existing Asylums. The system is legalized under Section 95 of the Lunacy Act, 1857, which provides that patients may be kept in private dwellings, either with related or unrelated persons, and either singly or in numbers not exceeding four. The form of medical certificate is somewhat similar to that used in the case of patients admitted into Asylums, but states that the patient does not require either for his own welfare or the public safety to be placed in an Asylum, and that he is a proper person to be detained in a private dwelling under conditions that are suitable and sufficient for his care and treatment. The payments to the foster-parent are about 6s. to 7s. per week in each case. The patient must be periodically visited by an Inspector of the Poor and by a local Medical Officer and the visits must be properly recorded. The Scotch method of boarding-out has been in the direction of scattered homes, rather than in an aggregation of the patients, as the Authorities have not been favourable to the grouping

Scotch
system of
boarding-
out.

together of large numbers of the insane. An effort is made to provide for the patients according to their needs and many of them are employed on farms or in other available occupations in the district in which they reside.

The Royal Commission on the system family-care.

The Royal Commission considered that Scotland possessed no special advantages over England and Wales, where there are retired villages, clean and tidy cottages and motherly housewives who would be quite capable of undertaking the care of mentally defective persons other than acute lunatics. The success of the boarding-out system largely depends upon a careful selection of foster-parents and a thorough and systematic inspection of the homes. The system has taken deep root in Scotland, chiefly because the Authorities have had faith in it and have spared no pains to make it a success. It was estimated that if 30 per cent. of the inmates of Asylums who were reported as not needing asylum care were boarded-out, the saving to England alone would be £480,000 per annum.

Institutions or Colonies for Defectives.

The provision of accommodation for defectives is a matter of considerable importance to the Local Authority, and should not be dealt with in a haphazard manner nor merely from a local standpoint. The number and the classes of defectives to be placed in Institutions will need to be considered for the country as a whole, and one of the duties of the Board of Control will be to consider and approve schemes for establishing an efficient, economical and properly co-ordinated service. The Borough or even the County area cannot be regarded as the determining factor, as those Authorities needing but a small amount of accommodation may find it desirable to act in combination with other Authorities for providing a common Institution or Colony, or to contract with Managers of Institutions for the reception of defectives. In such cases as where mental defect is associated with deafness or blindness or a helpless paralytic condi-

The physically and mentally defective.

tion, one or two Institutions or Hospitals, either separate or as an annexe to other Institutions or Colonies, will probably be sufficient to meet the needs of the entire country. There are a few Voluntary Homes for Mentally Defective, Blind and Deaf persons in this country, two or three of which are Certified Special Schools under the Board of Education, and the question might be considered as to how far such Institutions could be made adaptable for the purpose of the Mental Deficiency Act.

A Local Authority is endowed with large powers of utilizing a variety of types of Institutions such as "Certified Institutions," "Approved Homes" or "Certified Houses" if recognized by the Board of Control as suitable for the purpose.

Prison Commissioners, Boards of Guardians or other Authorities are, subject to the consent of the Home Secretary, the Local Government Board or other Government Department concerned, empowered under Section 39 to lease or grant the use of any premises, which are no longer required for the purpose for which they were provided, to any Local Authority or other person for use as a "Certified Institution," provided that the Board of Control is satisfied as to the fitness of the premises for the reception of defectives. This is an important Section of the Act, and will give facilities for the preparation of schemes with the object of combining two or more small Public Institutions, or of closing others, especially in the rural districts, and setting at liberty premises or estates for the purpose of conversion into Institutions for Defectives. The saving would be at two ends of the chain linking together the public service, as on the one hand such a policy would obviate the necessity of purchasing or renting other premises, and on the other hand it would prevent the heavy and often wasteful expenditure which has necessarily to be incurred in the upkeep of small Institutions.

Transfer of premises.

"Certified Institutions" may be grouped into three classes, namely, (1) those provided by a Local Authority

Certified Institutions.

or in combination with another Local Authority, (2) those provided by Poor Law Guardians, and (3) those under voluntary management.

The Local Authority is under no obligation to maintain or contribute towards the maintenance of a defective in a "Certified Institution" unless the Treasury contribution towards the cost on income account is not less than one-half the cost incurred.

"Certified Institutions" provided by the Local Authority.

Section 38 gives optional powers to the Local Authority, subject to the approval of the Home Secretary, to undertake or contribute such sums of money as it may think fit towards the establishment, building, alteration, enlargement, rebuilding or management of Institutions for Defectives, or to purchase any land required for the use of a Certified Institution or for the site of an Institution intended to be certified under the Act. Particulars of the proposed building or re-building or alteration of the proposed Institution, with an estimate of the cost, must be forwarded to the Home Secretary. The Local Authority may also combine with any other Local Authority for the purpose. Where the plans have been approved they must be carried out without modification except with the consent of the Home Secretary, and no building or site provided by an Authority may be used for any other purpose than that for which it is approved.

Land may be acquired by the Local Authority for the purposes of the Act in the case of the Council of a County under the Local Government Act, 1888, or in the case of a County Borough for the purposes of the Public Health Acts. It is expected that some little time will elapse before Authorities will be in a position to undertake the establishment of new Institutions, and in the interim temporary expedients might be adopted and the boarding-out system resorted to.

Types of Colonies.

The Royal Commission favoured the provision of large Colonies such as are in existence in America. Probably no country can show such a record of rapid and enlightened progress in the care of its feeble-minded as the United States, where Colonies have been organized on a large scale and on modern and economical lines, manual and industrial methods of education being almost wholly adopted. Members of the Royal Commission who visited some of the State Colonies observed many features worthy of careful attention and were struck by the originality and directness of the methods adopted in several of these Institutions with a view to stimulating the activity of the perceptive powers of the inmates and also by the freedom from cramping and unnecessary regulations which enabled the Managers to apply their minds to new experiments in education and organization. Some of the Colonies consist of large farms with hundreds of acres of land, with many branches of industry in operation and containing from 500 to 2,000 patients of all ages and degrees of mental deficiency. The capital outlay varied in the Institutions visited from £90 to £160 per head. One of the main objects of these Colonies is to make them self-contained by producing as large a part of the necessaries of the establishments as possible, by means of the labour of the inmates.

Colonies for the Feeble-minded in the United States.

The Commissioners who visited the United States were impressed with the large size of the Institutions which seemed to them to secure proper classification, the general plan being that each Institution contains three departments, and it is perfectly easy to transfer an inmate from one to the other; these departments are: the Custodial for the lowest grade (i.e. idiots and imbeciles), the School for the higher grade children and the Industrial for the higher grade adults.

A strict segregation of the sexes is maintained.

The following extract from a report of the Visiting

Members of the Royal Commission on the Templeton Colony, which represents very largely the results of the system of training the idiot or imbecile in early life, is a valuable commentary on the work of one of these Colonies :—

“ We saw a group of four with heavy sledges and hammers
“ breaking rock, drilling it for blasting explosives ; they were
“ working steadily and without supervision. Further on
“ was another group of five men working in a field. They
“ were bringing in stooks of corn which they were loading
“ upon a cart ; others in the shed were unloading and storing
“ the corn. A further group was hauling bricks in wheel-
“ barrows. At a little distance there was a row of about a
“ dozen who under the supervision of one man only were
“ working in a field with sharp pickaxes. An imbecile was
“ ploughing with a pair of horses, his daily task. All of these
“ men had come from Dr. Fernald’s Schools for the Feeble-
“ minded, and a large proportion of those who were busily
“ and happily engaged in useful work could never be taught
“ to read and write ; some had not human speech. The
“ previous training was of course essential ; idiots and low
“ grade imbeciles could not be employed in this way without
“ preliminary training.”

The Visiting Commissioners directed special attention to their report on the Newark State Custodial Home for Feeble-minded Women :—

“ The object of this Institution is to detain women of a
“ childbearing age in order to prevent the propagation of
“ persons of feeble mind with its attendant evils to the com-
“ munity. About half were decidedly imbecile or idiotic,
“ the other half being high grade imbeciles or young women
“ whose defect was so slight that on casual observation it
“ would not be evident. Twenty-five per cent. were women
“ who had been brought before a Magistrate on some charge,
“ and without being convicted by him had been sent to the
“ Asylum as a proper place for their detention. A small
“ percentage had been transferred to Newark from prisons,
“ and detained there after the expiration of their sentences.
“ This Institution is one of the brightest and most comfort-
“ able, and also one of the most economical, that the Members
“ visited. It is built on the detached cottage system, and the
“ cost varied according to the different cottages, sinking as
“ low as £50 and never rising much beyond £80 a bed. The
“ weekly cost of maintenance per inmate was 9s. 6d.”

Employment and Classification of Patients.

In making provision for the treatment of the mentally defective, too much attention cannot be given to the question of their suitable employment in combination with an out-door life and plenty of exercise. This aspect of the matter is of paramount importance as the lack of definite occupation, even under a wholesome environment, adds monotony and idleness to their affliction, increases the opportunities for mischief and makes supervision more difficult. The statement of Dr. Lalor, for thirty years Superintendent of the Richmond Asylum, Dublin, that "employment of some kind is the agent to which we look for improvement and cure of the insane," applies with greater force to the class of defectives to be dealt with under the Mental Deficiency Act.

Colony
Employment
for the
Mentally
Defective.

The natural result of a system of classification similar to that adopted in the United States is that the low grade defectives, i.e. idiots and imbeciles, will on admission to the Custodial Department commence to be trained in personal habits such as to wash their faces, dress themselves and gradually be made capable of doing manual work on the Colony of varying kinds, e.g. carrying stones, using the pickaxe and spade in breaking earth and in digging; and that the high grade defectives who have received a trade training in the Schools, will be capable of performing the skilled work of the Colony such as tailoring, bootmaking and repairing, joinery, rugmaking, and other occupations, either in the workshops or on the farm, which are necessary to a complete and self-contained Colony life. The girls would receive a training in homecraft preparatory to undertaking such duties as cooking, laundry-work, needlework, etc. Education as ordinarily understood should have no place in any practical scheme of training the feeble-minded, as experience has shown that it is through the manual method alone that it is possible to bring them to such a

Classifica-
tion of
Inmates.

level of intelligence as will enable them to become usefully employed.

Although the Royal Commission favoured the establishment of large Colonies, at the same time a system of individualizing the patients should not be rendered impossible. The difficulties of management are unduly increased and individuality of treatment is lost by housing together too many of the mentally defective, especially in mixed Colonies. Provision may be commenced on a modest scale so far as the boarding of the patients inside the Colony is concerned, and arrangements may be made for placing out as many of the patients as possible with suitable guardians in close proximity to the Colony. This method would provide a sufficient number of colonists for the purpose of organizing their labour into various branches of industry under competent working overseers.

Site and Size of Colony.

Site, etc.

In selecting a site for the erection of a Colony, preference should be given to one that is easily accessible by rail and not too remote from the district from which the patients are sent so that relatives or guardians may be able to avail themselves of the opportunities for the visitation of the defectives in accordance with the provisions of Section 18 of the Act. It should be established in the country not in proximity to any local nuisance or disturbing element, and an abundant supply of pure water must be always available. There should be not less than half an acre of land per inmate ; some Authorities place it as high as two and even three acres per inmate. Experience has shown that the cost of maintaining the mentally defective is reduced as the quantity of land is increased. The soil should be fertile and loamy and capable of early and late cultivation in the season. Its virtue will be enhanced according to the variety of occupations that can be introduced upon it. Vegetable gardens, fruit culture, rich meadows and large herds of cattle will increase the supply of milk, butter,

beef, etc., for consumption. A variety of other occupations such as laundry and domestic work, bootmaking and repairing, tailoring, joinering, should be introduced.

The Agricultural Colony as an Economic Factor.

For many years past there has been a considerable migration of the agricultural population to the large industrial centres, and the influx into the towns and cities of the strong and vigorous yeomen has increased the competition for labour and tended to accentuate the problems of poverty and of physical deterioration. The decline of the agricultural population has resulted in a serious check to the cultivation of land and the development of the agricultural industries of the country. A scheme for the colonization of the feeble-minded will enable hundreds of acres of land to be brought into cultivation, and will result in a more thorough cultivation of the land by spade industry. Many of the market gardens and allotments in this country are producing to the value of £20 and even £30 per acre annually. The reason for the increased fertility of land by hand husbandry is that the spade penetrates one-half deeper and often twice as deep as the plough, thus bringing a greater quantity of productive soil into use, and by being more frequently turned over the soil is thoroughly aerated and exposed to the beneficial influences of the atmosphere, which is so essential to plant life. An occupation of this character is eminently fitted for feeble-minded youths and men of normal physique. There is every prospect of a new impetus being given to a declining agriculture by expending upon it the physical powers of the mentally deficient, and, furthermore, this branch of work is exceedingly popular both with the parents and with the defectives themselves, and there is a considerable demand for it in many existing Institutions.

In this country probably one of the most interesting and instructive types of Colony is that at Darenth in

The Colony
at Darenth
in Kent.

Kent, under the Metropolitan Asylums Board, which consists of Asylums, Schools and Industrial Colony and pavilions used temporarily for unimprovable children. This Colony was one of the first to deal with all classes and ages of defectives and its success encourages the hope that such Colonies will become largely self-supporting. The cost of the patients at the time of the inquiries of the Royal Commission in 1905 was 10s. 6d. per week, and Mr. Helby, a former Chairman and a Member of the Sub-Committee, believed that in an entirely industrial Colony the cost might be reduced 50 per cent. One patient was worth to the Institution 15s. a week, and out of 425 male patients 412 were at work and quite half of them contributing by their work to their own maintenance.

Reception cottages should be erected for those entering the Colony, a Hospital or Sanatorium for the care and isolation of sick patients will be required, and small scattered cottages instead of large buildings are more suitable as "homes" for the inmates. The sexes should be strictly separated except that the younger feeble-minded boys and girls should be taught in mixed schools under women teachers, and children should not be associated with the adult patients.

The following extract from the Report of the Visiting Commissioners on the Templeton Colony above referred to gives a general idea of the lines upon which that Colony has been established :—

" All the cottages are built on essentially the same plan—
" solid brick foundations on cement with rough cast walls
" and slate roof. Twenty pounds was paid to the architect
" for the original design, after which all the buildings are
" modelled. The cost of building and furnishing a cottage
" is £2,000, although the cost of the group just erected owing
" to a rise in the material was £2,400—£40 to £50 a head.
" The levelling, etc., is done by the inmates, as well as all
" carting, sewerage painting and varnishing. In each of the
" cottages there is a large sitting and dining-room for the
" men. It is a pleasant apartment with an immense open
" fireplace, and windows along three walls of the room. The
" impression given is that of a large substantial farmhouse.

“ There are two dormitories in each group, holding twenty-five beds each. The attendants in one cottage consist of a man and his wife, four women, and a laundress.”

“ *Certified Institutions* ” provided by *Poor Law Guardians*.

A number of Institutions or Special Wards for Idiots and Imbeciles connected with Lunatic Asylums have been provided for pauper cases with the approval of the Local Government Board. The Metropolitan Asylums Board have established four such Institutions for the Metropolitan area and a combination of the Birmingham and Kings Norton Poor Law Unions controls a Colony for Feeble-minded and Epileptics at Monyhull, and another Home for Imbeciles has been established at Stepping Hill, Stockport, for the Cheshire area. Section 37 (1) provides that on the application of the Local Authority for any area comprising the whole or any part of a Poor Law Union, the Board of Control may, subject to the consent of the Local Government Board, approve any building, ward or other premises provided by a Board of Guardians either alone or in conjunction with any other Board of Guardians for the reception of defectives in like manner as if the premises so approved were “ Certified Institutions.” Furthermore, the Local Authority, subject to the approval of the Home Secretary and the Local Government Board, are empowered to contract with any Board of Guardians as to reception and maintenance in such an Institution of persons coming within the provisions of the Act. In view of the changing conditions of Poor Law administration there appears to be a tendency with many Boards of Guardians to combine with one or more Unions under Section 8 of the Poor Law Act, 1879, for the purpose of establishing Institutions for Defectives and Epileptics of the pauper class. The Local Government Board have already issued orders under that Act combining the Unions of Choriton and Manchester, the Staffordshire Unions, Unions in Glamorganshire (except Cardiff) and nine Unions in Wilts,

whilst schemes for combination are being formulated by a number of other Unions. A movement of this kind would appear to be antagonistic to the modern conception of dealing with the problem of mental deficiency. The Royal Commission laid down the principle that persons should be dealt with on the ground that they were mentally defective and not as paupers, and that an Authority which exists for the relief of the poor was not the most suitable for undertaking the specialized work of dealing with the feeble-minded. In the passage of time the pauper mentally defective is likely to become a negligible quantity, and feeble-minded persons to be directly dealt with by the Local Authority under this Act, as parents and guardians will naturally avoid approaching Poor Law Guardians for relief when a more popular authority is available, although the Mental Deficiency Act now relieves them from the penalties of disfranchisement. The recognition of Institutions under the control of Poor Law Guardians for the reception of defectives who are certified under the Mental Deficiency Act is provided for on the application of the Local Authority to the Board of Control, at the same time it is a matter for consideration whether the establishment of new accommodation by Poor Law or other Authorities is not likely to create difficulties and overlapping in administration arising out of a system whereby two public bodies are carrying out similar duties in the same area. The provision of Institutions for Defectives under the management of Poor Law Guardians will have a tendency to create a class distinction in the treatment of the feeble-minded generally, although the evidence submitted to the Royal Commission showed that the division between pauper and non-pauper was quite unreal in the case of the mentally defective. This could be avoided if, instead of combining Poor Law Unions for the purposes of the Act, arrangements were made for combined action by Boards of Guardians and the Local Authority in the same area. The right of Poor Law Guardians to

continue to receive a capitation grant of 4s. per week towards the cost of maintenance of idiots or imbeciles sent by them to Institutions under the Lunacy Acts and under the Idiots Act, 1886, is not interfered with, although the latter Act is repealed (Section 30 (ii)). This grant is payable out of the funds placed at the disposal of County and County Boroughs Councils under the Local Government Act, 1888, from local taxation, probate duties, etc., and has in the past been an incentive to Poor Law Guardians to send harmless chronic cases to asylums instead of retaining them in the workhouses.

Certified Institutions under Voluntary Management.

Institutions in which defectives are supported either wholly or partly by voluntary contributions or by applying the excess of payments for or towards the support of other patients, if already registered under the Idiots Act, 1886, without further certification are recognized as "Certified Institutions" and the inmates will continue to be detained as though they had been admitted under the provisions of the Mental Deficiency Act (Section 67). The advantages derived from certification under the Idiots Act are increased under the Mental Deficiency Act, as many voluntary Institutions will be ranked as "Certified Institutions" and will be eligible for grants towards the maintenance of defectives who may be admitted at the instance of the Local Authority. Under the provisions of 38 (b) a Local Authority is empowered to contract with the Managers of any "Certified Institution" for the reception and maintenance in such an Institution of defective persons for whose reception and maintenance the Local Authority is required or authorized to make provision.

The following Institutions are certified under the Idiots Act, 1886 :—

Earlswood Asylum, Redhill, Surrey.

Royal Albert Asylum, Lancaster, and the Brunton House and Storey Home for Feeble-minded Girls.

Existing
Institutions.

Asylums for
the feeble-
minded.

Eastern Counties Asylum, Colchester.

Western Counties Asylum, Starcross.

Midland Counties Asylum, Knowle, Birmingham.

Magdalen Hospital School, Bath.

These Institutions, which provide a total accommodation for about 2,000 patients, were originally founded for idiots and imbeciles, but are now largely used for all classes of the congenital feeble-minded. They have long been recognized as valuable educational centres. Children have not been admitted at the instance of Education Authorities as they are not certified Special Schools within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899. Cases are received on payment of fees by relatives or friends or by allocation as the result of a system of voting by subscribers. Many of the patients are received for periods of about seven years, and the value of their training is often minimized or even entirely lost owing to the voluntary conditions of admission. This most serious defect will now have an opportunity of being remedied in all cases where a patient's discharge is not approved. The Institutions provide farm and other forms of manual labour for many of the inmates and this branch of work will no doubt be extended. They are so situated geographically as to meet the needs of counties or groups of counties. Although adequate powers of management and inspection by contributing authorities will be necessary in proportion to the contributions made from public sources, it is hoped that the changed conditions arising out of certification under this Act will not in the least suppress or diminish the voluntary spirit upon which they have been founded and managed with so much success.

Voluntary
Training
Homes for
girls and
women.

In addition to the above-mentioned Institutions there are also about twenty Homes either managed by or affiliated to the National Association for the Care and Training of Feeble-minded Girls and Women who have been in moral danger or who are expecting to give birth to illegitimate children. A number of cases have been

sent to these Homes by Poor Law Guardians, who contribute the charges for their maintenance and care. The Local Authority who will be required to deal with feeble-minded women might with advantage contract with the Managers for the reception of such cases for a probationary period of training, or until they can be admitted to suitable Colonies.

Intermediate Reception Homes.

If no suitable accommodation is available, small Intermediate Training Homes may be necessary where the inmates can be suitably occupied in laundry or similar occupations preparatory to entering the Maternity Wards. Accommodation might be provided as part of the Colony system, or separate Homes or Wards of an existing Institution may be secured in the Authority's own area, so that urgent cases could be conveniently and readily dealt with. Such Homes might also be adaptable as a "Place of Safety" for girls and women.

It is essential that an indiscriminate mixing of this class should be carefully avoided. Women who have had a "first fall" should not be allowed to associate with the hardened immoral classes, and if possible separate premises should be used. If judiciously administered, this section of the work will prove of the greatest benefit to feeble-minded women and will be the means of effecting their permanent removal from the streets. This class has in the past constituted one of the most difficult problems of Poor Law administration; their presence in Workhouses has been a source of anxiety and trouble to the Officials, and the lack of powers of detention has enabled them to take their discharge at any time they pleased and to return to their former habitat to resume their immoral career. As soon as the probationary period of training is completed in an Intermediate Home and satisfactory reports on the conduct and work of the

Classification
of women
and girls.

inmates are obtained, they may then be transferred to an Institution or Colony for Defectives.

“ Approved Homes.”

Conditions of
recognition.

Premises in which defectives are received and supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, or premises in which persons are desirous of receiving defectives for private profit may, upon application by the Managers or Owners, as the case may be, to the Board of Control, and on payment of any prescribed fee, be recognized as “ Approved Homes ” if the Board of Control is satisfied of the fitness of the premises and of the applicants, and subject to conditions as to inspection, the making of reports and otherwise (Section 50, (1)). Houses which are carried on for private profit and which at the commencement of the Mental Deficiency Act are registered under “ The Idiots Act, 1886,” may also become “ Approved Homes ” under the conditions laid down in Section 50 (1). (*Vide* Section 67 (b).)

Duration of
Certificates.

The Certificate of an “ Approved Home ” when granted is to remain in force for the period for which it is granted or until withdrawn. The Act provides that it is not lawful to receive or detain in an “ Approved Home ” any person who has been ordered to be sent to an Institution for Defectives under an Order of the Judicial Authority or a Court or a Secretary of State under the Act (Section 50, (2)).

No Treasury
grant pay-
able.

The Local Authority is authorized, if it thinks fit, to maintain or contribute towards the maintenance of a defective in an “ Approved Home ” or under guardianship, but no Treasury grant under the Act appears to be payable towards any expenditure so incurred (Sections 30 (e) and (i)).

Existing
Private
Asylums
under Idiots
Act.

Two private Asylums for Idiots are certified under the Idiots Act, namely the Normasfield Asylum and the Downside Lodge Asylum, Bath.

"Certified Houses."

Owing to the abuses which were found to exist about half a century ago in many of the private asylums in this country and to the public hostility which was roused against them, the issue of new licences for additional private asylums is prohibited under the Lunacy Acts.

Section 49 of the Mental Deficiency Act, however, revives this mode of detention and empowers the Board of Control, if satisfied of the fitness of the premises and of the applicant, to grant a certificate to the owner of a house carried on for private profit for the reception of mental defectives on payment of the prescribed fee and subject to the following conditions. When a certificate is granted it is to continue in force for the period for which it is granted or until revoked or resigned:—

Conditions
of recogni-
tion.

- (a) Any person who may be ordered to be sent to or may be placed in an Institution under the Act, may be ordered to be sent to or placed in a Certified House, and the provisions of the Act relating to Institutions and to persons detained therein are applicable to "Certified Houses" (Section 49 (2)).
- (b) No part of the money provided by Parliament shall be applied towards the expenses of defectives detained in a Certified House, neither is the Local Authority allowed to make any contribution towards the expenses of defectives ordered to be sent thereto. (Section 49 (a) and (b)).
- (c) The provisions of the Act with respect to the recovery of contributions towards the expenses of maintenance from a defective or person liable to maintain him, shall not be applicable to a "Certified House" (Section 49 (2) (c)).
- (d) A special report under Section II as to the mental and bodily condition of a defective detained in a "Certified House" shall not be made by any Medical Officer or Practitioner directly or indirectly interested in the House (Section 49 (d)).

The conditions as to the certification, frequent inspection and special reports by independent medical practitioners should be an effective check upon possible mismanagement of "Certified Houses," which will no doubt com-

plete and serve a useful purpose as part of a provision for the care and control of the mentally defective.

State Institutions.

The
criminal
defective.

Under the provisions of Section 35 (1) the Act empowers the Board of Control, subject to the approval of the Home Secretary, to establish and maintain Institutions for Defectives of criminal, dangerous or violent propensities, and for that purpose the Home Secretary may cause to be transferred to the Board of Control the whole or part of any building vested in the Prison Commissioners or otherwise under the control of the Home Secretary, or may with the approval of the Treasury authorize the Board of Control to acquire land or erect or acquire buildings. It is therefore gratifying to observe that specialized treatment of mentally defectives of criminal propensities is made possible by the establishment of State Institutions, which will no doubt be made adaptable both in regard to the type of building and the treatment necessary to meet the peculiar needs of these classes. The Board of Control will be the Managers of State Institutions which will be governed in accordance with regulations to be made by the Home Secretary. During the Report stage of the Bill, the Home Secretary stated that it was the intention to set up not more than one or two State Institutions for really dangerous and violent criminals which would not include cases of petty thefts or similar offences. Detention for long and continuous periods may be found to be necessary, and transfers from State Institutions to Institutions for Defectives is likely to be of rare occurrence. According to statistics submitted to the Royal Commission, about one-tenth of the prison accommodation was being utilized for feeble-minded persons. There is at the present time a State Institution for Criminal Lunatics at Broadmoor.

Procedure as to Applications for the Detention of Defectives.

The two avenues which are provided for placing

mentally defective persons in Institutions or under guardianship under the provisions of Section 2, i.e. (1) at the instance of a parent or guardian, or (2) by Order of a Judicial Authority or of the Home Secretary under the circumstances set forth in Sub-Section (1) (b) of Section (2) (ante), are subject to many conditions and safeguards both prior to and during the period of detention with the object of ensuring that the Act will be used only for the purpose of benefiting the defectives.

Before an idiot or imbecile can be placed in an Institution or under guardianship by a parent or guardian, or before a defective other than an imbecile or idiot, if under the age of twenty-one years, can be so detained at the instance of a parent, it is necessary that certificates, in the prescribed form signed by two qualified medical practitioners, one of whom shall be a medical practitioner approved for the purpose by the Local or the Central Authority under the Act stating that the signatories of the certificate are severally satisfied that the person to whom the certificate relates is a defective and the class of defect to which he belongs, should be submitted, accompanied by a statement signed by the parent or guardian as the case may be, giving the prescribed particulars with respect to the defective. In the case of a defective other than an idiot or imbecile, the Certificates shall be signed by a Judicial Authority after such enquiry as he shall think fit (Section 3 (1)). In order to carry out its duties under this Section, the Local Authority to be constituted under the Act may find it of advantage to form a panel of medical practitioners specially qualified to deal with mental diseases.

Procedure in cases of voluntary detention.

In cases liable to be dealt with otherwise than at the instance of a parent or guardian (Sub-Section (1) (b) of Section 2), it is necessary that an order of a Judicial Authority shall be obtainable upon a private application by Petition made by a relative or friend of the alleged defective or by an authorized Officer of the Local Authority (Section 5 (1)).

Procedure in cases dealt with otherwise than at the instance of a parent or guardian.

*The Judicial Authority.***Definition of a Judicial Authority.**

Section 19 (1) of the Act defines a Judicial Authority as a Judge of County Court, Police or Stipendiary Magistrate or specially appointed Justice who is a Judicial Authority for the purposes of the Lunacy Acts. The number of Justices specially appointed to be the Judicial Authority under the Lunacy Acts are to be such as may be considered necessary to exercise the powers conferred under the Mental Deficiency Act as well as under the Lunacy Acts. The Justices of each County and Quarter Sessions Borough appoint annually from their own number Justices to act as the Judicial Authority under the Lunacy Acts.

Jurisdiction of Judicial Authority.

Section 19 (2) confers upon the Judicial Authority the same powers of jurisdiction as regards the summoning and examination of witnesses and the administration of oaths, costs and otherwise and provides for the assistance of the same officers if required as in the exercise of ordinary jurisdiction. The duties of the officers employed are to be considered in fixing their remuneration.

*Procedure under the Mental Deficiency and Lunacy Acts.***Regulations.**

The Regulations with respect to the procedure by petition are made by the Home Secretary (Section 20 (a),

The following conditions are to be observed (Section 5 (2)) :—

Medical certificates and Statutory Declaration.

Two medical certificates, one of which shall be signed by a medical practitioner approved for the purpose by the Local Authority or the Board, to accompany the petition (or otherwise a certificate that a medical examination was impracticable, and the circumstances which rendered it impracticable) along with a Statutory Declaration made by the petitioner and by at least one other person who may be one of the persons giving a medical certificate stating :—

- (a) That the person to whom the petition relates is a defective within the meaning of the Act, and is subject to

be dealt with under the Act, the circumstances which render him so subject, and the class of defectives to which he belongs ; also

- (b) Whether or not a petition under this Act or a petition for a reception order under the Lunacy Acts has previously been presented concerning that person, and if so, the date and the result of such proceedings thereon.

The application by petition follows mainly the procedure laid down in Sections 4 to 10 of the Lunacy Acts 1890, with respect to orders made for the reception into Institutions of private patients other than persons declared to be lunatic by inquisition. Procedure under the Lunacy Acts.

Under the Lunacy Act, however, the application is usually made by a husband or wife or by a relative or by any person over 21 years of age, who is able to declare that he has seen the alleged lunatic within fourteen days from the date of the petition, and who will undertake to visit the patient or appoint another person to visit the patient every six months on his behalf.

In practical administration, applications to the Judicial Authority will be made by a parent or guardian or by an authorized officer of the Local Authority. Any other person submitting an application would come under the definition of a "friend." If a petition is not presented by a relative or by an officer of the Local Authority, the reason why the petition is not presented by a relative must be stated and also the connection of the petitioner with the person to whom the petition relates, and the circumstances under which he presents it (Section 5 (3)). Persons who will usually present petition.

To ensure a reasonable carrying out of the provisions of Section 5 of the Act, the Board of Control may direct an Inspector or other Officer to present such a petition if satisfied that a petition ought to be presented by the Local Authority (Section 5 (4)). Board of Control may] authorize petition to be presented.

Unlike the provisions of the Lunacy Acts, the Mental Deficiency Act requires that the Judicial Authority shall either visit the alleged defective or summon him to appear before it (Section 6 (1)). Judicial Authority to visit or summon defective to appear.

Court proceedings may be in private.

The Court proceedings may be conducted in private if in any case the Judicial Authority thinks fit and if so desired by the person to whom the petition relates, the only parties to be present being the petitioner, the person to whom the petition relates, his parents or guardian and any two persons appointed for the purpose by the person to whom the petition relates, or by his parents or guardian, and the persons signing the medical certificates, and the Statutory Declaration accompanying the petition. Such parties shall without leave of the Judicial Authority be allowed to be present (Section 6 (2)).

The Court proceedings will normally be in public unless the Judicial Authority or alleged defective decide otherwise. Such a provision is a guarantee of the proceedings being public wherever desirable and at the same time will meet many cases where the parties do not desire to undergo the ordeal of examination or trial in an open court. The Royal Commission recommended that the proceedings should be conducted in private. Such a course is usually adopted under the Lunacy Acts, and in only about four cases during the past two years were a jury asked for.

The Decision of the Judicial Authority.

Order of detention.

The Judicial Authority, if satisfied that the person is a defective and is a proper subject to be dealt with under the Act and that it is desirable to do so in the interests of such defective, may make an order for his detention in an Institution, the Managers of which have expressed their willingness to receive him, or a suitable person may be appointed to act as his guardian.

Consent of parent or guardian to be obtained.

Section 6 (3) (a) provides that where a petition is not presented by the parent or guardian, the order shall not be made without the consent in writing of the parent or guardian unless it is proved to the satisfaction of the Judicial Authority that such consent is unreasonably withheld or that the parent or guardian cannot be found, but consent shall not be deemed to be unreasonably

withheld, if withheld with the bonâ fide intention of benefiting the defective. In pursuance of this Section, where the consent of the parent or guardian cannot be obtained, the petitioner will be required to satisfy the Court that consent is unreasonably withheld or that the parents or guardians cannot be found.

If the Judicial Authority considers that the person is a defective, an order may be made, although the Judicial Authority may consider that the defective does not belong to the class named in the petition (Section 6 (3) (b)).

Class of defect may be varied.

It is necessary that the Order should state the class of defect, as defined in Section 1, to which the person belongs and the circumstances rendering him suitable to be dealt with as defined in Section 2 (Section 6 (3)).

Contents of order of detention.

The Order also authorizes the conveyance of the defective to and his reception in the Institution named therein at any time within fourteen days (or twenty-one days if the defective is in a "Place of Safety") after the date of the Order, and his detention in that Institution for the period mentioned (Section 10 (1)). The Local Authority which is liable for the maintenance of a defective in an Institution is required to defray the expenses of conveying such defective to or from a Certified Institution (Section 30 (c)).

Conveyance and reception of defectives.

Where the Judicial Authority is not satisfied that the person referred to is a defective within the meaning of the Act or that it is desirable in the interests of such person that an Order should be made, the case may be adjourned for not more than fourteen days for further evidence or information, or the petition may be dismissed. Unless the petition is dismissed, the Judicial Authority shall order a medical examination in any case where a certificate has been presented that a medical examination was impracticable (Section 6 (4)).

Judicial Authority may adjourn or dismiss petition.

"Place of Safety."

A "Place of Safety" means a Workhouse, Police Station, any Institution, any "Place of Detention"

Meaning of "Place of Safety."

and Hospital, Surgery or other suitable place the occupier of which is willing to receive temporarily the person referred to (Section 71 (1)). In the event of the person being taken to a Workhouse the Master is required to receive him if there is suitable accommodation therein, and the Local Authority shall defray any expenses that may be incurred, which in the event of an order being subsequently made, shall be recoverable from the defective or any person liable to maintain him as if they were part of the expenses of maintenance (Section 15 (3)).

Workhouse
a "Place of
Safety"
under
Lunacy Act.

Section 20 of the Lunacy Act, 1890, provides for the use of a Workhouse as a place in which an alleged lunatic may be detained pending the presentation of a Petition to the Judicial Authority for the admission of the person to an Asylum.

Power to
remove
defective to
"Place of
Safety."

Section 15 (1) empowers an authorized Officer of the Local Authority or any constable who finds any person whom he has reasonable cause to believe to be a defective, neglected, abandoned, or without visible means of support, or cruelly treated, to remove such person to a "Place of Safety."

Power to
search for
a defective
believed to
be neglected
or cruelly
treated.

To meet cases of emergency such as are contemplated in this Section, it will be necessary that the Officer should be generally authorized by the Local Authority to act on its behalf.

Section 15 (2) makes provision for the issue of a warrant by a Justice on information on oath laid by an Officer or other person authorized by the Local Authority authorizing any constable named in the warrant accompanied by the medical officer of the Local Authority or any duly qualified medical practitioner named in the warrant to search for any person believed to be a defective whom there is reasonable cause to believe is being neglected or cruelly treated in any place within the jurisdiction of the Justice, and if it is found that such person is neglected or cruelly treated and is defective, for his removal to a "Place of Safety" until a petition can be presented under the Act. The constable authorized

by such warrant may forcibly enter, if need be, any house, building or other place specified in the warrant and may remove a defective therefrom. Under the provisions of Section 56 (2) a defective woman or girl who may be unlawfully detained for immoral purposes may also be removed to a "Place of Safety."

This provision follows the precedent of Section 20 of the Children Act, which provides that a child or young person under sixteen years of age who is being ill-treated or neglected in any place within the jurisdiction of the Justice, may be removed to a "Place of Safety" by any Constable who is authorized by warrant issued by a Justice.

Precedent of
Children
Act.

Section 108 of the Children Act imposes the duty on every Police Authority of providing suitable places of detention within its district, and any Institution other than a Prison may be used if registered for the purpose. Any "Place of Safety" under the Children Act may be used for the purposes of this Act in addition to Institutions for Defectives.

Police
Authority
to provide
"Place of
Safety"
under
Children
Act.

Guardianship of the Mentally Defective.

It will be observed from the preceding pages that a defective person irrespective of age may be placed under Guardianship by Order of a Judicial Authority, and that if the defective is an imbecile or an idiot he may be placed under Guardianship at the instance of his parent or guardian; or if he is not an imbecile or an idiot and is under the age of twenty-one, at the instance of his parent only. Such conditions are also applicable to the detention of defectives in Institutions. The adoption of a system of guardianship or wardship for mentally defectives not under suitable parental control was recommended by the Royal Commission; the Committee for the Care of the Mentally Defective to undertake the guardianship of a child up to the age of twenty-one and then to report

The recom-
mendation
of the Royal
Commission.

to the Board of Control who shall decide what further steps are to be taken. The principle has already received legislative sanction in the case of infants who are possessors or prospective possessors of property, and Boards of Guardians have extensively adopted Poor Law children in pursuance of the provisions of the Poor Law Act, 1899, investing themselves with all the powers and duties of parents.

Powers of guardians.

The person named in the Order as the guardian is subject to regulations made by the Home Secretary and is invested with such powers as would have been exercisable had he been the father of the defective and had the defective been under fourteen years of age (Section 10 (2)). A guardian is empowered to warn persons against supplying intoxicants to the defective or for his use (Section 52).

Board of Control to be notified of the reception of defectives.

Managers of Institutions or persons under whose guardianship a defective has been placed are required to notify the Board of Control within seven days of the reception of the defective (Section 3 (2)).

Order of guardianship may be varied.

Under the provisions of Section 7 an Order made that a defective person be placed under guardianship may be varied and the defective sent to an Institution, if any Judicial Authority on the application of the guardian or the Board of Control or the Local Authority is satisfied that the case is unsuitable to continue under guardianship, and on application to a Judicial Authority by the Local Authority or the Board of Control or any other person who appears to be interested, a guardian may be removed from his office and in the case of removal of a guardian from his office, or in the event of resignation or death, a suitable person may be appointed to act in his place. An order of guardianship shall not be varied without giving to the relative or person who presented the original petition and to the Local Authority, an opportunity of being heard.

There appears to be nothing in the Act to prevent the Local Authority from undertaking the duties of guardianship of defectives. The adoption of the principle of

guardianship may in practice be associated with boarding-out or family care.

Legal Procedure in the Case of Defectives guilty of Offences.

A new principle is introduced in the treatment of mentally defective persons convicted of offences punishable with penal servitude or imprisonment or liable to be sent to an Industrial School under Section 58 of the Children Act, as under the provisions of Section 8 of the Act, a Court may postpone passing sentence or making an Order of commitment to an Industrial School if satisfied on medical evidence that such person is a defective, and direct that a petition be presented to a Judicial Authority with a view to obtaining an Order of Detention in an Institution for Defectives, or of guardianship, or the Court may itself make such an Order as might have been made on a petition to a Judicial Authority, and which shall have the same effect as if it had been made on petition under Section 6.

Petitions in the case of defectives convicted of offences.

Under the provisions of Section 8 if a Court of Summary Jurisdiction having power to deal with a case summarily, finds that the charge is proved it may, without proceeding to a conviction, give such directions or make an Order as above referred to, and such person shall be deemed to have been found guilty of an offence under the Act.

Evidence that the person is mentally defective will thus be the primary consideration in dealing with criminals who have in the past been committed to Prisons for varying periods with little if any deterrent effect upon their subsequent conduct.

Section 8 aims at a complete separation of the mentally defective from a prison atmosphere, as under Sub-Section 3 a Court may order a person who appears to be defective to be detained in an Institution for Defectives or in a "place of Safety" until a Petition can be presented, or under Sub-Section 4 if a defective is remanded or committed for trial, the Court may order that, pend-

ing the further hearing or trial, he shall be placed in an Institution or under the guardianship of any person entering into a recognizance for his appearance.

Police Authority to notify Local Authority of a defective charged with an offence.

As has previously been stated the Police Authority is required to communicate with the Local Authority when a person believed to be a defective is charged with an offence, and it is the duty of the Police Authority to bring before the Court any evidence that is available as to the prisoner's mental condition and also to give notice to his parent or guardian if known (Section 8 (5)).

Local Authority responsible for Providing Accommodation.

Under the provisions of Section 43 the Council of the County or County Borough in which a defective resides is responsible for providing accommodation for such defective when ordered to be sent to a Certified Institution or to be placed under guardianship, and the responsibility is continued in the event of the transfer of the defective from one Certified Institution to another, or from guardianship to a Certified Institution. It is the duty of the Council to provide for the conveyance to and reception and maintenance of a defective ordered to be sent to a Certified Institution, but the order shall not be made or varied by a Judicial Authority unless such Council has been given an opportunity of being heard, or if made by the Secretary of State of making representations to him.

Determination of residence of persons found guilty of offences, etc.

Where an Order is made with respect to a person found guilty of an offence, the place where the offence was or was alleged to have been committed for the purpose of ascertaining the liability of a Council is deemed to be the place of residence unless it is proved that such defective resided in some other place. If the order is made by a Court of Assize or Quarter Sessions, the determination of the place of residence is to be remitted to a Court of Summary Jurisdiction (Section 44 (1)).

Where an Order is made by the Secretary of State

with respect to a person in a Prison, Inebriate Reformatory, Criminal Lunatic Asylum or Place of Detention, the place where the offence was or was alleged to have been committed is deemed to be the place of residence unless it is proved that he resided elsewhere, and the place of residence (if any) deemed to have been the place of residence for the purpose of a person's committal to a Reformatory or Industrial School is deemed to be the determination of residence for the purposes of the Mental Deficiency Act (Section 44 (2)).

Power is given for a Council aggrieved by a decision as to the place of residence of any person, to apply to a Petty Sessional Court within three months after an order is made and on satisfactory proof that the person concerned was resident in the area of some other Council the Court may transfer the liability to that other Council, provided it has been given an opportunity of being heard, and order it to pay any expenses incurred. An appeal shall lie from the decision of the Court to a Court of Quarter Sessions, but nothing in this provision shall affect the liability of the first-mentioned Council under the original order until an order transferring the liability to another Council comes into force (Section 44 (3)).

Local
Authority's
power of
appeal.

In cases of doubt the "Place of Residence" is construed as the County or County Borough in which a person would if a pauper be deemed to have acquired a Poor Law settlement (Section 44 (4)).

In cases of
doubt Poor
Law settle-
ment con-
strued as
Place of
Residence.

Provision as to Religious Persuasion.

Provision is made in Section 17 whereby defectives may be admitted to Institutions conducted in accordance with their religious persuasion or otherwise for ensuring that they are not compelled to receive religious instruction or ministrations not in accordance with their religious persuasion.

Before an order is made the Judicial Authority, Court

or the Home Secretary as the case may be, are to endeavour to ascertain the religious persuasion of the defective which must be specified in the order when ascertained.

An Institution conducted in accordance with such religious persuasion shall, where practicable, be selected (Section 17 (1)).

A defective detained in an Institution may be visited by a minister of religion on such conditions and at such times as may be fixed by the Board of Control for the purpose of affording religious assistance and instruction in the principles of his religion (Section 17 (2)).

Where a defective is detained in an Institution which is not conducted in accordance with his religious persuasion,

- (1) he is not to be compelled to receive religious instruction or religious ministrations, but as far as practicable shall have facilities for receiving such instruction by attending religious services conducted in accordance with his religious persuasion (Section 17 (3)).
- (2) the nearest adult relative, or in the case of a child, the guardian or the person entitled to his custody, may apply to the Board of Control, who shall order his transfer to a suitable Institution subject to satisfactory proof of the defective's religious persuasion and to the Managers of the Institution named being willing to receive him (Section 17 (4)).

The above-named provisions are generally on similar lines to the provisions of Section 66, of the Children Act, 1908, with respect to the religious persuasion of children committed to Reformatory or Industrial Schools. There are several Industrial Schools in the country under voluntary management which receive children of a distinctive religious persuasion. In a number of other Industrial Schools provided by a Local Authority, children of the Protestant faith are as a rule admitted, and they either attend suitable places of worship in the locality of the school, or a minister of religion visits the school for the purpose of instructing the inmates in the principles of their religious persuasion.

Little, if any, controversy should be experienced in the case of the mentally defective, as it will be possible to influence or guide their lives only by the simplest forms of religious or moral instruction.

Power to recover Expenses of Maintenance.

Following the precedents of many Acts of Parliament under which Orders of Detention are obtainable, Section 13 empowers any Judicial Authority on the application of a petitioner or of the Managers of Institutions or the Guardian, as the case may be or of an officer of the Local Authority, to make an order requiring a defective placed in an Institution or under Guardianship, or the person liable to maintain him, to contribute towards the expenses of maintenance, and any charges incidental thereto, including the cost of conveyance to the Institution and in the event of the death of the defective in the Institution of his funeral expenses, having regard to the means of the defective or person liable to maintain him (Section 13 (1)). Any such order may on the application of a Manager of an Institution or Guardian or Officer authorized by the Local Authority be enforced against any property of the defective person or person liable to maintain him, if made by a Judge of County Court, and if made by any other Judicial Authority as if it were an order for the payment of a civil debt made by a Court of Summary Jurisdiction. (Section 13 (2).) Where a defective has been placed in an Institution or under Guardianship by his parents or guardian, any sum which the parent or guardian has agreed in writing to contribute towards the expenses of maintenance or guardianship of the defective shall be recoverable as a civil debt. (Section 13 (4).)

Section 14 enacts that the person liable to maintain a defective under the age of twenty-one against whom an order to contribute towards the maintenance of such defective has been made, shall in the case of illegitimacy

Putative father or a cohabitant to contribute towards the cost of

main-
tenance of
defective
under the
age of
twenty-one.

include the putative father, or if a Judicial Authority thinks fit a person other than the putative father who may be cohabiting with the mother of the defective; provided that in cases of illegitimacy and where an affiliation order for the maintenance of the defective has been obtained, the Judicial Authority shall not make an order of contribution against the putative father unless in view of special circumstances it is considered desirable to do so, but may order the whole or any part of the payments accruing under the affiliation order to be made to the Local Authority or such other person named in the order, to be applied towards the maintenance of the defective.

Exemption
of step-
parent from
contributing
towards
maintenance.

Section 14 as it was originally drafted imposed upon a step-parent liability to contribute to the maintenance of a defective person under the age of twenty-one, but it was deleted during the Report stage of the Bill, and with this variation the contents of Section 13, as adaptable to the purposes of the Mental Deficiency Act, are generally on similar lines to the provisions of Section 125 of the Children Act, 1908.

Most unhappy domestic relations have been found to exist in many cases where a person has been ordered to contribute towards the cost of maintenance of a step-child in an Industrial School or other similar Institution. At the same time such an exemption may be an incentive to securing the removal of a step-child from the home and in relieving the step-parent of an obligation to maintain it.

Determina-
tion of per-
son liable to
contribute.

The law relating to the relief of the poor will determine the person liable to maintain a defective unless expressly provided otherwise in the Act, but under the provisions of Section 70 such person shall not be deprived of any franchise, right or privilege or be subject to any disability.

The application for a Maintenance Order should as a rule be made at the time when the Order for Detention is obtained and a statement showing the financial circumstances of the person liable to maintain the defective

will need to be submitted for the information of the Court. In the case of applications for recovery of arrears of contribution against the person liable to maintain a defective, it is essential that the informant should be able to prove ability to contribute on the part of the defendant.

Maintenance Orders may be varied or revoked by a Judicial Authority (Section 13 (3),) and the regulations with respect to the procedure on application for Orders may be made by the Home Secretary. (Section 20.)

Maintenance Orders may be varied.

The Duration of the Detention of Defectives.

The duration of detention under Judicial Orders is set forth in Section 11:—

Cases detained under Judicial Order.

(1) Orders to expire at the end of one year, except that in the case of any Institution, the Board of Control may by order direct that orders of detention unless continued shall expire on the quarter day next after the day on which the order would have ordinarily expired.

(2) Orders to remain in force for a year after the date when they would have expired under paragraph (1) and thereafter for successive periods of five years if at the end of that date and at the end of each period of one and five years respectively the Board of Control consider that the continuance of the Order is required in the interests of the defective, after considering,

- (a) A special report on the mental and bodily condition of the patients by Medical Officers of Institutions in which such patients are detained, and in any other case by a duly qualified medical practitioner accompanied by a certificate that the defective is still a proper person to be detained in his own interest; or
- (b) A special report by the Visitors made within one month after having seen the defective as to his mental condition and the means of care and supervision which would be available if he were discharged, and stating whether in their opinion the defective is still a proper person to be detained in his own interest.
- (c) The report of any duly qualified medical practitioner who at the request of the defective or his parent or

guardian or any relative or friend has made a medical examination of the defective ; and

- (d) The means of care and supervision which would be available if the defective were discharged.

(3) Further information as to that contained in the special reports shall be given if required by the Commissioners.

(4) Special reports and certificates may include and refer to more than one patient.

(5) A Certificate under the hand of the Secretary to the Board of Control is sufficient evidence of the continuation of such orders. Medical Certificates to be on forms prescribed by the Home Secretary.

Visitor's
powers of
discharge

Where a defective was under the age of twenty-one at the time of being sent to an Institution or placed under Guardianship, the case is to be reconsidered by the Visitors appointed under the Act within three months after he attains the age of twenty-one years, and the Visitors shall upon such reconsideration visit the defective or summon him to attend before them and inquire into his mental condition and the means of care and supervision which would be available if he were discharged and into all the circumstances, and if it appears to them that further detention is not required in the interests of the defective himself, they shall order his discharge. If the Visitors do not order discharge, the defective or his parent or guardian may within fourteen days after the decision of the Visitors has been communicated to them appeal to the Board of Control.

Recommendation of the Royal Commission as to revision of Orders.

The Royal Commission recommended that at least once in every year there should be a revision by the Committee of all cases dealt with by them ; that any change should be reported to the Board of Control and that the Certificates of the Medical Officers of Institutions should, under regulations, to be made by the Board of Control and subject to the approval of the Committee and the Board of Control, suffice for the continuance of the mentally defective in Institutions.

The continuance of Orders after the expiration of the normal period are to be dealt with by the Board of Control. The powers of discharge are invested with the Board of Control or the Commissioners of the Board except that defectives who were under the age of twenty-one at the time of being sent to an Institution or placed under Guardianship may be discharged by the Visitors as stated above. As all the patients to be certified are chronic defectives, discharge is likely to be of rare occurrence, unless it can be shown to the satisfaction of the Board that they are likely to be placed under suitable supervision and control.

One of the many safeguards against improper detention, as detailed above, was introduced by the House of Lords, and provides that a defective or his parent or guardians or any relative or friend shall have the right of an independent medical examination before a continuation of the Order of Detention is made by the Board of Control.

Under the provisions of Section 12 (1) a parent or guardian who has placed a defective in an Institution or under Guardianship may withdraw him at any time on giving notice in writing to the Board of Control, unless the Board, after considering what means of care and supervision would be available if he were discharged, determines within fourteen days that the further detention of the defective is required in his interests. Where the Board has so determined, no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last preceding notice.

The duration of detention of voluntary cases.

The Managers of any Institution may discharge any defective placed there by his parent or guardian on giving one month's notice to the Board of Control (Section 12 (3)). Except in the foregoing provisions a defective placed in an Institution by his parent or guardian may be detained in like manner as if he had been ordered to be sent to an Institution or placed under Guardianship, and the case is similarly subject to reconsideration by the Board of Control and by the Visitors (Section 12 (2)).

Managers' power of discharge.

The regulations with respect to the revocation of Orders and the procedure on the reconsideration by Visitors of the cases of defectives on attaining twenty-one years of age, and appeals from the decisions of the Visitors, and of the necessary documents, will be made by the Home Secretary. (Section 20.)

Visitors of Institutions.

Visitors of Licensed Houses under the Lunacy Acts, 1890, are to be appointed Visitors of Institutions for Defectives with the addition of one or more women. Where necessary the number of Visitors should be increased and in places where no such Visitors are appointed a sufficient number of persons with the addition of one or more women possessing like qualifications as Visitors under the Lunacy Acts and a Clerk to such Visitors shall be appointed. The expenses of Visitors and remuneration of the Clerk are to be defrayed in like manner as the expenses of Visitors under the Lunacy Acts. The scheme should provide that the duties of Visitors should be carried out under both the Lunacy Acts and the Mental Deficiency Act. The functions of Visitors of Institutions for Defectives will include the visitation of Institutions and of the patients therein, and of defectives under guardianship, and matters affecting their discharge and after care, subject to regulations to be issued by the Home Secretary (Section 40).

Visitors of Licensed Houses are appointed in accordance with Section 177 of the Lunacy Act, 1890, which provides that Justices of County and Quarter Sessions Borough not within the immediate jurisdiction of the Commissioners, shall annually appoint three or more Justices and also one Medical Practitioner or more to act as Visitors of Licensed Houses.

Transfer of Defectives from one type of Institution to another.

Sections 9 and 16 empowers the Home Secretary to transfer defectives from one type of Institution to another on the ground that their mental condition is found to justify such a course of action by—

Home Secretary may order transfer of defectives.

- (a) Removal of a person undergoing imprisonment (except imprisonment under civil process) or penal servitude or detained in a criminal lunatic asylum, or in an inebriate reformatory, or in a reformatory or Industrial School, or who is detained in a "Place of Detention" by order of a Court, to Institutions for Defectives or under Guardianship by Order of the Home Secretary, if satisfied from the Certificates of two qualified Medical Practitioners that such person is defective, provided the Managers are willing to receive him. The Order is to have the same effect as an Order on petition. (Section 9.)
- (b) Removal of a Lunatic from an Institution for Defectives to an Asylum for Lunatics. The Board of Control or the Managers of the Institution for Defectives, with the consent of the Board, to take action for obtaining a reception order under the Lunacy Acts, and for his removal to an Institution for Lunatics; provided that such steps shall not be taken in the case of a defective who has been placed in the Institution by a parent or guardian, until the parent or guardian, wherever practicable, has had an opportunity of taking them himself. (Section 16 (1).)
- (c) Removal of a mentally defective person from an Institution for Lunatics to an Institution for Defectives. The Board of Managers of the Institution, with the consent of the Board of Control, to take steps necessary for obtaining an order and for his removal. (Section 16 (2).)

Transfer to Institutions for Defectives.

Transfer to Lunatic Asylums.

Transfer of defective from Lunatic Asylum.

Regulations with respect to the transfer of defectives from Institutions to Asylums and vice versa may be made by the Board of Control with the approval of the Home Secretary (Section 16 (3)).

The Royal Commission ascertained that there were large numbers of mentally defective persons unsuitably provided for in Asylums, Prisons, Inebriate Homes, Reformatories and Industrial Schools, etc.

Provisions affecting Institutions.

Old age
pensions.

The period of detention in an Institution for Defectives will not be a disqualification for old age pensions, although a person under detention in a Lunatic Asylum is so disqualified while the detention continues under Section 3 (1) (c) of the Old Age Pensions Act, 1908.

Defective
escaping.

A patient who escapes from an Institution or whilst absent from an Institution may be apprehended without warrant by any Constable or by the Managers of the Institution or any person authorized by the Managers in writing and brought back to the Institution. (Section 42.)

Protection
of Officers.

Managers of Institutions for Defectives, the Owner of a Certified House and Officers authorized in writing by the Managers or Owners have all the powers, protections and privileges of a Constable for the purpose of conveying a person to or from the Institution or House, or of apprehending and bringing him back in case of escape or refusal to return. (Section 62.)

Superannua-
tion of
officers in
provided
Institutions.

Staffs of Asylums or Institutions for Defectives will not lose any benefits from superannuation, as the Asylums Officers Superannuation Act, 1909, is applicable to the Officers of Certified Institutions provided by Local Authorities with the necessary substitution of references to Managers of such Institutions for references to Visiting Committees of Asylums and with such other adaptation or modification as the Secretary of State may by order prescribe. The draft Order is to be laid before each House of Parliament for approval for a period of not less than thirty days during the Session of Parliament, and if either of those Houses before the expiration of those thirty days presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken without prejudice to the making of a new draft Order. An Order is not to have the effect of increasing the amount of any superannuation allowance which could be granted to, or [of reducing] the amount

of any contribution made by, any Officer or Servant under the Asylums Officers Superannuation Act, 1909. (Section 45.)

The Managers or owners of Certified Institutions not provided by a Local Authority or of Certified Houses or Approved Homes are also empowered to establish or to combine with the Managers or Owners of other similar Institutions in establishing a Superannuation Scheme for providing allowances and gratuities to their Officers who become incapable of discharging their duties by reason of permanent infirmity of mind or body or old age upon their resigning or otherwise ceasing to hold office, and any expenses so incurred are to be treated as part of the expenses of management. (Section 46.)

Non-pro-
vided In-
stitutions.

Under the provisions of Section 41 the Secretary of State may make Regulations as to the management and inspection of Institutions and the visitation of defectives, the granting, renewal and revocation and resignation of Certificates for Institutions ; the classification, treatment, instruction and employment of the patients, notification of admission and transfer, discharge or absence of inmates, and as to outbreaks of infectious diseases in Institutions, or in the event of the death of a patient from an Institution or absence therefrom under licence ; the conveyance of persons to and from Institutions, the holding of inquiries and the study of improved methods of treating mental deficiency.

Regulations
affecting
Institutions.

Sections 40, 41, 42, 47 and 53 of the Lunacy Act, 1890, and any of the provisions of the Lunacy Acts dealing with like matters contained in the Regulations referred to in Section 41 are made applicable to such Regulations with the necessary modifications and adaptations, but nothing shall be construed as restricting any power of the Secretary of State in regard to the making of such Regulations.

*General Provisions.***General Regulations.**

The Regulations to be made by the Home Secretary will lay down the lines upon which the administrative machinery will be run, and will have an important effect upon the policy of the Central and Local Authority, and in regard to the control and management of Institutions, etc. They are to be laid before Parliament as soon as may be, and if within thirty sitting days after they are so laid, either House of Parliament presents an address to His Majesty praying that any such Regulations may be annulled, His Majesty may by order in Council annul the Regulations, without prejudice, however, to anything done thereunder. (Section 68.)

Penalty for breach of Regulations.

Persons guilty of a breach of Regulations made under the Act are liable on summary conviction to a penalty not exceeding such as may be prescribed in the Regulations, but the maximum penalty in respect of any breach is not to exceed imprisonment with or without hard labour for a term of three months or a fine of fifty pounds, or both. (Section 59.)

Protection of persons under the Lunacy Acts.

Section 330 of the Lunacy Act, 1890, relating to the protection of persons putting that Act into force and Section 332 of that Act relating to the powers of Commissioners and Visitors to summon witnesses have effect as if enacted and in terms made applicable to the Mental Deficiency Act. (Section 63.)

Section V.

OFFENCES AGAINST THE MENTALLY DEFECTIVE.

The feeble-minded are liable to be influenced or dominated by persons with whom they are brought into contact in a similar manner as are young children with adults, and they are often wronged by evil and designing persons or otherwise are led to the committal of wrongful acts. The Act, therefore, completes its provision for the care and protection of the mentally defective, by inflicting the penalties of the law upon persons who are guilty of any offence against them or who are guilty of a breach of the regulations for their care.

Offences
against the
mentally
defective.

The following are deemed to be offences under the Act and are punishable summarily with imprisonment for a term not exceeding three months with or without hard labour or with a fine not exceeding fifty pounds, or both :—

- (1) Persons undertaking the care and control of a defective or of a person who is placed under his care as being a defective elsewhere than in an Institution for Defectives, a Certified House or an Approved Home, failing to give notice in prescribed form to the Local Authority and to the Board within forty-eight hours after the reception of the patient. (Section 51 (2).) Failure to notify Local Authority.
- (2) Person who has been warned by a person appointed guardian of a defective or by a person placed in charge of a patient who is absent from an Institution or from a Certified House not to supply intoxicants to the defective referred to, knowingly supplies any intoxicants to the defective, unless the person giving the warning refuses to produce the authority under which he acts. (Section 52.) Supplying intoxicants.
- (3) Person secreting a patient in any Institution or Certified House or Approved Home or knowingly assisting a mentally defective under detention in an Institution Assisting defective to escape.

or Certified House, or if allowed out from such an Institution or House either on licence or without, or a defective in a place of safety, or when under guardianship, to escape or break any conditions of guardianship. (Section 53.)

Obstructing
Officers.

- (4) Person wilfully obstructing a person (other than a Commissioner, Inspector or Visitor or any Officer of the Local Authority) authorized in writing by the Home Secretary to visit and examine an alleged defective or inspect his place of confinement. (Section 54 (2).)

Appeals.

A person who is aggrieved by the conviction or sentence of a Court of Summary Jurisdiction may appeal to quarter session. (Section 61.) A Court of Summary Jurisdiction means any Justice or Justices of the Peace or the Magistrate by whom jurisdiction is given or who is authorized to act under the Summary Jurisdiction Acts.

Misdemean-
ours.

The following offences are misdemeanours and are punishable by fine or by imprisonment not exceeding two years, with or without hard labour, but may be prosecuted summarily unless otherwise expressed, and if so presented shall be punishable only with imprisonment for a term not exceeding three months with or without hard labour, or with a fine not exceeding fifty pounds, or both (Section 60)—

Persons
having care
of more than
one defective
in a private
house.

- (i) Person undertaking without the consent of the Board the care and control of more than one person who is a defective or who is placed under his care as being a defective elsewhere than in an Institution for Defectives or a Certified House or an Approved Home. (Section 51 (1).)

Obstructing
officers.

- (ii) Person wilfully obstructing a Commissioner or Inspector, or Visitor or any Officer or other person appointed or employed by a Local Authority in the exercise of the powers conferred by or under the Act. (Section 54 (1).)

Unlawful
detention
of a defec-
tive.

- (iii) Detaining a patient in an Institution for Defectives or a Certified House or under Guardianship, or exercising any powers conferred upon them by the Act after knowing that such powers have expired. (Section 51 (3).)

Ill-treat-
ment.

- (iv) Manager, Officer, Nurse, Attendant, Servant or other person having charge of a defective ill-treating or wilfully neglecting such defective. (Section 55.)

- (v) Person who knowingly makes any false entry in any book, statement or return as to any matter as to which he is required by the Act or Rules under the Act to make an entry. (Section 57.) False entries.
- (vi) Person wilfully supplying to the Board any untrue or incorrect information, plan, description or notice for the purpose of obtaining any certificate or approval under the Act or the renewal of any such certificate or approval. (Section 58.) Making
Untrue
Statements.

Protection of women and girls against acts of sexual immorality.

Section 56 of the Act provides for the protection of women and girls who are defective on somewhat similar lines to the Criminal Law Amendment Act, 1885.

The following sexual offences against defectives are misdemeanours and liable upon conviction on indictment to be imprisoned with or without hard labour for any term not exceeding two years, unless the accused proves that he did not know and had no reason to suspect that the woman or girl was a defective :—

- (a) Person who unlawfully and carnally knows or attempts to have unlawful carnal knowledge of, any woman or girl under care or treatment in an Institution or a Certified House or Approved Home or whilst on license therefrom or under guardianship. (Section 56 (1) (a).) If the Jury are satisfied that the defendant is guilty of an offence, but is not guilty of rape, he may be acquitted of rape, but adjudged guilty of an offence. (Section 56 (1) (5).)
- (b) Person who procures or attempts to procure any defective woman or girl to have unlawful carnal connection with any person or persons either within or without the King's dominions. (Section 56 (1) (b).)
- (c) Person who causes or encourages the prostitution of any defective woman or girl within or without the King's dominions. (Section 56 (1) (c).)
- (d) Person who being the owner or occupier of premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any defective woman or girl to resort to, or be in or upon such premises for the purpose of being carnally known either by any particular man or generally. (Section 56 (1) (d).)
- (e) Person who with intent that any defective woman or girl should be unlawfully and carnally known either

by any particular man or generally, takes or causes such defective woman or girl out of the possession and against the will of her parent or any other person having the lawful care and charge of her. (Section 56 (1) (e).)

Section 56 (1) (5) contains provisions similar to Section 9 of the Criminal Law Amendment Act, 1885, and Section 4 (3) of the Punishment of Incest Act, 1908, which enact that if on trial for rape, the Jury are satisfied that the defendant is not guilty of that offence, they may acquit him and find him guilty of an offence. Rape is a crime punishable as a "felony," and under Section 48 of the Offences against the Person Act, 1861, a person who is convicted thereof is liable, at the discretion of the Court, to be sent to penal servitude for life, or for varying terms of imprisonment with or without hard labour.

Power to search for feeble-minded woman or girl.

Section 10 of the Criminal Law Amendment Act, 1885, as applicable to the case of any girl under the age of sixteen years who may be unlawfully detained for immoral purposes, is under the provisions of Section 56 of the Mental Deficiency Act similarly applicable to the case of any woman or girl who is a defective within the meaning of the Act. If satisfied that there is reasonable cause to suspect that any defective woman or girl is unlawfully detained for immoral purposes, the Justice may issue a warrant on information made before him on oath by any parent, relative or guardian of the defective woman or girl or by any other person who in the opinion of the Justice is bona fide acting in the interest of the defective woman or girl, authorizing any person named therein to search for, and when found to take to and detain her in a "Place of Safety." It is enacted that no indictment under Section 56 is to be tried at quarter sessions.

Limitations of the Criminal Law Amendment Act, 1885.

Under Section 5 (2) of the Criminal Law Amendment Act, 1885, any person is guilty of a misdemeanour who unlawfully and carnally knows or attempts to have

unlawful carnal knowledge of any female idiot or imbecile woman or girl under circumstances which do not amount to rape, if it is proved that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile. The Criminal Law Amendment Act, 1885, has been ineffective in securing convictions for sexual offences against large numbers of mentally defective women, as satisfactory evidence could not be obtained to prove that the accused knew that the woman was an imbecile or idiot, and furthermore, women or girls who are "feeble-minded," as defined in Section 1 of the Mental Deficiency Act, are excluded from the provisions of Section 5 (2) of the Criminal Law Amendment Act.

The Royal Commission received much evidence on the question of sexual offences and improprieties against the feeble-minded, and recommended that the attention of the Lord Chancellor and the Secretary of State be directed to the evidence, and that they be invited to consider whether the existing law provided adequate protection for the persons referred to.

The provisions of Section 56 of the Mental Deficiency Act are more stringent than are the provisions of the Criminal Law Amendment Act, as an accused person charged with an offence or an indecent assault upon any defective will be required to prove that he did not know and had no reason to suspect that the person in respect of whom the offence was committed was a defective, although it is possible that even under this revision of the law, many offenders will succeed in avoiding a conviction.

Section VI.

FINANCE AND STATISTICAL.

During the past few years the problems of local rating have reached an acute stage throughout the country as a result of many new duties having been imposed upon Local Authorities without any corresponding relief from imperial sources. Local Authorities are, therefore, naturally tempted to prejudge any new legislation from the financial standpoint, and there is consequently considerable danger of its value being minimized or even lost in the exigencies of local finance.

Financial provisions.

The care of the mentally defective is more a national than a local duty, and a substantial State contribution towards the expenditure to be incurred should be provided, whilst at the same time the Local Authority should be left with a recognized liability where extensive powers of control are conferred upon it.

The cost of the Central administration and of the provision of accommodation and the maintenance of defectives of dangerous or violent propensities in State Institutions will be wholly defrayed from imperial sources.

State Grants and Local Expenditure.

Furthermore, under the provisions of Section 30, a Local Authority is not obliged to perform any of the undermentioned duties, unless the Treasury contribution towards the cost on income account of performing such duties is not less than one-half of the net expenditure incurred, as approved by the Board of Control :—

- (a) Providing suitable supervision for defectives subject to be dealt with otherwise than at the instance of their

parents or guardians, or if such supervision affords insufficient protection, taking steps for securing that they shall be dealt with by being sent to Institutions or placed under guardianship.

- (b) Providing suitable and sufficient accommodation for such defectives when sent to Certified Institutions by Judicial Orders, and for their maintenance and conveyance to and from such Institutions.
- (c) Making provision for the guardianship of such defectives when placed under guardianship by Judicial orders.
- (d) Appointment or employment of sufficient Officers and other persons to assist the Authority in the performance of its duties.

Under the provisions of Section 48, Treasury contributions may be paid towards the expenses of a Society which has undertaken the duty of assisting or supervising defectives whilst not in Institutions under the Act.

Voluntary Societies.

No Treasury grant is payable towards any expenses that may be incurred by a Local Authority

Limitation of Treasury contribution.

(1) in ascertaining what persons are defective ;

(2) in maintaining or contributing towards the expenses of maintenance of defectives who are subject to be dealt with at the instance of a parent or guardian ;

(3) in providing for the burial of persons dying in an institution or when placed under guardianship

(4) in the preparation of reports to the Board of Control.

Cost of ascertaining what persons are defective.

The duty of ascertaining what children are defective is placed upon the Local Education Authority, and the bulk of the cases will be notified to the Local Authority from that source. In regard to other cases, the Home Secretary stated in Standing Committee B that the duty would be placed upon the Police under the provisions of Section 8 (5) and would not involve the Local Authority in additional expenditure.

On the important subject of the maintenance of defectives in Institutions, the Treasury grant is only payable in respect of defectives detained in "Certified Institutions" or when placed under guardianship under Judicial Orders (vide Section 47). Where the Local Authority

Maintenance of defectives.

provides its own Institution, one-half the cost on income account for the purpose of obtaining the Treasury grant shall include expenditure out of income by the Authority by way of interest on or repayment of capital raised, or by way of rent or other similar payments made in the provision of the Institution. (Section 71 (2).)

Annual
amount of
Treasury
Grant.

The Exchequer grant to Local Authorities towards the cost of maintenance of defectives in "Certified Institutions," or of placing them under guardianship, is not to exceed £150,000 per annum, but Section 47 provides that all sums paid towards the expenses of persons sent to such Institutions or placed under guardianship by Order of the Home Secretary, or by order of a Court or Judicial Authority after having been found guilty of an offence, or having been ordered or found liable to be ordered to be sent to an Industrial School, are to be excluded from that limit. With the contribution from the State and from the Local Authorities, there will thus be available a sum of £300,000 for the purpose of providing for the detention of mentally defectives committed to "Certified Institutions" or to Guardianship by Order. How far that sum will be capable of meeting the needs of the country, will depend largely upon the cost of the provision, and the number of defectives to be dealt with under the Act.

Estimated Cost of Detention.

The Royal Commission estimated that the cost of maintenance in a Colony should not exceed from 8s. to 9s. per inmate per week. This estimate did not include rent or interest on sinking fund and central office charges. Many of the cases may however be boarded-out under the system of family care at an estimated net amount of 7s. per week, i.e. taking into account wages received for labour and contributions from parents. To secure the attention which is essential to the success of the system, that amount should be regarded as the minimum, especially considering

that it will include repairs and renewals of clothing. Taking into consideration the varying factors, the net average cost per head may be estimated at 10s. per week, which was the standard adopted by the Royal Commission. On this estimate it will not be possible to place in Institutions or under Guardianship more than 10,500 defectives, apart from the criminal and pauper classes who will come under the jurisdiction of the Board of Control and the Poor Law Authorities respectively, and this will absorb the £300,000 per annum available for the purpose, as allowance should be made for the expenditure to be incurred in administering the Act. by the Local Authority.

Estimated Number of Defectives needing Custodial Care.

On the question of the number of defectives who may be placed under detention by Order of a Judicial Authority, it is only possible to obtain a rough estimate, as no reliable data are available.

The Royal Commission estimated that in the years 1905 and 1906 there were 66,509 defectives reported as "needing provision" in their own interests or for the public safety, out of a total of 149,628 defectives. Of that number 35,804 represent children for admission to Special Schools under the Education Authority when the Elementary Education (Defective and Epileptic Children) Act, 1899, becomes compulsory, 8,598 were in Prisons or Poor Law Institutions, and 4,790 were Poor Law Out-Door Relief cases, leaving 17,317 defectives not under control by any Public Authority and "needing provision," or 38 per cent. of the total number of mentally defective persons who are outside the jurisdiction of any Public Authority. To bring the estimate up-to-date, an additional 1,200 should be added, being the ratio of increase for a census period, making a total number of about 18,500 defectives who are in need of provision according to the standard adopted by the Royal Commission. This represents 38 per cent. of the total number of defectives not under the control of any Public Authority, but in view of the many safeguards

introduced in the Mental Deficiency Act, which considerably limit the circumstances rendering a defective liable to be detained by order of a Judicial Authority, that percentage should at least be reduced to 25 or 20. On this basis of estimation, there are about 10,500 defectives in urgent need of detention and who should have *à priori* claim upon the funds of the Local Authority and of the Treasury, which as previously stated will be sufficient to deal with about that number of cases. During the initial stages of administration it is improbable that the Local Authorities will be able to make provision for more than that number of defectives, as it will be necessary to provide new accommodation for many of them.

The Exchequer contribution towards the expenses to be incurred in the maintenance of defectives ordered to be sent to "Certified Institutions" or under Guardianship may be regarded as a reasonable initial instalment, especially seeing that about one-half the cost of the local administration is to be defrayed out of the Exchequer contribution. It should, however, be considered that the expenditure of the Local Authority on the maintenance of defectives will in most cases continue to be an annual charge throughout their lives, and, if provision is to be made for new cases, it will be necessary that Parliament should grant additional moneys as soon as the present funds are exhausted.

Limit of Local Rate on Optional Expenditure.

The optional powers of expenditure of the Local Authority in contributing towards the cost of maintenance of defectives in "Approved Homes" or when placed in Institutions at the instance of their parents, will impose additional financial burdens upon the Local Authority, but under the provisions of Section 33 the expenses incurred by it other than in the fulfilment of its obligations, must not exceed an amount equal to that produced by a rate of one halfpenny in the pound on assessable property. Assuming that one-fourth of such cases

are dealt with by the Local Authorities throughout the country, the additional expenditure to be incurred out of the rates would be about £200,000 per annum.

Expenses of the Local Authority.

Under the provisions of Section 33 the expenses of a Local Authority are to be defrayed as follows:—

- (1) In the case of a County Council, out of the County Fund, which includes rents from all property or funds belonging to the Council, together with the produce of any general rate levied upon the assessment of the County.
- (2) In the case of a County Borough, out of the Borough Fund or rate, or if no Borough rate is levied, out of a separate rate. The Borough Fund includes all moneys obtained from Corporation property belonging to the Council and money raised by a general rate levied on the valuation list.

In the event of two or more Authorities having agreed to combine for the purposes of the Act, Section 29 (1) empowers the Home Secretary with the concurrence of the Local Government Board to make provision in the Order constituting the Joint Authority as to how, and in what proportions and out of what funds or rates the expenses incurred are to be defrayed. Joint action

Under the provisions of Section 28 (2) the power of raising a rate or borrowing money cannot be delegated to a Committee for the care of the mentally defective.

Borrowing Powers of Local Authority.

In the case of a County Council the borrowing powers of the Local Authority are authorized as for the purpose of the Local Government Act, 1888, but without the limitations as to the amount to be borrowed as enacted in Section 69 of the Local Government Act, 1888.

By Section 69 of the Local Government Act, 1888, a County Council shall not borrow except in pursuance of a provisional order made by the Local Government

Board and confirmed by Parliament "where the total debt after deducting the amount of any sinking fund exceeds, or if the proposed loan is borrowed will exceed, the amount of one-tenth of the annual rateable value of the rateable property in the County ascertained according to the standard or basis for the County Rates.

By Section 69 (5) of the Local Government Act, 1888, the money borrowed by a County Council must be repaid within a period not exceeding thirty years, such period to be determined with the consent of the Local Government Board. Section 33 (2) of the Mental Deficiency Act substitutes a period not exceeding sixty years for the thirty years' period.

In the case of a County Borough the borrowing powers of the Local Authority are authorized as for the purposes of the Public Health Act, 1875, but without the limitations as to the amount to be borrowed contained in Subsections 2 and 3 of Section 234 of that Act: "The sum borrowed shall not at any time exceed with the balances of all outstanding loans the assessable value for two years of the premises assessable within these districts; and when the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year on such premises, the Local Government Board shall not consent to the loan until an inquiry has been held by one of its inspectors." The maximum period for the repayment of money borrowed under the Public Health Act, 1875, is sixty years.

Accounts.

Section 33 (4) provides that separate accounts shall be kept by the Council of a County Borough of its receipts and expenditure, but it is not required that the accounts shall be made up and audited in like manner and subject to the same provisions as the accounts of a County Council, as was proposed in the original Bill.

Section VIII.

CONCLUSIONS.

The Mental Deficiency Act is the charter of a real liberty to a large number of chronic mentally defectives who are the Ishmaelites of a Society which in the past has neglected them and left them to wander about the streets and highways of towns and villages to be the butt of ridicule and thoughtless sport and the victims of lust. They have been allowed to multiply themselves to an alarming extent and in their degradation and misery to be associated with the pauper, inebriate, criminal and immoral classes.

The powers of compulsory detention which are of so limited a character can be best appreciated only by those who have come into personal contact with the homes and lives of the feeble-minded. The Act would be ineffective and almost worthless without such powers, and apart from the administrative machinery, which is set up, it would differ but slightly from the Idiots Act, 1886, which it repeals. As an instrument of compulsion, it is extremely modest and cautionary and may in the light of experience require strengthening so as to embrace a number of defective persons who in the present state of the law will lose its benefits owing to a lack of sufficient or satisfactory evidence upon which to prepare a petition and to the opposition of parents or guardians. The success of the Act will be largely dependent upon the co-operation of parents with the Local Authority and its Administrative Officers, and a judicious supervision of defectives in their own homes. Its immediate effects will be in the direction of ameliorating the unhappy conditions of many mentally defective persons ; its ultimate

benefits should by continuous care and suitable methods of training and occupation in the words of Esquirol succeed in "the removal of the mark of the beast from the forehead of the idiot" and be a powerful means in assisting to breed out the hereditary transmission of mental defect by preventing the propagation of a degenerate stock.

The Act establishes a separate Central Authority to deal primarily with the problem of mental deficiency, and which is constructed upon such a basis as to be capable of expansion into a complete and co-ordinated State Service for the care and control of all mentally afflicted persons.

In contradistinction to the Lunacy Acts, its foundations are laid upon the principle of popular control. The Board of Control as the Central Authority will be directly connected with and responsible to the House of Commons through the Secretary of State, and this should be an important factor in securing public confidence in its operations.

A wide field of opportunity lies before the Local Authority in regard to the methods to be adopted in the administration of the Act. Its aim should be in the direction of co-ordinating and correlating the administrative work under the Act so as to avoid wastefulness of effort and of public money which is inevitable where two bodies are carrying out similar duties in the same area. The Local Authority is endowed with large and varied powers which if properly applied will enable it to take advantage of the services of persons possessing special experience and knowledge of the work and at the same time to exercise a direct control over local administration and expenditure. The municipal recognition of the principle of co-optation gives full opportunities for associating the voluntary worker and care-committee with the Local Authority and should be of valuable assistance in maintaining an active and progressive organization. The movement for the betterment of the condition of the

feeble-minded in this country has been pioneered largely by voluntary enterprise which if wisely, directed should be of real service to the Local Authority.

The scope which is afforded for elasticity in administration is a noticeable feature of the Act. Provision is made for the supervision or oversight of mentally defectives remaining in the family and this phase of the work should develop into an important and useful branch of social service. The experience of Care Committees reveals the need for a considerable improvement in the home conditions of many of the feeble-minded, and the evils of overcrowding and poverty are often present in a most acute form. Domiciliary supervision should form the groundwork of administration, and if suitably carried out will assist in achieving one of the main objects of the Act by preventing the degradation and ruin of the feeble-minded rather than by dealing with them after disaster has overtaken them. It should also prove an effective connecting link with the powers of certification and removal from the family at the instance of a parent or guardian, or of certification with an Order of Detention and removal from the family on account of neglect, cruelty or other similar causes.

The Local Authority will depend largely upon the Local Education Authority for information with respect to the cases to be dealt with, and until the Elementary Education (Defective and Epileptic Children) Bill 1913 becomes Law, the full benefits of the Mental Deficiency Act cannot be realized in those areas where the Elementary Education (Defective and Epileptic Children) Act 1899 is not adopted.

The Local Authority is afforded every facility for elasticity in the methods to be employed for the treatment of the feeble-minded. The recognition of the voluntary and of the publicly provided institution and the adequate powers of guardianship and family care will enable it to develop this branch of the work on modern and scientific lines and to make provision for a suitable classification of the patients.

It is hoped that opportunity will be taken of providing accommodation for defectives on the most adaptable and modern lines, and with every facility for a free classification of the patients. There will be no justification for the expenditure of large sums of money in erecting costly and palatial buildings as in the case of many Asylums and other similar Public Institutions in this country. Colonies, homely and simple in character, and free from unnecessary repressive or restraining methods, with a large acreage of land and timber, and where the patients can be employed under competent overseers in the various branches of agriculture, should be provided, and the boarding-out system adopted, so that many defectives may have an opportunity to spend their lives with normal persons. The colony should be constructed upon the principle of a farming village. There is every facility afforded in the Act for adjustment and expansion in administration so as to meet the needs of individual cases. To deal with this question on modern and progressive lines will have a marked effect in securing public confidence and in removing impressions abroad that the object of the Mental Deficiency Act was to lock up defectives in prisons for life.

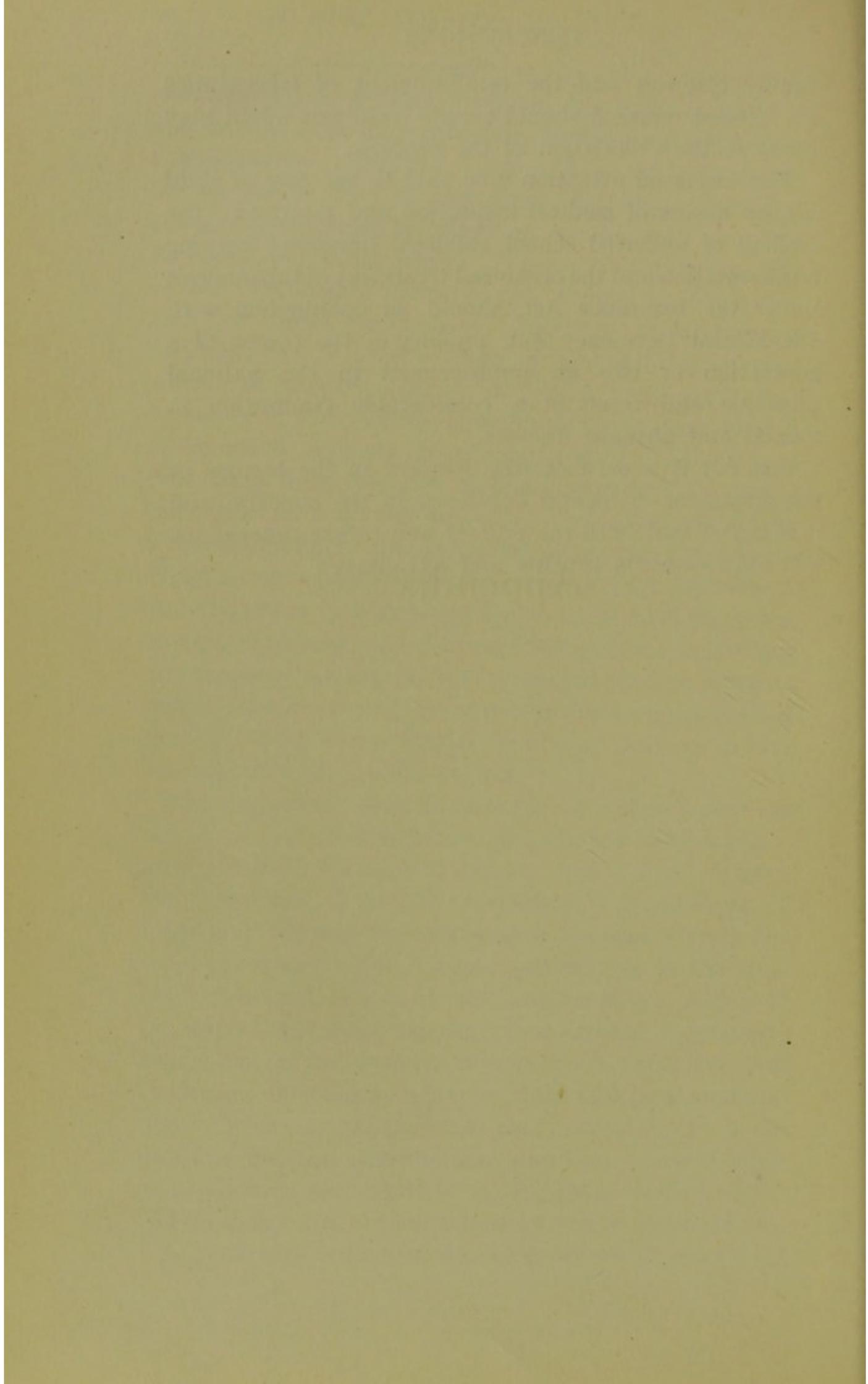
The Act should give an impetus to research into the causation of mental defect. Two distinct theories have been put forth by medical experts, one of which is that the stigmatum of mental degeneracy is spontaneous in origin and that with the exception of a comparatively few cases of cerebral injury during gestation or at the time of or after birth, it is transmitted by heredity. Although the Royal Commission refrained from arriving at a definite conclusion on the question, it was much impressed with the weight of evidence in favour of the biological explanation. Other experts maintain that mental defect is the result of physical degeneration, and that external influences such as malnutrition, tuberculosis, alcohol and a bad environment, are important factors in its causation.

A systematic and accurate compilation of records of

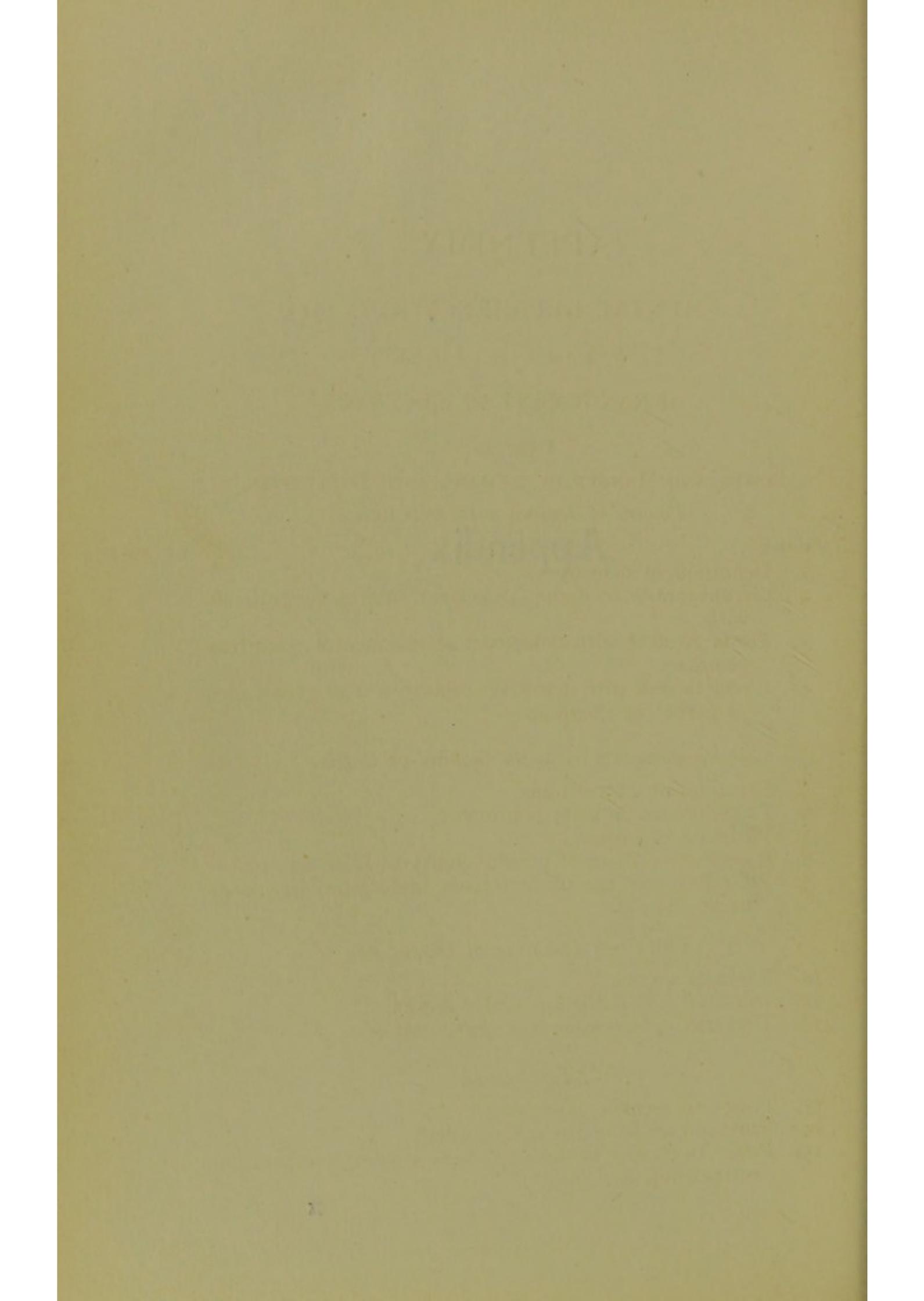
family histories and the establishment of laboratories for clinical research should supply evidence which may assist in the elucidation of the problem.

The increased attention now paid to the care of child life by means of medical inspection and treatment, the feeding of underfed school children, improved housing and sanitation and the organized treatment of tuberculosis under the Insurance Act, should, in conjunction with the Mental Deficiency Act, produce in the course of a generation or two an improvement in the national physique and result in a considerable diminution in mental and physical diseases.

The Act is a distinct step forward in the history of the treatment of mental deficiency in the country, and it is hoped that both the present and future generations will appreciate its benefits and advantages.



Appendix



APPENDIX.

MENTAL DEFICIENCY ACT, 1913.

[3 & 4 GEO. 5. CH. 28.]

ARRANGEMENT OF SECTIONS.

PART I.

POWER AND MANNER OF DEALING WITH DEFECTIVES.

Powers of dealing with Defectives.

Section.

A.D. 1913.

1. Definition of defectives.
2. Circumstances rendering defectives subject to be dealt with.
3. Power to deal with defectives at instance of parent or guardian.
4. Power to deal with defectives otherwise than at instance of parent or guardian.

Requirements as to the making of Orders.

5. Presentation of petitions.
6. Procedure on hearing petitions.
7. Variation of orders.
8. Procedure in cases of persons guilty of offences, etc.
9. Procedure in case of defectives undergoing imprisonment, etc.

Effect and Duration of Orders, etc.

10. Effect of orders.
11. Duration and detention under orders.
12. Duration of detention not under orders.

Supplemental.

13. Power to recover expenses.
14. Provision as to contribution orders.
15. Power to remove to place of safety pending presentation of petition.

A.D. 1913.

Section.

16. Transfers from institutions for defectives to institutions for lunatics and vice versa.
17. Provisions as to religious persuasion.
18. Provision as to visiting of defectives.
19. Judicial authorities.
20. Regulations as to procedure, forms, etc.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

Central Authority.

21. Central authority.
22. Establishment of Commissioners.
23. Secretary, inspectors, and officers.
24. Disqualifications.
25. General powers and duties of Commissioners.
26. Expenses of central authorities.

Local Authorities.

27. Local authorities.
28. Committees for the care of defectives.
29. Joint action.
30. General powers and duties of local authorities.
31. Duties of local education authorities.
32. Power of Secretary of State to act in default.
33. Expenses and borrowing by local authorities.
34. Special provisions as to Lancashire.

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, ETC.

35. State institutions.
36. Certification of institutions.
37. Approval of premises provided by boards of guardians.
38. Power of local authorities to establish or contribute to institutions, etc.
39. Transfer of premises for use as institutions.
40. Visitors of institutions.
41. Regulations as to management of institutions for defectives, etc.
42. Apprehension of defectives escaping.
43. Ascertainment of local authority responsible for providing accommodation, etc.
44. Determination of residence.
45. Superannuation of officers.
46. Scheme for the payment of superannuation allowances or gratuities to officers.

A.D. 1913.

Section.

- 47. Contributions by the Treasury.
- 48. Treasury contributions towards expenses of societies assisting defectives.
- 49. Provisions as to certified houses.
- 50. Provisions as to approved homes.

PART IV.

GENERAL.

Offences, Legal Proceedings, etc.

- 51. Offences with respect to the reception and detention of defectives.
- 52. Offence of supplying intoxicants contrary to warning.
- 53. Offences in relation to institutions, etc.
- 54. Obstruction.
- 55. Ill-treatment.
- 56. Protection of defectives from acts of sexual immorality, procurement, etc.
- 57. False entries.
- 58. Punishment of person making untrue statement for purpose of obtaining certificate or approval.
- 59. Penalty for breach of regulations.
- 60. Punishment for offences.
- 61. Appeals.
- 62. Protection of officers for the purposes of arrest.
- 63. Application of sections 330 and 332 of Lunacy Act, 1890.

Supplemental.

- 64. Administration of property.
- 65. Transfer to Board of powers and duties of Lunacy Commissioners.
- 66. Power to authorize committee for care of mentally defective to act as asylums committee.
- 67. Repeal of Idiots Act, 1886.
- 68. Provisions as to regulations.
- 69. Liability to removal.
- 70. Provisions against disfranchisement.
- 71. Interpretation.
- 72. Short title, extent, and commencement.

SCHEDULE.

CHAPTER 28.

A.D. 1913. An Act to make further and better provision for the care of Feeble-minded and other Mentally Defective Persons and to amend the Lunacy Acts. [15th August, 1913.]

BE it enacted by the King'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 :—

PART I.

POWER AND MANNER OF DEALING WITH DEFECTIVES.

Powers of dealing with Defectives.

Definition of defectives. 1.—The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act :—

- (a) Idiots ; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers ;
- (b) Imbeciles ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so ;
- (c) Feeble-minded persons ; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools ;
- (d) Moral imbeciles ; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities

on which punishment has had little or no deterrent effect. A.D. 1913.

2.—(1) A person who is a defective may be dealt with under this Act by being sent to or placed in an institution for defectives or placed under guardianship—

Circumstances rendering defectives subject to be dealt with.

(a) at the instance of his parent or guardian, if he is an idiot or imbecile, or at the instance of his parent if, though not an idiot or imbecile, he is under the age of twenty-one; or

(b) if in addition to being a defective he is a person—

(i) who is found neglected, abandoned, or without visible means of support, or cruelly treated; or

(ii) who is found guilty of any criminal offence, or who is ordered or found liable to be ordered to be sent to a certified industrial school;

(iii) who is undergoing imprisonment (except imprisonment under civil process), or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school, or in an inebriate reformatory, or who is detained in an institution for lunatics or a criminal lunatic asylum; or

(iv) who is an habitual drunkard within the meaning of the Inebriates Acts, 1879 to 1900; or

(v) in whose case such notice has been given by the local education authority as is hereinafter in this section mentioned; or

(vi) who is in receipt of poor relief at the time of giving birth to an illegitimate child or when pregnant of such child.

(2) Notice shall, subject to regulations made by the Board of Education, to be laid before Parliament as hereinafter provided, be given by the local education authority to the local authority under this Act in the case of all defective children over the age of seven—

(a) who have been ascertained to be incapable by reason of mental defect of receiving benefit or further benefit in special schools or classes, or who cannot be instructed in a special school or class without detriment to the interests of the other children, or as respects whom the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under this Act by way of supervision or guardianship;

(b) who on or before attaining the age of sixteen are about to be withdrawn or discharged from a special school or class, and in whose case the local education authority are of opinion that it would be to their

A.D. 1913.

benefit that they should be sent to an institution or placed under guardianship.

Power to deal with defectives at instance of parent or guardian.

3.—(1) The parent or guardian of a defective who is an idiot or imbecile, and the parent of a defective who though not an idiot or imbecile is under the age of twenty-one, may place him in an institution or under guardianship: Provided that he shall not be so placed in an institution or under guardianship, except upon certificates in the prescribed form signed by two duly qualified medical practitioners, one of whom shall be a medical practitioner approved for the purpose by the local authority or the Board, and, where the defective is not an idiot or imbecile, also signed, after such inquiry as he shall think fit, by a judicial authority for the purposes of this Act, stating that the signatories of the certificate are severally satisfied that the person to whom the certificate relates is a defective and the class of defectives to which he belongs, accompanied by a statement, signed by the parent or guardian, giving the prescribed particulars with respect to him.

(2) Where a defective has been so placed in an institution for defectives or under guardianship, the managers of the institution, or the person under whose guardianship he has been placed, shall, within seven days after his reception send to the Board of Control hereinafter constituted (in this Act referred to as the Board) notice of his reception and such other particulars as may be prescribed.

Power to deal with defectives otherwise than at instance of parent or guardian.

4.—A defective subject to be dealt with under this Act otherwise than under paragraph (a) of subsection (1) of section two of this Act may so be dealt with—

- (a) under an order made by a judicial authority on a petition presented under this Act; or
- (b) under an order of a court, in the case of a defective found guilty of a criminal offence, punishable in the case of an adult with imprisonment or penal servitude, or liable to be ordered to be sent to an industrial school; or
- (c) under an order of the Secretary of State, in the case of a defective detained in a prison, criminal lunatic asylum, reformatory or industrial school, place of detention, or inebriate reformatory;

but no such order shall be made except in the circumstances and in the manner hereinafter specified.

Requirements as to the making of Orders.

Presentation of petitions.

5.—(1) An order of a judicial authority under this Act shall be obtainable upon a private application by petition made by any relative or friend of the alleged defective, or by

any officer of the local authority under this Act authorized in that behalf. A.D. 1913.

(2) Every petition shall be accompanied by two medical certificates, one of which shall be signed by a medical practitioner approved for the purpose by the local authority or the Board, or a certificate that a medical examination was impracticable, and by a statutory declaration made by the petitioner and by at least one other person (who may be one of the persons who gave a medical certificate) stating—

- (a) that the person to whom the petition relates is a defective within the meaning of this Act, and the class of defectives to which he is alleged to belong; and
- (b) that that person is subject to be dealt with under this Act, and the circumstances which render him so subject; and
- (c) whether or not a petition under this Act, or a petition for a reception order under the Lunacy Acts, 1890 to 1911, has previously been presented concerning that person, and, if such a petition has been presented, the date thereof and the result of the proceedings thereon; and
- (d) if the petition is accompanied by a certificate that a medical examination was impracticable, the circumstances which rendered it impracticable.

(3) If a petition is not presented by a relative or by an officer of the local authority, it shall contain a statement of the reasons why the petition is not presented by a relative, and of the connection of the petitioner with the person to whom the petition relates and the circumstances under which he presents the petition.

(4) Where the Board are satisfied that a petition under this section ought to be presented concerning any person, and that the local authority have refused or neglected to cause a petition to be presented, they may direct an inspector or other officer to present a petition, and this section shall apply accordingly.

6.—(1) Upon the presentation of the petition and such documents as aforesaid, the judicial authority shall either visit the person to whom the petition relates or summon him to appear before him. Procedure on hearing petitions.

(2) Proceedings before the judicial authority may, in any case if the judicial authority thinks fit, and shall, if so desired by the person to whom the petition relates, be conducted in private, and in that case no one except the petitioner, the person to whom the petition relates, his parents or guardian and any two persons appointed for the purpose by the person to whom the petition relates, or by his parents or guardian, and the persons signing the medical certificates and the

A.D. 1913.

statutory declaration accompanying the petition shall, without leave of the judicial authority, be allowed to be present.

(3) If the judicial authority is satisfied that the person to whom the petition relates is a defective and is also satisfied that he is subject to be dealt with under this Act, the judicial authority may, if he thinks it desirable to do so in the interests of such person, make an order either ordering him to be sent to an institution the managers of which are willing to receive him, or appointing a suitable person to be his guardian, and the order shall state the class of defectives to which he belongs, and the circumstances which render him subject to be dealt with under this Act :

Provided that—

(a) where the petition is not presented by the parent or guardian, the order shall not be made without the consent in writing of the parent or guardian, unless it is proved to the satisfaction of the judicial authority that such consent is unreasonably withheld, or that the parent or guardian cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the bona fide intention of benefiting the defective ; and

(b) nothing in this section shall prevent an order being made, notwithstanding that the person to whom the petition relates does not appear to the judicial authority to belong to the class of defectives to which he is in the petition alleged to belong, if the judicial authority is satisfied that he is a defective.

(4) If the judicial authority is not satisfied that the person to whom the petition relates is a defective, and subject to be dealt with under this Act, or that it is desirable in the interests of such person that an order should be made, the judicial authority may, if he thinks fit, adjourn the case for a period not exceeding fourteen days for further evidence or information, and may order that the person to whom the petition relates shall submit himself to medical examination, or may dismiss the petition :

Provided that, unless the petition is dismissed, the judicial authority shall order a medical examination in any case where the petition was accompanied by a certificate that a medical examination was impracticable.

Variation of orders.

7.—(1) Where an order has been made that a defective be placed under guardianship the judicial authority which made the order, or any other judicial authority, or, where the original order was not made by a judicial authority, any judicial authority may, on application being made for the purpose by the guardian or by the Board or by the local authority, and on being satisfied that the case is or has become

one unsuitable for guardianship, order that the defective be sent to an institution. A.D. 1913.

(2) A person appointed to be guardian of a defective may, on the application of the local authority or of the Board or of any other person who appears to be interested, be removed from his office by any such judicial authority as aforesaid, and, where a person appointed to be guardian of a defective dies, or resigns his office, or is removed from his office, such judicial authority as aforesaid may, on the like application, appoint a suitable person to act in his stead.

(3) An order under this section shall not be made without giving to the local authority and, where practicable, to the relative or other person who presented the original petition and to the parent or guardian of the defective, an opportunity of being heard.

8.—(1) On the conviction by a court of competent jurisdiction of any person of any criminal offence punishable in the case of an adult with penal servitude or imprisonment, or on a child brought before a court under section fifty-eight of the Children Act, 1908, being found liable to be sent to an industrial school, the court, if satisfied on medical evidence that he is a defective within the meaning of this Act, may either—

Procedure in cases of persons guilty of offences, etc.

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(a) postpone passing sentence or making an order for committal to an industrial school, and direct that a petition be presented to a judicial authority under this Act with a view to obtaining an order that he be sent to an institution or placed under guardianship ;
or

(b) in lieu of passing sentence or making an order for committal to an industrial school, itself make any order which if a petition had been duly presented under this Act the judicial authority might have made, which order shall have the like effect as if it had been made by a judicial authority on a petition under this Act :

Provided that, if the court is a court of summary jurisdiction and the case is one which the court has power to deal with summarily, the court, if it finds that the charge is proved, may give such directions or make such order as aforesaid without proceeding to a conviction, and such a person shall for the purposes of this Act be deemed to be a person found guilty of an offence.

(2) The court may act either on the evidence given during the trial or other proceedings, or may call for further medical or other evidence.

(3) Where the court so directs a petition to be presented against a person, it may order him to be detained in an institution for defectives or in a place of safety for such time as is

A.D. 1913.

required for the presentation of the petition and the adjudication thereof.

(4) Where it appears to any court of summary jurisdiction by which a person charged with an offence is remanded or committed for trial that such person is a defective, the court may order that pending the further hearing or trial he shall be detained in an institution for defectives, or be placed under the guardianship of any person on that person entering into a recognisance for his appearance.

(5) Where it appears to the police authority that any person charged with an offence is a defective, they shall communicate with the local authority, and it shall be the duty of the police authority to bring before the court such evidence as to his mental condition as may be available :

Provided that, where it is intended to bring such evidence before the court, the police authority shall give notice of the intention to the person charged, and to his parent or guardian, if known.

Procedure
in case of
defectives
undergoing
imprison-
ment, etc.

9.—Where the Secretary of State is satisfied from the certificate of two duly qualified medical practitioners that any person who is undergoing imprisonment (except imprisonment under civil process) or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school or in an inebriate reformatory, or who is detained in a criminal lunatic asylum, is a defective, the Secretary of State may order that he be transferred therefrom and sent to an institution for defectives, the managers of which are willing to receive him, or that he be placed under guardianship, and any order so made shall have the like effect as if it had been made by a judicial authority on petition under this Act.

Effect and Duration of Orders, etc.

Effect of
orders.

10.—(1) An order that a defective be sent to an institution shall authorise the conveyance of that person to and his reception in the institution mentioned in the order, at any time within fourteen days (or, if the person is in a place of safety, within twenty-one days) after the date of the order, and his detention in that institution for such period as is hereinafter mentioned, and he shall be liable to be detained in the institution accordingly.

(2) An order that a defective be placed under guardianship shall, subject to regulations made by the Secretary of State, confer on the person named in the order as guardian such powers as would have been exerciseable if he had been the father of the defective and the defective had been under the age of fourteen, and the guardian shall also have power to

warn persons against supplying intoxicants to him or for his use. A.D. 1913.

11.—(1) An order made under this Act that a defective be sent to an institution or placed under guardianship shall expire at the end of one year from its date, unless continued in manner hereinafter provided :

Duration of
detention
under orders.

Provided that in the case of any institution the Board may by order direct that orders that persons be sent thereto shall, unless continued as hereinafter provided, expire on the quarter day next after the day on which the orders would have expired under the above provision.

(2) An order shall remain in force for a year after the date when under the preceding provisions of this section it would have expired, and thereafter for successive periods of five years, if at that date and at the end of each period of one and five years respectively the Board, after considering such special reports and certificate as is hereinafter mentioned and the report of any duly qualified medical practitioner who, at the request of the defective or his parent or guardian or any relative or friend, has made a medical examination of the defective and the means of care and supervision which would be available if the defective were discharged consider that the continuance of the order is required in his interest and make an order for the purpose :—

Provided that, where a defective was, at the time of being sent to the institution or placed under guardianship, under twenty-one years of age, the case shall be reconsidered by the visitors appointed under this Act within three months after he attains the age of twenty-one years.

(3) On such reconsideration the visitors shall visit the defective or summon him to attend before them and inquire into his mental condition and the means of care and supervision which would be available if he were discharged and into all the circumstances of the case, and, if it appears to them that further detention in an institution or under guardianship is no longer required in the interest of the defective himself, shall order him to be discharged :

Provided that, if the visitors do not order his discharge, the defective or his parent or guardian may, within fourteen days after the decision of the visitors has been communicated to the defective and his parent or guardian, appeal to the Board.

(4) The special reports above mentioned shall be—

(a) A special report by the visitors made within one month after having seen the defective as to his mental condition and the means of care and supervision which would be available if he were discharged, and stating whether, in the opinion of the visitors, the defective is still a proper person to be

A.D. 1913.

detained in his own interest in an institution or under guardianship; and

- (b) A special report as to the mental and bodily condition of the defective made, in the case of a person detained in an institution, by the medical officer of that institution, and in any other case by a duly qualified medical practitioner, and shall be accompanied by a certificate that the defective is still a proper person to be detained in his own interest in an institution or under guardianship, and the person sending the special report shall give to the Board such further information concerning the defective to whom the special report relates as they may require.

(5) A certificate under the hand of the secretary to the Board that an order has been continued to the date therein mentioned shall be sufficient evidence of the fact.

Duration of
detention
not under
orders.

12.—(1) Where a defective has been placed by his parent or guardian in an institution or under guardianship, it shall be lawful for such parent or guardian to withdraw him from the institution or guardianship at any time on giving notice in writing for the purpose to the Board, unless the Board, after considering what means of care and supervision would be available if he were discharged, determine within fourteen days after receiving the notice that the further detention of the defective in the institution or under guardianship is required in the interests of the defective, and, where the Board have so determined, no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last previous notice.

(2) Subject to the foregoing provisions of this section, a defective who has been placed by his parent or guardian in an institution or under guardianship may be detained in the institution or under guardianship, and the case shall be reconsidered by the Board at like intervals and by the visitors, as if he had been ordered to be sent to the institution or placed under guardianship, and the provisions of the last foregoing section shall apply accordingly.

(3) The managers of any certified institution, or house, or any approved home may discharge any defective placed there by his parent or guardian on giving one month's notice to the board and to the parent or guardian of the defective if known.

Supplemental.

Power to
recover ex-
penses.

13.—(1) Where an order that a defective be sent to an institution or be placed under guardianship has been made under this Act, the judicial authority which made the order

or any other judicial authority, or, where the order is not made by a judicial authority, any judicial authority, may, on the application of the petitioner, or of the managers of the institution or the guardian, as the case may be, or of an officer authorised by the local authority, make an order requiring the defective, or any person liable to maintain him, to contribute such sum towards the expenses of his maintenance in the institution or of his guardianship, and any charges incidental thereto, including the cost of his conveyance to the institution, and in the event of his death in the institution, his funeral expenses, as, having regard to the ability of the defective or person liable to maintain him, seems reasonable.

A.D. 1913.

(2) Any such order may, on the application of the managers of the institution in which the defective is for the time being detained, or of the guardian, or of an officer authorized by the local authority, be enforced against any property of the defective or person liable to maintain him, if made by a judge of county courts, in the same way as if it were a judgment of the county court, and, if made by any other judicial authority, as if it were an order for the payment of a civil debt made by a court of summary jurisdiction.

(3) An order made under this section may be varied or revoked by the judicial authority which made it, or any other judicial authority.

(4) Where a defective has been placed by his parent or guardian in an institution or under guardianship, any sum which the parent or guardian has agreed in writing to contribute towards the expenses of the maintenance or guardianship of the defective shall be recoverable summarily as a civil debt.

14.—The persons liable to maintain a defective under the age of twenty-one against whom an order to contribute towards his maintenance may be made under this Act shall include in the case of illegitimacy his putative father and, if the judicial authority having cognisance of the case thinks fit, a person other than his putative father cohabiting with his mother: Provided that, where a defective is an illegitimate, and an affiliation order for his maintenance has previously been made on the application of his mother under the enactments relating to bastardy, the judicial authority shall not (unless in view of the special circumstances of the case he thinks it desirable) make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the affiliation order to be made to the local authority or such other person as may be named in the order, to be applied towards the maintenance of the defective.

Provision as to contribution orders.

A.D. 1913.
Power to
remove to
place of
safety
pending
presentation
of petition.

15.—(1) If any officer of the local authority authorised in that behalf or any constable finds neglected, abandoned, or without visible means of support or cruelly treated any person whom he has reasonable cause to believe to be a defective, he may take such person to a place of safety, and such person may be there detained until a petition under this Act can be presented.

(2) If it appears to a justice on information on oath laid by an officer or other person authorised by the local authority that there is reasonable cause to believe that a defective is neglected or cruelly treated in any place within the jurisdiction of the justice, the justice may issue a warrant authorising any constable named therein, accompanied by the medical officer of the local authority or any other duly qualified medical practitioner named in the warrant, to search for such person, and, if it is found that he is neglected or cruelly treated, and is apparently defective, to take him to and place him in a place of safety until a petition can be presented under this Act, and any constable authorised by such warrant may enter, and if need be by force, any house, building, or other place specified in the warrant, and may remove such person therefrom.

(3) Where the place to which such a person is taken is a workhouse, the master shall receive him into the workhouse if there is suitable accommodation therein, and any expenses incurred in respect of him shall be defrayed by the local authority, but shall, if an order is eventually made, be recoverable from the defective or any person liable to maintain him as if they were part of the expenses of his maintenance.

Transfers
from institu-
tions for de-
fectives to
institutions
for lunatics
and vice
versa.

16.—(1) Where the mental condition of a person detained in an institution for defectives becomes or is found to be such that he ought to be transferred to an institution for lunatics, the Board, or the managers of the institution for defectives with the consent of the Board, shall cause such steps to be taken as may be necessary for having a reception order under the Lunacy Acts, 1890 to 1911, made in respect of him and for his removal to an institution for lunatics: Provided that, where such person has been placed in the institution by his parent or guardian, the Board or managers, as the case may be, shall not cause such steps to be taken until they have given the parent or guardian, wherever practicable, an opportunity of taking them himself.

(2) Where the mental condition of a person detained in an institution for lunatics is found to be such that he ought to be transferred to an institution for defectives, the Board or the managers of the institution for lunatics with the consent, of the Board, may cause such steps to be taken as may be necessary for having an order that he be sent to an institution

for defectives made under this Act in respect of him and for his removal to such institution. A.D. 1913.

(3) The Board may, subject to the approval of the Secretary of State, make regulations for carrying this section into effect.

17.—(1) The judicial authority, court, or Secretary of State, in determining the institution to which a defective is to be sent under an order, shall endeavour to ascertain the religious persuasion to which the defective belongs, and the order shall, where practicable, specify the religious persuasion to which he appears to belong, and an institution conducted in accordance with that persuasion shall, where practicable, be selected. Provisions as to religious persuasion.

(2) A minister of the religious persuasion specified in the order as that to which the defective appears to belong may visit the defective at the institution on such days, at such times, and on such conditions as may be fixed by the Board, for the purpose of affording religious assistance and also for the purpose of instructing him in the principles of his religion.

(3) Where a defective is sent to an institution which is not conducted in accordance with the religious persuasion to which the defective belongs, the defective shall not be compelled to receive religious instruction or religious ministrations which are not in accordance with his religious persuasion, but shall, as far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with his religious persuasion.

(4) Where an order is made for sending a defective to an institution which is not conducted in accordance with the religious persuasion to which he belongs, the nearest adult relative, or in the case of a child his guardian or person entitled to his custody, may apply to the Board to remove or send the defective to an institution conducted in accordance with the defective's religious persuasion, and the Board shall, on proof of the defective's religious persuasion, comply with the request of the applicant; Provided that the applicant must show to the satisfaction of the Board that the managers of the institution named by him are willing to receive the defective and that the institution is one suitable to the case.

18.—The nearest adult relative or the guardian of a defective in an institution or under guardianship under this Act, shall be entitled to visit the defective at such times and at such intervals (not exceeding six months) and on such conditions as may be prescribed, except where, owing to the character and antecedents of the person proposing to visit the defective, the Board consider that such a visit would be contrary to the interests of the defective. Provisions as to visiting of defectives.

A.D. 1913.
Judicial
authorities.

19.—(1) Any judge of county courts, police or stipendiary magistrate, or specially appointed justice who is a judicial authority for the purposes of the Lunacy Acts, 1890 to 1911, shall be a judicial authority for the purposes of this Act, and the number of justices specially appointed to be judicial authorities under those Acts shall be such as may be considered necessary to exercise the powers conferred by this Act as well as by those Acts on a judicial authority.

(2) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, costs, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration.

Regulations
as to proce-
dure, forms,
etc.

20.—The Secretary of State may make regulations with respect to—

- (a) the procedure on petitions under this Act ;
- (b) the procedure on applications for orders to vary or revoke orders previously made under this Act ;
- (c) the procedure on applications for orders for contributions towards the maintenance of a person in an institution or under guardianship ;
- (d) the procedure on the reconsideration by visitors of the cases of defectives on their attaining the age of twenty-one, and on appeals from the visitors to the Board ;
- (e) the forms of petitions, statutory declarations, certificates, orders, and other documents required for the purposes of this Part of this Act.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

Central Authority.

Central
authority.

21.—The Board of Control hereinafter constituted shall, subject to the provisions of this Act, be charged with the general superintendence of matters relating to the supervision, protection, and control of defectives :

Provided that, save as otherwise expressly provided by this Act, nothing in this Act shall affect any power exercisable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors, court, local authority or other persons, whether under the Lunacy Acts, 1890 to 1911, or otherwise.

A.D. 1913.
Establish-
ment of
Commis-
sioners.

22.—(1) There shall be constituted a Board of Control consisting of not more than fifteen Commissioners, of whom not more than twelve shall be paid Commissioners, and of the paid Commissioners four shall be legal Commissioners (that is to say, practising barristers or solicitors of at least five years' standing) and four at least shall be medical Commissioners (that is to say, duly qualified medical practitioners of at least five years' standing) and at least one of the paid and one of the unpaid Commissioners shall be a woman.

(2) The Commissioners shall be appointed by His Majesty on the recommendation, as respects the legal Commissioners, of the Lord Chancellor, and, as respects the other Commissioners, of the Secretary of State; and in making such recommendation regard shall be had to the desirability of the inclusion amongst the Commissioners of persons specially qualified to hold inquiries amongst Welsh-speaking persons.

(3) The Secretary of State shall appoint one of the Commissioners to be chairman.

(4) The Board of Control so constituted shall be a body corporate by the name of "the Board of Control," with a common seal and with power to hold land without licence in mortmain for the purposes of their powers and duties.

(5) If the Secretary of State so directs and subject to any regulations made by him, the Board shall appoint an administrative committee, and to such committee shall be entrusted such of the administrative powers and duties of the Board as are mentioned in the Schedule to this Act.

(6) Subject as aforesaid, any act or thing required or authorised by this Act to be done by the Board or the Commissioners may be done by any one or more of the Commissioners as the Secretary of State may by general or special order direct.

(7) There shall be paid to the Chairman and to such number, not exceeding eleven, of the Commissioners as the Secretary of State, with the consent of the Treasury, may determine, such salaries or other remuneration as the Secretary of State, with the like consent, may fix: Provided that, in the case of the Chairman, such salary shall not exceed eighteen hundred pounds a year, and, in the case of the Commissioners other than the Chairman, such salary shall not exceed the sum of fifteen hundred pounds a year, but may begin at such lower sum as the Secretary of State with the consent of the Treasury may fix.

(8) The Chairman and paid Commissioners shall hold office during His Majesty's pleasure. The unpaid Commissioners shall hold office for such term as the Secretary of State may determine.

(9) The persons who immediately before the commencement of this Act hold office as paid Commissioners in Lunacy shall, by virtue of their office, become as from the commence-

A.D. 1913.

ment of this Act paid Commissioners of the Board of Control, and shall, notwithstanding anything in this section, continue to hold their offices by the like tenure and be entitled to the like salary as if they continued to hold the same offices as they held before the commencement of this Act.

Secretary,
inspectors,
and officers.

23.—(1) The Board shall be assisted in the performance of their duties by a secretary and by such inspectors and other officers and servants as the Secretary of State, with the consent of the Treasury as to number, may determine. Such inspectors and other officers and servants shall include women as well as men.

(2) The secretary, inspectors, and other officers and servants shall be appointed by the Board, subject to the approval of the Secretary of State.

(3) There shall be paid to the secretary, inspectors, officers, and servants of the Board such salaries or remuneration as the Secretary of State, with the consent of the Treasury, may determine.

Disqualifica-
tions.

24.—(1) A person shall not be qualified to be a Commissioner, or an inspector, secretary, officer, or servant of the Board, if he is directly or indirectly interested in any certified institution or house, or approved home under this Act, or in any house licensed under the Lunacy Acts, 1890 to 1911, and any Commissioner, inspector, secretary, or officer who becomes so interested shall be disqualified to hold office.

(2) If any person holding any such office as aforesaid acts when he is disqualified under the provisions of this section, he shall be guilty of a misdemeanour.

General
powers and
duties of
Commis-
sioners.

25.—(1) Subject to regulations made by the Secretary of State, the Board shall—

- (a) exercise general supervision, protection, and control over defectives ;
- (b) supervise the administration by local authorities of their powers and duties under this Act ;
- (c) certify, approve, supervise, and inspect institutions, houses, and homes for defectives, and all arrangements made for the care, training, and control of defectives therein ;
- (d) visit, either through one or more Commissioners or through their inspectors, defectives in institutions and certified houses and approved homes, or under guardianship, or (with a view to their certification) elsewhere, and persons who have been placed under the care of any person as being defectives ;
- (e) provide and maintain institutions for defectives of dangerous or violent propensities ;
- (f) to take such steps as may be necessary for ensuring suitable treatment of cases of mental deficiency ;

(g) make annual reports (to be presented to Parliament) and such special reports as the Secretary of State may from time to time require ;

(h) administer, in accordance with this Act, grants made out of money provided by Parliament under this Act.

(2) Without prejudice to their powers and duties under any regulations which the Secretary of State may make for further or more frequent inspection and visitation, it shall be the duty of the Board, through one or more Commissioners, to inspect every certified institution, certified house, and approved home at least once in each year, and either through themselves or their inspectors to inspect every certified institution, certified house, and approved home one additional time in each year and every defective under guardianship, at least twice in every year, and any Commissioner shall have power to discharge at any time any person detained in a certified institution or certified house or under guardianship under this Act :

Provided that a Commissioner shall not exercise such power of discharge without the consent of the Secretary of State in the case of a person sent to such an institution by order of the Secretary of State from a prison, criminal lunatic asylum, place of detention, reformatory or industrial school, or inebriate reformatory, so long as the term for which he was committed to the prison or other place from which he was transferred remains unexpired.

26.—The salaries or other remuneration of the Commissioners and the officers of the Board, and any other expenses incurred by the Secretary of State or the Board in carrying this Act into effect, to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament.

Expenses
of central
authorities.

Local Authorities.

27.—The local authority for the purposes of this Act shall, as respects a county, be the council of the county, and, as respects a county borough, be the council of the borough.

Local autho-
rities.

28.—(1) Every local authority shall constitute a committee for the purposes of this Act, hereinafter called the committee for the care of the mentally defective, consisting of such members of the council appointed by the council as the council may determine, and of such persons, not being members of the council, but being poor law guardians or other persons having special knowledge and experience with respect to the care, control, and treatment of defectives, appointed by the council as the council may determine, and of the persons so

Committees
for the care
of defectives.

A.D. 1913.

appointed some shall be women, and of the whole committee the majority shall be members of the council :

Provided that, where a local authority has appointed one or more visiting committees or asylums committees under the Lunacy Acts, 1890 to 1911, then, if the council so determine—

- (a) the members of such committee or committees shall, with the addition of at least two women, act also as the committee for the care of the mentally defective ; or
- (b) the members of such committee or committees shall be the members of the council appointed by the council to be members of the committee for the care of the mentally defective.

(2) All matters relating to the exercise by the local authority of their powers under this Act (except the power of raising a rate or borrowing money) shall stand referred to the committee for the care of the mentally defective, and the local authority before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the committee with respect to the matter in question. The local authority may also delegate to the committee, with or without any restrictions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3) A person shall be disqualified for being a member of the committee for the care of the mentally defective who by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

Joint action.

29.—(1) Where on such application as is hereinafter mentioned it appears to the Secretary of State that two or more local authorities should join for the purpose of the exercise and performance of any of their powers and duties under this Act, the Secretary of State, with the concurrence of the Local Government Board, shall have power by order to make such provisions as appear to him necessary or expedient, by the constitution of a joint committee or joint board or otherwise, for the joint exercise and performance of all or any of the powers under this Act of such local authorities ; and any such order may provide how, and in what proportions and out of what funds or rates, the expenses incurred in the joint exercise and performance of such powers are to be defrayed, and may contain such incidental, consequential and supplemental provisions (including provisions adapting any of the provisions of this Act to the case of any committee or board so constituted) as may be necessary for the purposes of the order.

(2) An order under this section for the joint exercise and performance of all or any of the powers under this Act of two or more local authorities may be made on the application of one or more of such authorities, but, unless all such authorities agree to the making of such order, it shall be provisional only, and shall not have effect unless confirmed by Parliament. A.D. 1913.

(3) Any such order shall remain in operation for the period (if any) named therein, or, if no period is so named, until it is determined by mutual agreement between the local authorities concerned with the consent of the Secretary of State: Provided that any such order may be revoked or varied by an order made on a like application and subject to the like provisions as the original order.

(4) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to the making of Provisional Orders by the Local Government Board), shall, with the necessary modifications, apply for the purposes of this Act as if they were herein re-enacted and in terms made applicable thereto. 38 & 39 Vict.
c. 55.

30. The local authority are hereby empowered, and it shall be their duty, subject to the provisions of this Act and to regulations made by the Secretary of State— General
powers and
duties of
local
authorities.

- (a) to ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than under paragraph (a) of subsection one of section two of this Act ;
- (b) to provide suitable supervision for such persons, or if such supervision affords insufficient protection, to take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship in accordance with this Act ;
- (c) to provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under this Act, and for their maintenance therein, and for the conveyance of such persons to and from such institutions ;
- (d) to make provision for the guardianship of such persons when placed under guardianship by orders under this Act ;
- (e) if they think fit, to maintain in an institution or approved home or contribute towards the expenses of maintenance in an institution or approved home or the expenses of guardianship of any defectives other than aforesaid ;
- (f) if they think fit, to provide for the burial of persons dying in an institution or when placed under guardianship in accordance with this Act ;
- (g) to appoint or employ sufficient officers and other per-

A.D. 1913.

sons to assist them in the performance of their duties under this Act ;

- (h) to make to the Board annual reports and such other reports as the Board may require :

Provided that—

- (i) nothing in this Act shall be construed as imposing any obligation on a local authority to perform the duties mentioned in paragraphs (b), (c), (d), and (g) aforesaid where the contribution out of moneys provided by Parliament under this Act towards the cost on income account of performing such duties is less than one half of the net amount (as approved by the Board) of such cost ;
- (ii) nothing in this Act shall affect the powers and duties of poor law authorities under the Acts relating to the relief of the poor, with respect to any defectives who may be dealt with under those Acts ; nor the right of poor law authorities to receive the same grant for a defective who has been, or may be sent to an institution, that they would have received if the Idiots Act, 1886, had not been repealed ; nor shall local authorities under this Act have any duties with respect to defectives who for the time being are being provided for by such authorities as aforesaid, except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Local Government Board ;
- (iii) nothing in this Act shall affect the powers and duties of local authorities under the Lunacy Acts, 1890 to 1911, with respect to any defectives who may be dealt with under those Acts, nor shall local authorities under this Act have any duties or powers with respect to defectives who for the time being are, or who might be, provided for by such authorities as aforesaid except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Lord Chancellor ;
- (iv) nothing in this Act shall affect the duties or powers of local education authorities under the Education Acts ; and the duty of ascertaining what children over the age of seven and under the age of sixteen (hereinafter referred to as defective children) are defectives shall rest with the local education authority as hereinafter provided and not with the local authority under this Act ; and such last mentioned authorities shall have no duties as respects defective children, except those whose names and

49 & 50 Vict.
c. 25.

addresses have been notified to them by the local education authority under the provisions of this Act. A.D. 1913.

31.—(1) The duties of a local education authority shall include a duty to make arrangements, subject to the approval of the Board of Education,—

Duties
of local
education
authorities.

- (a) for ascertaining what children within their area are defective children within the meaning of this Act ;
- (b) for ascertaining which of such children are incapable by reason of mental defect of receiving benefit or further benefit from instruction in special schools or classes ;
- (c) for notifying to the local authority under this Act, the names and addresses of defective children with respect to whom it is the duty of the local education authority to give notice under the provisions hereinbefore contained.

In case of doubt as to whether a child is or is not capable of receiving such benefit as aforesaid, or whether the retention of a child in a special school or class would be detrimental to the interests of the other children, the matter shall be determined by the Board of Education.

(2) The provisions of section one of the Elementary Education (Defective and Epileptic Children) Act, 1899, shall apply with the necessary modifications for the purposes of this section.

62 & 63 Vict.
c. 32.

32.—(1) If the Board report to the Secretary of State that a local authority have made default in the performance of any of their duties under this Act, the Secretary of State may, after holding a local inquiry in any case where he deems it desirable to do so, and on being satisfied that such default has taken place, by order require the local authority to do such acts and things for remedying the default as he may direct, and any such order may be enforced by mandamus.

Power of
Secretary of
State to act
in default.

(2) Any expenses incurred by or on behalf of the Secretary of State under any such order or in respect of any such default, or in respect of any such inquiry, shall, if the Secretary of State so directs, be expenses of the local authority, and the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the Secretary of State within two months after demand, and in default of payment the amount thereof shall be recoverable as a debt due to the Crown.

(3) An order of the Secretary of State shall be conclusive in respect of any default, amount of expenses, and any other matter therein stated or appearing ; but nothing in this provision shall prejudice or affect the right or power of the

A.D. 1913.

Secretary of State or any other authority or person to take any other proceedings for requiring a local authority to perform their duties under this Act.

Expenses
and borrow-
ing by local
authorities.

33.—(1) The expenses of a local authority under this Act shall be defrayed, in the case of a county council out of the county fund, and in the case of a county borough council out of the borough fund or borough rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate :

Provided that the expenses incurred by a local authority in the exercise of their powers under this Act for purposes other than the fulfilment of their obligations under this Act shall not in any one year exceed an amount equal to that which would be produced by a rate of one halfpenny in the pound on the property liable to be assessed for the purpose as assessed for the time being for the purposes of that rate.

51 & 52 Vict.
c. 41.

(2) A local authority may borrow for the purposes of this Act in the case of a county council, as for the purposes of the Local Government Act, 1888, and in the case of a county borough council, as for the purposes of the Public Health Acts ; but in the application of section sixty-nine of the Local Government Act, 1888, to money borrowed by a county council under this Act a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the maximum period within which money borrowed is to be repaid, and the money borrowed by a county borough council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

38 & 39 Vict.
c. 55.

(3) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875.

(4) Separate accounts shall be kept by the council of a county borough of their receipts and expenditure under this Act.

Special pro-
visions as to
Lancashire.

54 & 55 Vict.
c. xx.

34. The Lancashire Asylums Board shall, as respects the county of Lancaster and the county boroughs represented on the said Board, be the local authority for the purposes of this Act for that county and those county boroughs, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts, and audit shall apply accordingly in substitution for the provisions as to the like matters contained in this Act.

A.D. 1913.

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, ETC.

35.—(1) The Board, subject to the approval of the Secretary of State, may establish and maintain institutions for defectives of dangerous or violent propensities (in this Act referred to as State institutions), and for that purpose the Secretary of State may cause to be transferred to the Board the whole or any part of any building vested in the Prison Commissioners or otherwise under the control of the Secretary of State, or may, with the approval of the Treasury, authorise the Board under this Act either to acquire any land or erect or acquire any building.

State institutions.

(2) For the purposes of this Act, the Board shall be deemed to be the managers of State institutions.

36. The Board may, upon the application of the managers of premises intended for the reception, control, care, and treatment of defectives, if satisfied of the fitness of the premises and of the persons proposing to maintain them for such purposes, grant a certificate to the managers to receive defectives therein, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and an institution so certified is in this Act referred to as a certified institution.

Certification of institutions.

37. (1) On the application of the local authority for any area comprising the whole or any part of a poor law union, the Board may, subject to the consent of the Local Government Board, if satisfied of the special fitness for the detention, care, and training of defectives of any buildings or other premises provided by the board of guardians of that union, either alone or in conjunction with any other board of guardians, approve the premises for the reception of defectives, and thereupon this Act shall apply as if the premises so approved were a certified institution and the guardians were the managers thereof, and, so long as any such premises continue to be so approved, it shall be lawful for the board of guardians in their capacity of managers, subject to the approval of the Local Government Board, to enter into agreements with any local authority as to the reception and maintenance therein of defectives ordered to be sent thereto under this Act, and to receive such defectives accordingly.

Approval of premises provided by boards of guardians.

(2) Any defective ordered to be sent to any such premises under this Act shall not be deemed to be in receipt of poor law relief by reason that the premises are provided by a board of guardians.

A.D. 1913.

Power of local authorities to establish or contribute to institutions.

38.—(1) A local authority may, subject to the approval of the Secretary of State,—

(a) undertake or combine with any other local authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards the establishment, building, alteration, enlargement, rebuilding, or management of institutions certified or intended to be certified under this Act or the purchase of any land required for the use of a certified institution or for the site of an institution intended to be certified under this Act; and

(b) contract with the managers of any certified institution for the reception and maintenance in the institution of persons for whose reception and maintenance the local authority are by this Act required or authorised to make provision.

(2) Where plans of any proposed alteration, enlargement, rebuilding or building have been approved by the Secretary of State for the purposes of this section, they shall be carried out without any modifications (except such as the Secretary of State may approve), and no building or site which has been provided by a council or to which they have contributed under this section shall, without the consent of the Secretary of State, be used for any purpose other than that for which it has been approved.

(3) Land may be acquired by a local authority for the purposes of this Act in the case of the council of a county under and in accordance with the Local Government Act, 1888, and in the case of the council of a county borough as for the purposes of the Public Health Acts.

51 & 52 Vict.
c. 41.

Transfer of premises for use as institutions.

39. Where any premises vested in the Prison Commissioners, any board of guardians, or other public authority are no longer required for the purposes for which they were provided, and the Board of Control are satisfied as to the fitness of the premises for the reception of defectives, the Prison Commissioners, the board of guardians, or other authority may, with the consent of the Secretary of State, the Local Government Board, or other Department of the Government concerned, lease or grant the use of the premises to any local authority under this Act, or other person, for the purpose of their being used as a certified institution.

Visitors of Institutions.

40.—(1) The persons appointed under the Lunacy Acts, 1890 to 1911, to act as visitors of licensed houses, with the addition of one or more women appointed in like manner as such visitors, shall be the visitors of institutions for defectives under this Act, and the number of persons appointed to be visitors of licensed houses under those Acts shall be such as may be considered necessary to perform the duties of visitors

of institutions for defectives under this Act as well as the duties of visitors of licensed houses under those Acts, and their duties under this Act shall be taken into consideration in determining the remuneration, if any, of the visitors and clerks to visitors. A.D. 1913.

(2) In all places where no persons are so appointed to act as visitors of licensed houses a sufficient number of persons, possessing the like qualifications as such visitors, with the addition of one or more women, shall be appointed in like manner as such visitors to act as visitors of institutions for defectives, and a clerk to such visitors shall be appointed in like manner as in the case of the clerk to the visitors appointed under the Lunacy Acts, 1890 to 1911, and the expenses of visitors so appointed, including the remuneration, if any, of any visitors and clerks to visitors, shall be defrayed in like manner as the expenses of visitors under the Lunacy Acts, 1890 to 1911.

(3) The visitors of institutions for defectives shall perform such functions as are assigned to them by this Act and such further functions in connection with the visitation of institutions and of the patients therein, and of defectives under guardianship, and with respect to the discharge of such defectives and their after care and otherwise, as may be assigned to them by regulations of the Secretary of State under this Act.

- 41.—(1) The Secretary of State may make regulations as to—
- (a) the granting, transfer, renewal, revocation, and re-signation of certificates for institutions ;
 - (b) the management of institutions ;
 - (c) the classification and treatment of patients in institutions, their instruction, and their employment in suitable occupations, and the reports to be made as to their mental condition and otherwise in respect of them ;
 - (d) the inspection of institutions and the visitation of patients therein by the Board and inspectors and other persons ;
 - (e) the notification to the Board of the admission of a patient to an institution ;
 - (f) the transfer of patients from one certified institution to another, and from a State institution to a certified institution, and, in cases appropriate to State institutions, from a certified institution to a State institution ;
 - (g) the discharge of patients from institutions ;
 - (h) the absence of patients from institutions under licence or temporarily without licence ;
- Regulations
as to man-
agement of
institutions
for defect-
ives, &c.

A.D. 1913.

- (i) the notifications to be made by the managers in the event of the outbreak of an infectious disease in an institution and in the event of the death of a patient in an institution or absent therefrom under licence ;
- (j) the conveyance of persons to and from institutions ;
- (k) the burial of persons dying in institutions ;
- (l) the powers and duties of persons appointed guardians of defectives under this Act ; the reports to be made by such guardians as to defectives under their guardianship ; the visitation of such defectives ; and their discharge from guardianship ;
- (m) the granting, renewal, and revocation of approval of homes for defectives ;
- (n) the holding of inquiries and any other matter necessary or proper for the carrying into effect of the provisions of this Act with respect to institutions, and the inmates thereof, and to guardianship ;
- (o) the application, as respects any matters to be dealt with by regulations, of any of the provisions of the Lunacy Acts, 1890 to 1911, dealing with the like matters, subject to the necessary modifications and adaptations ;
- (p) the study of improved methods of treating mental deficiency ;

(2) The regulations made under this section shall make applicable as respects institutions and the patients therein the provisions of sections forty, forty-one, forty-two, forty-seven, and fifty-three of the Lunacy Act, 1890 :

Provided that nothing in this subsection shall be construed as restricting any power of the Secretary of State under subsection (1) of this section.

Apprehension of defectives escaping.

42.—If a patient in an institution or absent from an institution under licence or without a licence escapes, he may be apprehended without warrant by any constable or by the managers of the institution or any person authorised by them in writing, and brought back to the institution.

Ascertainment of local authority responsible for providing accommodation, &c.

43.—(1) Where a person is ordered to be sent to a certified institution or to be placed under guardianship, the local authority responsible for providing accommodation for that person or making provision for his guardianship, as the case may be, shall be the council of the county or county borough in which he resided (to be specified in the order), and the duties of that council shall include, in the case of a person ordered to be sent to a certified institution, the duty to provide for his conveyance to, and reception and maintenance in, such an institution.

(2) An order that a person be sent to an institution or

placed under guardianship shall not, where a council will by virtue of this Act become responsible for providing for the conveyance, reception and maintenance of that person in an institution, or making provision for his guardianship, as the case may be, be made unless that council have been given an opportunity of being heard, or, if the order is made by the Secretary of State, of making representations to him, and, if room is available in an institution, suitable for the defective, provided by the responsible authority, an order shall not, without the consent of that authority, be made for sending the defective to any other institution.

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(3) The council responsible under this section for the maintenance of a person in a certified institution shall continue responsible for his maintenance in the event of his transfer to another such institution, and shall be responsible for his conveyance on his transfer from the one institution to the other; and the council responsible under this section for making provision for the guardianship of a person placed under guardianship shall, in the event of his being sent to a certified institution under an order varying the original order, be responsible for the conveyance to, and his reception and maintenance in, such an institution.

44.—(1) Where the order is made in respect of a person found guilty of an offence, that person shall for the purposes of the provisions of the last preceding section be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place :

Determination of residence.

Provided that, where the order is made by a court of assize or quarter sessions, the court shall remit to a court of summary jurisdiction for the place where the person is committed for trial the determination of his place of residence.

(2) Where the order is made by the Secretary of State, then—

- (a) if the order is in respect of a person in a prison, infirmary, reformatory, criminal lunatic asylum, or place of detention, that person shall, for the purposes of the provisions of the last foregoing section, be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place ;
- (b) if the order is in respect of a person in a reformatory or industrial school, that person shall, for the purposes of the provisions of the last foregoing section, be deemed to have resided in the place (if any) determined to have been his place of residence for the purposes of his committal to the reformatory or industrial school.
- (3) Where a council are aggrieved by a decision as to the

A.D. 1913.

place of residence of any person, they may, within three months after the making of the order, apply to a petty sessional court acting in and for such place as may be prescribed, and that court, on proof to its satisfaction that the person in respect of whom the order was made was resident in the area of some other council, and after giving such other council an opportunity of being heard, may transfer the liability to that other council, and may order that other council to repay the first-mentioned council any expenses incurred by them in respect of the person in question, and an appeal shall lie from the decision of the court to a court of quarter sessions; but nothing in this provision shall affect the liability of the first-mentioned council under the original order until an order made transferring the liability to another council comes into force.

(4) In the case of doubt as to where a person resides the expression "place of residence" in this section shall be construed as the county or county borough (as the case may be) in which the person would, if he were a pauper, be deemed to have acquired a settlement within the meaning of the law relating to the relief of the poor.

42 & 43 Vict.
c. 49.

(5) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879, shall extend to making rules for prescribing anything which under this section is to be prescribed, and generally to the procedure of courts of summary jurisdiction under this section.

Superannua-
tion of
officers.
9 Edw. 7.
c. 48.

45.—(1) The Asylums Officers' Superannuation Act, 1909, shall apply to the officers of certified institutions provided by local authorities, with the substitution of references to the managers of such institutions for references to visiting committees of asylums, and with such other adaptations and modifications as the Secretary of State may by order prescribe, and in particular such modifications may include the alteration of—

- (a) the periods of service entitling to superannuation allowances;
- (b) the scale of superannuation allowances and gratuities;
- (c) the scale of contributions:

Provided that nothing in this section shall authorize the Secretary of State to prescribe by order any modifications of the Asylums Officers' Superannuation Act, 1909, which would have the effect of increasing the amount of any superannuation allowance which could be granted to, or of reducing the amount of any contribution made by, any officer or servant under that Act.

(2) Before an order is made by the Secretary of State under this section, the draft thereof shall be laid before each House

of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses, before the expiration of those thirty days, presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereunder, without prejudice to the making of any new draft order.

A.D. 1913.

46.—(1) The managers or owner of any certified institution not provided by a local authority, or of a certified house or an approved home, may establish, or join with the managers or owners of one or more such institutions, houses, or homes in establishing, a scheme for the payment of superannuation allowances and gratuities to officers thereof who become incapable of discharging the duties of their office by reason of permanent infirmity of mind or body, or old age, upon their resigning or otherwise ceasing to hold their offices.

Scheme for the payment of superannuation allowances or gratuities to officers.

(2) The expenses incurred under any such scheme shall be treated as part of the expenses of management.

47.—There shall be paid out of money provided by Parliament such sums on such conditions as the Secretary of State may, with the approval of the Treasury, recommend toward the expenses of any persons detained in certified institutions or placed under guardianship, including the expenses of removal in the case of any such person ordered to be transferred from one such institution to another and towards other expenses incurred by local authorities under this Act :

Contributions by the Treasury.

Provided that, unless Parliament otherwise determines, the aggregate amount so paid in any financial year shall not exceed one hundred and fifty thousand pounds, but for the purpose of this limitation there shall be excluded all sums paid towards the expenses of persons sent to such institutions or placed under guardianship—

(a) by order of the Secretary of State ;

(b) by order of a court or judicial authority after having been found guilty of an offence, or having been ordered or found liable to be ordered to be sent to an industrial school.

48.—Where a society has undertaken the duty of assisting or supervising defectives whilst not in institutions under this Act, there may be paid to the society out of money provided by Parliament towards the expenses of the society in connection with such persons such sums and on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

Treasury Contributions towards expenses of societies assisting defectives.

49.—(1) A person desirous of receiving defectives at his house for private profit may apply to the Board for a certifi-

Provisions as to certified houses.

A.D. 1913.

cate, and the Board, if satisfied of the fitness of the premises and of the applicant, may, if they think fit, on payment by the applicant of the prescribed fee, grant a certificate to the applicant subject to such conditions as they may impose, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and a house in respect of which such a certificate is in force is in this Act referred to as a certified house, and the person to whom such a certificate is granted is referred to as the owner of such house.

(2) Any defective who may be ordered to be sent to, or may be placed in, an institution under this Act may be ordered to be sent to, or may be placed in, a certified house, and all the provisions of this Act relating to institutions and the patients therein shall apply to certified houses and the patients therein :

Provided that—

- (a) no part of the money provided by Parliament under this Act shall be applied towards the expenses of defectives in certified houses ; and
- (b) a local authority shall have no power or duty to contribute towards the expenses of defectives ordered to be sent to, or placed in, a certified house or to provide for their conveyance to, and reception and maintenance in, a certified house ; and
- (c) the provisions of this Act with respect to the recovery from defectives or the persons liable to maintain them of contributions towards the expenses of their maintenance shall not apply in the case of defectives in, or ordered to be sent to, certified houses ; and
- (d) a special report under section eleven of this Act as to the mental and bodily condition of a defective detained in a certified house shall not be made by the medical officer of the house or by any medical practitioner directly or indirectly interested in the house.

Provisions as to approved homes.

50.—(1) The managers of any premises wherein defectives are received and supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, and any person desirous of receiving defectives in his house for private profit, may apply to the Board to approve the premises or house, and the Board, if satisfied of the fitness of the same and of the applicant, may, if they think fit, on payment by the applicant of such fee (if any) as may be prescribed, grant their approval subject to such conditions as to inspection, the

making of reports, and otherwise as they may think fit, and any such approval shall continue valid for the period for which it is granted or until withdrawn under this Act, and any premises or house so approved are in this Act referred to as an approved home. A.D. 1913.

(2) It shall not be lawful to receive or detain in an approved home any person ordered to be sent to an institution for defectives under an order of the judicial authority, or a court, or a Secretary of State under this Act.

PART IV.

GENERAL.

Offences, Legal Proceedings, etc.

51.—(1) It shall not be lawful for a person without the consent of the Board to undertake the care and control of more than one person who is a defective, or who is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, and, if any person contravenes this provision, he shall be guilty of a misdemeanour. Offences with respect to the reception and detention of defectives.

(2) Where a person undertakes the care and control of any person who is a defective or is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, he shall, within forty-eight hours after the reception of such person, give notice thereof in the prescribed form to the local authority and to the Board, and, if he fails to do so, he shall be guilty of an offence under this Act.

(3) If any manager of any institution for defectives, or the owner of a certified house, or the guardian of a defective, detains a patient or exercises any of the powers conferred upon him by this Act after he has knowledge that those powers have expired, he shall be guilty of a misdemeanour.

(4) Nothing in this section shall apply to or affect any person who under the Lunacy Acts, 1890 to 1911, or the Elementary Education (Defective and Epileptic Children) Act, 1899, as amended by any subsequent enactment, receives or detains any person in accordance with those Acts, notwithstanding that the person so received and detained is a defective within the meaning of this Act.

52.—If any person, having been warned by a person appointed to be guardian of a defective under this Act, or by a person under whose charge a patient absent from an institution or from a certified house has been placed, not to supply intoxicants to or for the use of the person under his guardianship or charge, knowingly supplies any intoxicants to or for Offence of supplying intoxicants contrary to warning.

A.D. 1913.

the use of that person, he shall be guilty of an offence under this Act :

Provided that a person shall not be guilty of the offence of supplying intoxicants in contravention of the warning if the person giving the warning refuses, when required so to do, to produce the authority under which he acts.

Offences in relation to institutions, etc.

53.—If any person secretes a patient in any institution or certified house or approved home or induces or knowingly assists a patient in an institution or a certified house, or a person allowed out from such an institution or house either on licence or without a licence, or a person in a place of safety or under guardianship under this Act, to escape or to break any conditions of his guardianship or licence, he shall be guilty of an offence under this Act.

Obstruction.

54.—(1) Any person who obstructs any Commissioner or inspector or visitor or any officer or other person appointed or employed by a local authority in the exercise of the powers conferred by or under this Act, shall be guilty of a misdemeanour.

(2) Any person who wilfully obstructs any other person authorized under this Act by an order in writing under the hand of the Secretary of State to visit and examine any person alleged to be a defective, or to inspect or inquire into the state of any institution, certified house, approved home, prison, or place wherein any person represented to be a defective is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorized under this Act by any order of the Board to make any visit and examination or inquiry in the execution of such order, shall be guilty of an offence under this Act.

Ill-treatment.

55.—If any manager, officer, nurse, attendant, servant, or other person employed in an institution or certified house, or approved home, or any person having charge of a defective, whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, illtreats or wilfully neglects the defective, he shall be guilty of a misdemeanour.

Protection of defectives from acts of sexual immorality, procuration, etc.

56.—(1) Any person—

(a) who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any woman or girl under care or treatment in an institution or certified house or approved home, or whilst placed out on licence therefrom or under guardianship under this Act ; or

(b) who procures, or attempts to procure, any woman or girl who is a defective to have unlawful carnal

connection, whether within or without the King's dominions, with any person or persons ; or

- (c) who causes or encourages the prostitution, whether within or without the King's dominions, of any woman or girl who is a defective ; or
- (d) who, being the owner or occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any woman or girl who is a defective to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally ; or
- (e) who, with intent that any woman or girl who is a defective should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such woman or girl out of the possession and against the will of her parent or any other person having the lawful care or charge of her ;

shall be guilty of a misdemeanour and shall be liable upon conviction on indictment to be imprisoned, with or without hard labour, for any term not exceeding two years unless he proves that he did not know, and had no reason to suspect, that the woman or girl was a defective.

(2) Section ten of the Criminal Law Amendment Act, 1885, shall apply in the case of a woman or girl who is a defective in the same manner as it applies in the case of a girl who is under the age of sixteen years. 48 & 49 Vict.
c. 69.

(3) Without prejudice and in addition to the provisions of the Criminal Law Amendment Act, 1880, no consent shall be any defence in any proceedings for an indecent assault upon any defective, if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a defective. 43 & 44 Vict.
c. 45.

(4) No indictment under this section shall be tried at quarter sessions.

(5) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence under paragraph (a) of subsection (1) of this section, but are not satisfied that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished as if he had been convicted on an indictment for such offence as aforesaid.

(6) Section four of the Criminal Evidence Act, 1898, shall have effect as if this section of this Act were included in the Schedule of that Act. 61 & 62 Vict.
c. 36.

A.D. 1913.
False
entries.

57.—Any person who in any book, statement, or return knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make an entry shall be guilty of a misdemeanour.

Punishment
of person
making un-
true state-
ment for
purpose of
obtaining
certificate or
approval.

58.—If any person, for the purpose of obtaining any certificate or approval under this Act or the renewal of any such certificate or approval, wilfully supplies to the Board any untrue or incorrect information, plan, description, or notice he shall be guilty of a misdemeanour.

Penalty for
breach of
regulations.

59.—If any person is guilty of a breach of any regulation made under this Act, he shall be liable on summary conviction to a penalty not exceeding such as may be prescribed as respects such a breach by the regulations, but the maximum penalty imposed by the regulations in respect of any breach shall not exceed imprisonment, with or without hard labour, for a term of three months or a fine of fifty pounds, or both.

Punishment
for offences.

60.—(1) An offence under this Act declared to be a misdemeanour shall be punishable by fine or by imprisonment for a term not exceeding two years, with or without hard labour, but may, except where otherwise expressly provided, instead of being prosecuted on indictment, be prosecuted summarily, and, if so prosecuted, shall be punishable only with imprisonment for a term not exceeding three months, with or without hard labour, or with a fine not exceeding fifty pounds or both.

(2) Any other offence under this Act shall be punishable summarily with imprisonment for a term not exceeding three months with or without hard labour, or with a fine not exceeding fifty pounds, or both.

Appeals.

61.—Any person aggrieved by the conviction or sentence of a court of summary jurisdiction under this Act may appeal to quarter sessions.

Protection
of officers
for the pur-
poses of
arrest.

62.—The managers of an institution and the owner of a certified house and every officer of such institution or house authorized in writing by the managers or owner, for the purpose of conveying a person to or from the institution, or house, or of apprehending and bringing him back to the institution or house in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protections, and privileges of a constable.

Application
of sections
330 and 332
of Lunacy
Act, 1890.

63.—Section three hundred and thirty of the Lunacy Act, 1890, which relates to the protection of persons putting that Act in force, and section three hundred and thirty-two of

the same Act, which relates to the powers of Commissioners and visitors to summon witnesses, shall have effect as if they were herein enacted and in terms made applicable to this Act.

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Supplemental.

64.—The provisions of section fifty and Part IV. of the Lunacy Act, 1890, as amended by any subsequent enactment, shall apply with respect to the management and administration of the estate of a person sent to or placed in an institution or to or in a certified house or placed under guardianship in accordance with the provisions of this Act, in like manner as they apply to the management and administration of the estate of a person lawfully detained as a lunatic but not so found by inquisition, and shall apply to the management and administration of the estate of a person with regard to whom it is proved to the satisfaction of the judge in lunacy that he is a defective within the meaning of this Act in like manner as they apply to the management and administration of the estate of a person who is through mental infirmity arising from disease or age incapable of managing his affairs.

Administra-
tion of pro-
perty.
53 & 54 Vict.
c. 5.

65.—(1) All the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890 to 1911, shall, as from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorised to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any officer of those Commissioners shall be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding officer of the Board :

Transfer to
Board of
powers and
duties of
Lunacy
Commis-
sioners.

Provided that nothing in such Order in Council shall authorise anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two commissioners, one a medical and the other a legal commissioner, but the order may provide that, in the case of the temporary illness or disability of a legal or medical commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical commissioner to act as substitute so long as the illness or disability continues.

(2) As from the commencement of this Act, the existing staff of the Commissioners in Lunacy shall be transferred to and become members of the staff of the Board, but without prejudice to the rights of any existing members of such staff.

(3) As from the commencement of this Act, sections one hundred and fifty to one hundred and sixty-one of the Lunacy Act, 1890, shall be repealed.

A.D. 1913.
Power to
authorise
committee
for care of
mentally
defective
to act as
asylums
committee.

Repeal of
Idiots Act,
1886.

66.—The Secretary of State may by order authorise the council of a county or county borough acting as a local authority under the Lunacy Acts, 1890 to 1911, to appoint the committee for the care of the mentally defective constituted under this Act to be the visiting committee or asylums committee for the purposes of those Acts, anything in those Acts to the contrary notwithstanding.

67.—(1) The Idiots Act, 1886, is hereby repealed.

(2) Any hospital, institution, or licensed house which at the commencement of this Act is registered under the Idiots Act, 1886, shall, without further certification, become a certified institution under this Act :

Provided that—

(a) if any such hospital, institution, or licensed house is carried on for private profit, the hospital, institution, or house shall become a certified house instead of a certified institution ; and

(b) if the committee of management of any such hospital, institution, or licensed house make an application to the Board for the purpose, and the Board makes an order, the whole or any part of the hospital, institution, or house to which the order relates shall become and be treated as an approved home.

(3) Any person who before the commencement of this Act has been placed in a hospital, institution, or licensed house registered under the Idiots Act, 1886, may, after the commencement of this Act, continue to be detained therein in like manner in all respects as if he had been placed therein in pursuance of the provisions of this Act and immediately after the commencement thereof.

(4) Nothing in this Act shall affect the right of any person who is or has been an officer or servant of a hospital, institution, or licensed house registered under the Idiots Act, 1886, to receive or to continue to receive any superannuation allowance to which he would have been entitled had this Act not been passed.

Provisions
as to regu-
lations.

68.—Regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and, if within thirty sitting days after they have been so laid either House of Parliament presents an address to His Majesty praying that any such regulations may be annulled, His Majesty may, by Order in Council, annul the regulations, without prejudice, however, to anything done thereunder, and the regulations made under this Act shall have effect as if enacted in this Act.

69.—The time during which a defective is detained in an institution or resides in an approved home under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Poor Removal Act, 1846, as amended by any subsequent enactment.

A.D. 1913.
Liability to removal.
9 & 10 Vict.
c. 66.

70.—The maintenance in an institution or under guardianship under this Act of any person for whose maintenance any other person is responsible shall not deprive that other person of any franchise, right, or privilege, or subject him to any disability.

Provisions against disfranchisement.

71.—(1) In this Act, unless the context otherwise requires,— Interpretation.

The expression “prescribed” means prescribed by regulations made under this Act :

The expression “parent or guardian” in relation to a defective shall include any person who undertakes or performs towards the defective the duty of a parent or guardian :

The expression “relative” means the husband or wife or a lineal ancestor or lineal descendant, or lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother :

The expression “intoxicants” includes any intoxicating liquor, and any sedative, narcotic, or stimulant drug or preparation :

The expression “place of safety” means any workhouse or police station, any institution, any place of detention, and any hospital, surgery, or other suitable place, the occupier of which is willing to receive temporarily persons who may be taken to places of safety under this Act :

The expression “special school or class” means a special school or class within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899 :

The expressions “institution” and “institution for defectives” mean a State institution or certified institution :

The expression “State institution” means an institution for defectives of dangerous or violent propensities established by the Board under this Act :

The expression “certified institution” means an institution in respect of which a certificate has been granted under this Act to the managers to receive defectives therein, and includes, subject to the provisions of this Act, any premises provided by a board of guardians and approved under this Act :

The expression “certified house” means a house in which defectives are received by the owner thereof for his

A.D. 1913.

private profit, and in respect of which a certificate has been granted under this Act :

The expression " approved home " means any premises in which defectives are received and supported wholly or partly by voluntary contributions, or by applying the excess of payment of some patients for or towards the support of other patients, or a house in which defectives are received by the owner thereof for his private profit, and which has been approved by the Board under this Act :

The expression " institution for lunatics " has the same meaning as in the Lunacy Acts, 1890 to 1911 :

The expression " board of guardians of a poor law union " shall include the Metropolitan Asylums Board and any joint committee of a combination of unions constituted by order of the Local Government Board.

(2) Cost on income account shall, as respects an institution provided by a local authority, include expenditure out of income by the authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the institution.

(3) For the purposes of this Act, the Scilly Islands shall be deemed to be a county, and the council of those islands the council of a county, and any expenses incurred by that council under the provisions of this Act shall be treated as general expenses of the council.

Short title,
extent, and
commence-
ment.

72.—(1) This Act may be cited as the Mental Deficiency Act, 1913.

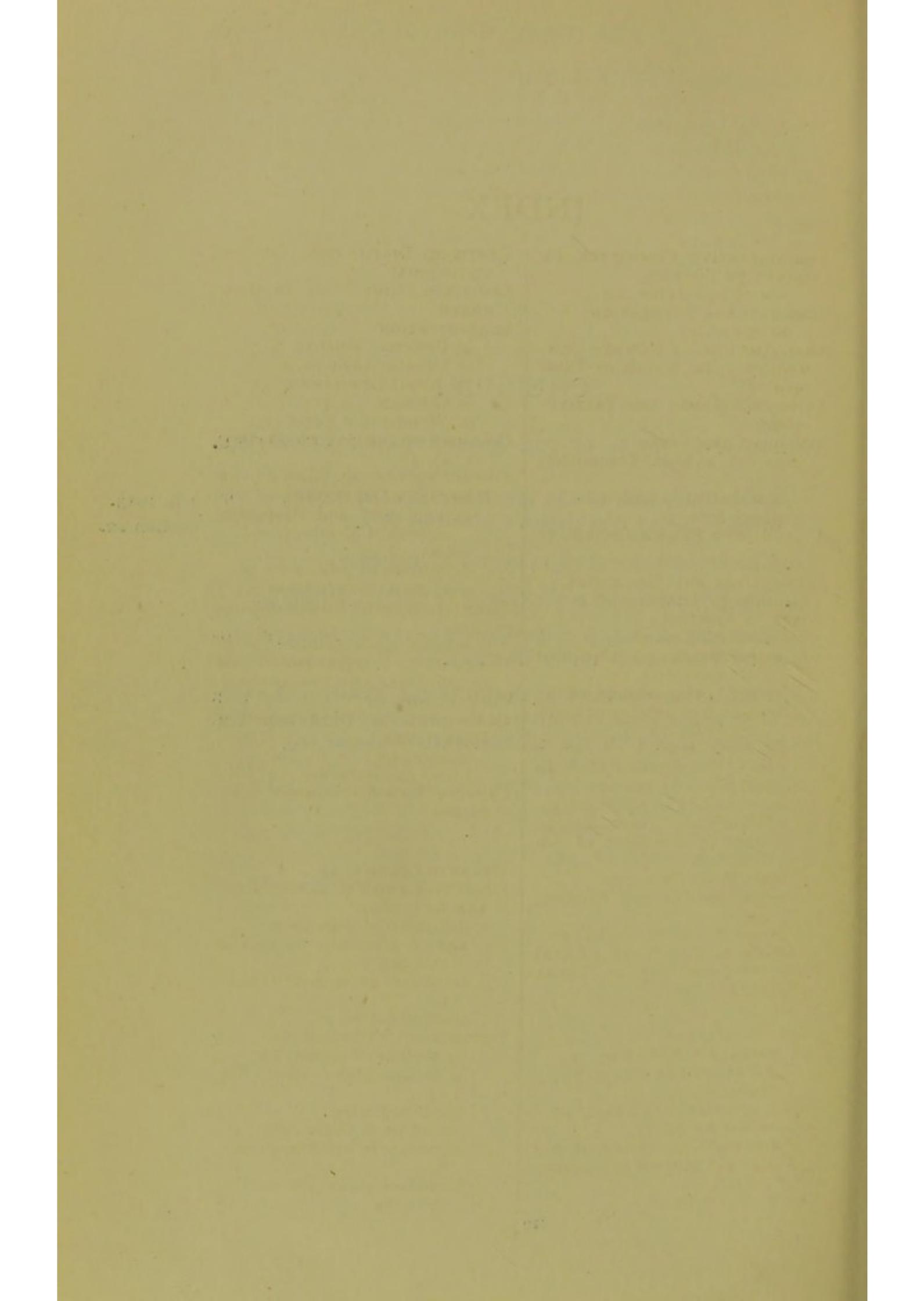
(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of April nineteen hundred and fourteen, except that as respects the constitution of the Board of Control, and the appointment of the secretary, officers, and servants of the Board, it shall come into operation on the first day of November nineteen hundred and thirteen.

SCHEDULE.

POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE.

1. The supervision of the administration by local authorities of their power and duties under this Act. A.D. 1913.
Section 22.
2. The certification and approval of premises.
3. The provision and maintenance of State institutions.
4. The administration of grants made out of moneys provided by Parliament under this Act.
5. Such other powers and duties of the Board under this Act of an administrative nature as the Secretary of State or the Board may assign to the administrative committee.



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