

The Mental Deficiency Act, 1913 : together with the regulations and rules made under the provisions of that Act, the departmental circulars, the Elementary (Defectice and Epileptic Children) Acts, 1899 and 1914, and, introduction and annotations / by R.A. Leach.

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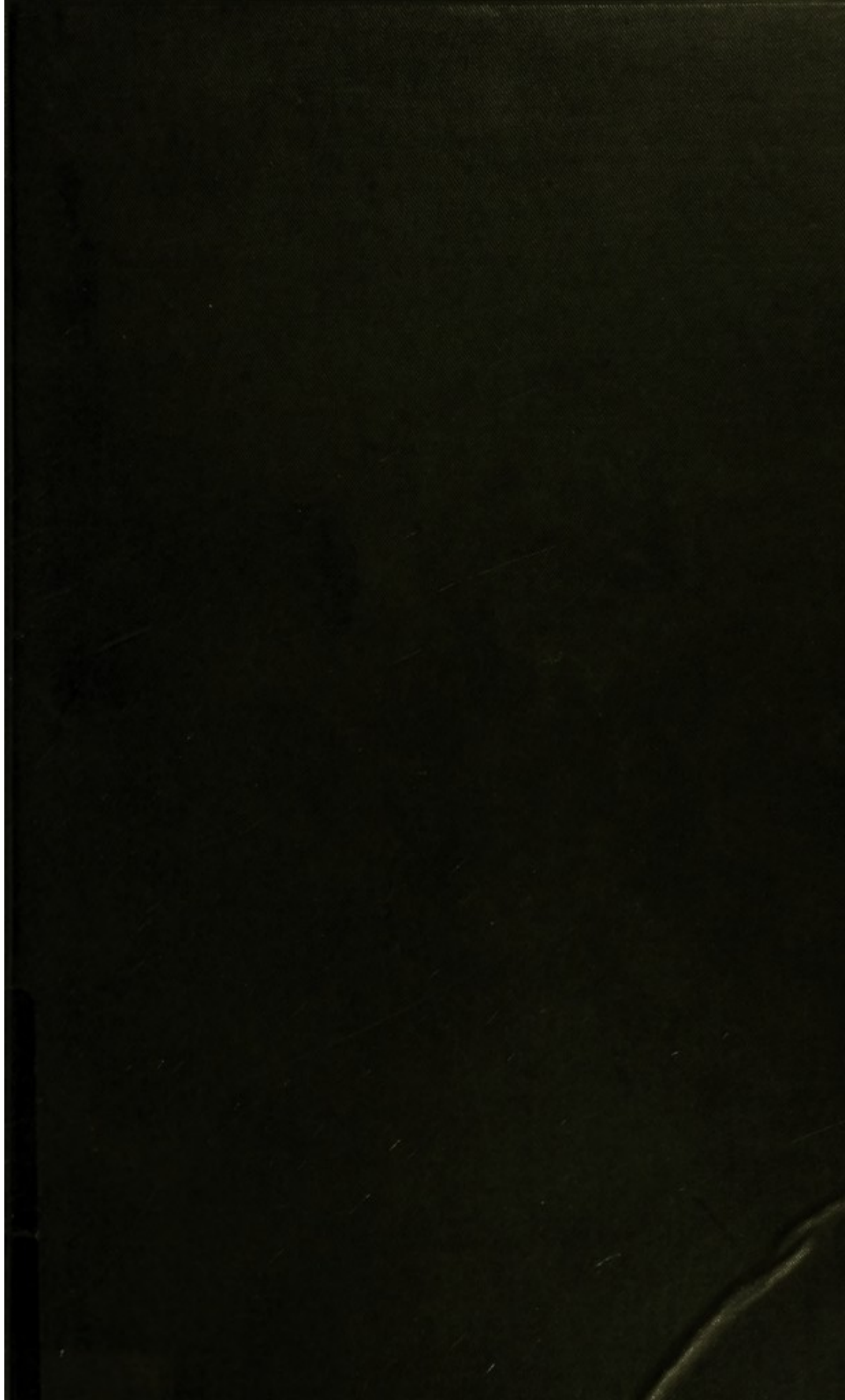
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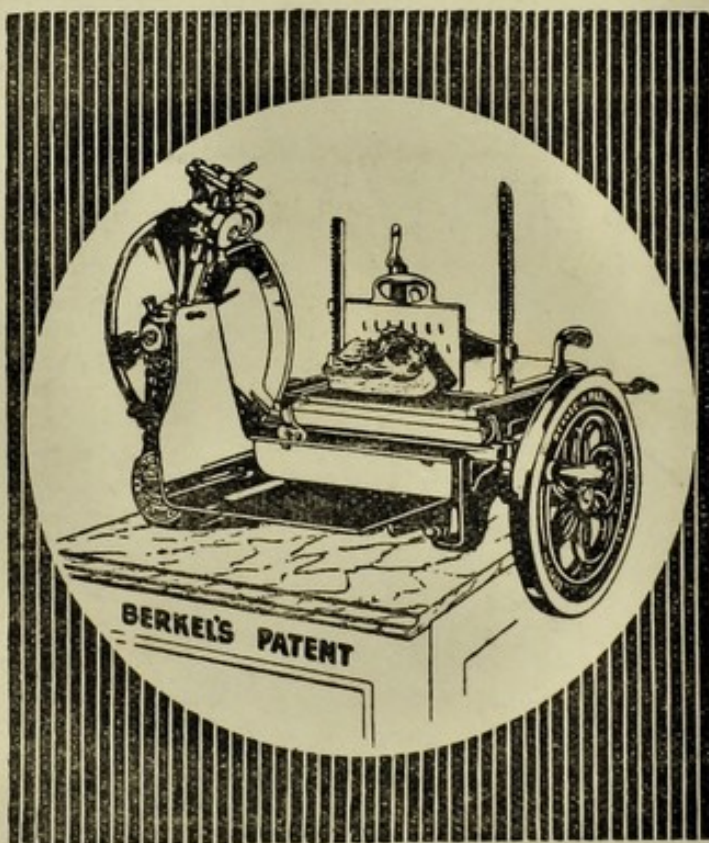
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THE
MENTAL DEFICIENCY
ACT, 1913,

TOGETHER WITH

THE REGULATIONS AND RULES MADE UNDER THE
PROVISIONS OF THAT ACT, THE DEPARTMENTAL
CIRCULARS, THE ELEMENTARY (DEFECTIVE
AND EPILEPTIC CHILDREN) ACTS,
1899 AND 1914,

AND

INTRODUCTION AND ANNOTATIONS

BY

R. A. LEACH,
Of Gray's Inn, Barrister-at-Law.

[SECOND EDITION.]

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The Mental Deficiency Act, 1913.

INTRODUCTION TO SECOND EDITION.

Since the publication of the First Edition the Regulations and Rules made under the provisions of the Act have been issued; and also a number of important Departmental Circulars on the provisions of the Act and the Regulations and Rules. There has also been placed on the Statute Book the Elementary Education (Defective and Epileptic Children) Act, 1914, which, together with the Elementary Education (Defective and Epileptic Children Act) 1899, stands, so far as mentally defective children are concerned, in correlation to the Mental Deficiency Act, 1913—see section 31 of that Act. All the said Regulations, Rules, Departmental Circulars, and the two Elementary Education Acts have been given their place in this Second Edition, and have necessitated the re-writing of most of the annotations to the Mental Deficiency Act, 1913, in the First Edition. The re-writing of the annotations has been necessitated for the amplification, not the correction, of what was given in the First Edition.

The First Edition having been received with much appreciation, it is with confidence that this Second Edition is issued as a guide to all those who, as Local Authorities or as Officials or others, are legally charged with, or are interested in, the care and control of the Mentally Defective—adults or children. As in the Introduction to the First Edition, so in this Edition, indebtedness is gladly acknowledged for the assistance given by Mr. R. Webber Leach, of Gray's Inn, in the re-written annotations and in the annotations to the Regulations.

In the Introduction to the First Edition reference is made to the adverse criticism, during Committee stage, of the inadequacy of the Parliamentary Grant (£150,000) under the Mental Deficiency Act, 1913 (see section 47). When the Finance Bill, 1914, was first introduced it contained a proposal (Fifth Schedule) for the repeal of section 47, and a substitution therefor (Second

Schedule, Part 1) of a grant on the basis of "Half the net amount of the cost on income account properly incurred by the Council in performing their duties under paragraphs (b), (c), (d) and (g) of section 30 of the Mental Deficiency Act, 1913,"—i.e., as approved by the Board of Control. That basis is the same as that laid down in the said section. Apparently, therefore, there was to be no gain. The proposal, however, had it received legislative sanction, would have been a real gain as by the repeal of section 47 the fixity of the maximum sum for distribution would have been removed. These provisions of the Finance Bill, being part and parcel of proposals for the re-organisation of Grants to Local Authorities in England and Wales, were subsequently withdrawn, largely owing to strong opposition taken on the ground that as the re-organisation of the grants was subject to proposals for a new system of valuation for rating purposes the Valuation Bill, which had not been introduced, should be tabled before legislative proposals for a re-organisation of the Grants were enacted. The outbreak of the War has doubtless interfered with the programme of the Government in these matters.

R. A. L.

11th December, 1914.

INTRODUCTION TO FIRST EDITION.

THE Mental Deficiency Act, 1913, has been enacted in a very different form from that in which it was originally introduced in the House of Commons during the 1912 Session of Parliament by Mr. McKenna, the Home Secretary, on behalf of the Government. The original Bill was introduced in the fulfilment of an oft-repeated promise to bring in a Bill to carry out the recommendations of the Royal Commission on the Care and Control of the Feeble-minded, whose report was issued on 10th July, 1908, after nearly four years of investigation. After the second reading in the House of Commons the Bill was committed to one of the Grand Committees of the House, and its career in Committee justifies the statement that within recent years at least no legislative proposals touching a social problem were ever more fiercely overhauled. This was as might have been expected from what transpired during the Second Reading debate. During that debate there were severe adverse criticisms from the supporters of the Measure as well as from opponents. Its friends argued that "It must be drastically remodelled."

The Bill was committed to the Grand Committee as a Bill of 68 Clauses on the 19th July, 1912. Just on the eve of the finish of the Session (3rd December, 1912), it emerged a mere fragment of seven Clauses, which in themselves were drastic amendments on the original clauses, and as a Bill of seven clauses it was reported to the House, with the Committee's regret that it had not been possible to complete the consideration of the whole Bill.

In the Session of 1913 the Bill was re-introduced. In view of amendments made in the Committee of the preceding Session, and of concessions to justifiable adverse criticisms and suggestions then made on the Clauses not dealt with by the Grand Committee, the Bill as re-introduced met with a much more friendly acceptance. But even then its passage became rushed at the end, and the Government only managed to get it enacted by a

slaughter, or withdrawal, of a large number of proposed amendments set down on behalf of the Government and others in the House of Lords. This rush at the finish accounts for defects that may be found here and there in the fitting in of one statutory provision with another. These defects in due time, no doubt, will be cured by an amending Act.

The overhauling the original Bill underwent may be best illustrated by giving in this Introduction Clause 17 of that Bill, and asking the reader to compare it with Sections 1 and 2 of the Act. Clause 17 was as follows:—

PERSONS SUBJECT TO BE DEALT WITH AS BEING DEFECTIVE.

17.—(1) Save as expressly provided by this Act, the following persons, and no others, shall be subject to be dealt with under this Act, that is to say, persons who are defectives and—

- (a) who are found wandering about, neglected, or cruelly treated;
- (b) who are charged with the commission of any offence, or are undergoing imprisonment or penal servitude or detention in a place of detention, or a reformatory, or industrial school, or any inebriate reformatory;
- (c) who are habitual drunkards within the meaning of the Inebriates Acts, 1879 to 1900;
- (d) in whose case, being children discharged on attaining the age of sixteen from a special school or class established under the Elementary Education (Defective and Epileptic Children) Act, 1899 (62 & 63 Vict. c. 32), such notice has been given by the local education authority as is hereinafter mentioned;
- (e) in whose case it is desirable in the interests of the community that they should be deprived of the opportunity of procreating children;
- (f) in whose case such other circumstances exist as may be specified in any order made by the Secretary of State, as being circumstances which make it desirable that they should be subject to be dealt with under this Act.

(2) The following classes of persons 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 who are capable of guarding themselves against common physical dangers, but who are incapable of earning their own living by

reason of mental defect existing from birth or from an early age;

- (c) Feeble-minded persons; that is to say, persons who may be capable of earning their living under favourable circumstances, but are incapable, through mental defect existing from birth or from an early age,—

(i.) of competing on equal terms with their normal fellows; or

(ii.) of managing themselves and their affairs with ordinary prudence;

- (d) Moral imbeciles; that is to say, persons who from an early age display some mental defect coupled with strong vicious or criminal propensities on which punishment has little or no deterrent effect;

- (e) Mentally infirm persons; that is to say, persons who through mental infirmity arising from age or the decay of their faculties are incapable of managing themselves or their affairs.

The comparison demonstrates that the Act is much more restricted in its operation than it would have been had the original proposals been enacted. It is to be noted that the "Defectives within the meaning of this Act" (section 1) are all defectives who have been so "from birth" or "from an early age." Section 1 with the circumstances under which a defective within the meaning of the Act may be dealt with is the base on which the superstructure has been erected. That is a most important point to remember and careful regard will have to be paid to it in the administration of the provisions of the Act, particularly having regard to the duties and powers reserved under the Poor-Law Acts and the Lunacy Acts (see Section 30).

Among the better points of the Act as compared with the original Bill is the greater protection given to the interests of parents with children who are alleged to be mentally defective (see section 6 (3) (a) and Note thereto).

It is considered unnecessary here to mention all the many amendments of substance that the Act shows on the original Bill. But it may be mentioned that there has been a considerable amendment as regards the Board of Control (sections 21 and 22), and that the Act (section 65) as regards the transfer to the Board of powers and duties of the Lunacy Commissioners actually effects that for which the original Bill only made provision as a thing which might be done "on the recommendation of the Lord Chancellor and the Secretary of State" by Order in Council. The "Local Authorities" (section 27) are those originally proposed, (with special provisions as to Lancashire) (section 34), but amendment has been made in the provisions for the constitution of "Committees for the care of defectives." (Section 28).

Provision for the appointment of "Poor Law Guardians" on such Committees has been specially inserted. When the Bill of 1912 was in Committee Sir John Spear, who is President of the Poor-Law Unions' Association of England and Wales, moved to insert the words "and of such number of representatives of the Poor-Law Authorities wholly or partly comprised within the area of the local authority as may be fixed by the Secretary of State with the concurrence of the Local Government Board." Subsequently this proposed amendment was by leave withdrawn, whereupon Sir John Spear moved the insertion of the words "Poor-Law Guardians *and* other" before the words "persons having special knowledge," and not the words "Poor-Law Guardians *or* other," as they appear in the section. He was supported by other members of the Committee who spoke on behalf of the Poor-Law Authorities. It was urged in support of the demand that many of the feeble-minded would remain in or come back to the Workhouse, that the Guardians would have to provide a considerable amount of the money required, and that co-operation between the two bodies would be of advantage to the feeble-minded. The Home Secretary (Mr. McKenna) said "the county and borough councils had represented to the Home Office very strongly that if Parliament recognised their competence to administer this Act they ought to have a free hand. He said there was great force in that view. He could not therefore accept the amendment, but was quite willing to insert the words 'Poor-Law Guardians *or* other' in the clause, which, without making it compulsory, would be an indication to the councils that, in the opinion of the Grand Committee, Poor-Law Guardians were persons of special experience who might well be appointed on the Care Committee." (*Times*, 27th November, 1912.) Sir John Spear's second proposed amendment was defeated on a division by 14 votes to seven, and then the Home Secretary's proposal was agreed to.

An estimate of the Royal Commission is that in England and Wales over 66,000 defectives including school children, are urgent cases needing provision in special institutions for defectives, and at an annual outlay of £1,175,802, from which they make deductions for the present public cost in one direction or another of the over 66,000 cases, leaving a balance of £541,492 as a new public burden. Some of the over 66,000 cases would, of course, be cases for "State institutions," and there maintained by the State. The inadequacy of the Parliamentary Grant was a subject of bitter complaint by the friends of the original Measure. Mr. McKenna in Committee in December, 1912, largely discounted the estimate of the number of the mentally defectives who would have to be provided for, and suggested that in any case, for the time being, the £150,000 grant (section 47) should be accepted without demur. It would take two or three years, he contended,

before Local Authorities could provide for the expenditure of the money under the compulsory provisions of the measure, and when the Act was working "and it became obvious that a further grant was required from the Exchequer," it would then be time enough to consider the matter further. In the meantime, undoubtedly, the working of the Act will be watched with keen interest.

The Act comes into operation on the first day of April, 1914, except that its operation dates from the first day of November, 1913, in respect of the constitution of the Board of Control and the appointment of the Board's staff (section 72). But for its full operation Regulations to be made under its provisions (see sections 20 and 41) will be necessary. These Regulations have not yet been made, but their nature are fully indicated by the provisions of the sections under which they will be made, and, no doubt, they will be issued in sufficiently good time before April to prevent any inconvenience which would be sure to follow from unnecessary delay. On this point of Regulations it may be mentioned that the Act has in the opinion of many persons left too much to Departmental legislation. In this respect there has been a serious departure from the wise precedent of the Lunacy Acts.

The annotations to the Act, in the pages which follow, aim at giving the fullest assistance to all who may have to consult the Act, or any of its provisions, for any purpose. The annotations include not only many of the recommendations of the Royal Commission, but statements made in Parliament during the passage of the Measure and they also include the sections of the Lunacy Acts which have formed the precedents for certain provisions of this Act. These recommendations, statements, and sections have been incorporated in the belief that they impart interest and additional serviceableness to the annotations. It is hoped that they will greatly help to the understanding of the Act "according to the intent of them that made it," which is the most fundamental of all rules of interpretation. In the annotations Mr. R. Webber Leach, of Gray's Inn, has given considerable assistance, and indebtedness for that assistance is now gladly acknowledged.

R. A. L.

10th December, 1913.

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SCHEDULE.



CHAPTER 28.

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;

Notes to Section 1.

“The following classes of persons who are mentally defective shall be deemed to be defectives within the meaning of this Act.”—The Act, as explained in the “Introduction to the First Edition” of this work, does not embrace all classes of mental defectives.

(a) *Idiots*.—The word idiot, in its original meaning in Greek, denoted one who had held no public office, and in Latin was used to denote an ignorant and illiterate person. Sir Edward Coke defined an “idiot” as one who from nativity, by a perpetual infirmity, was *non-compos mentis*, and Sir Matthew Hale “idiocy” as a fatuity, a *navitate vel dementis naturalis*. No definition was attempted in the Idiots Act of 1836, which

- (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 re-

this Act repeals, beyond: "Idiots" or "imbeciles" do not include "lunatics"; idiots, however, were included under the Lunacy Acts, *e.g.*, section 341 of the Lunacy Act, 1890, defines "lunatic" as "an idiot or person of unsound mind." The definition in the present Act was suggested by the Royal College of Physicians of London, whose other attempts to define "imbeciles" and "feeble-minded" persons were severely treated in the House of Commons. The term "idiot" has, in both legal and common expression, been taken to denote a person born insane. An idiot is presumed at law to be incapable of ever attaining a complete degree of understanding to govern himself and his estate, and is incapable of binding his estate. Herein lies a legal distinction between an "idiot" and a "lunatic," for a lunatic is regarded as capable of recovering his reason. A note on the word "lunatic" will be found under Section 21.

"From birth or from an early age."—As stated in the note above, the word "idiot" has been generally used to denote a person born insane. On the third reading of the present Act in the House of Commons, Mr. Wedgwood moved that "three years of age" should be substituted for "an early age," but found no seconder. In the working of the Act, what is considered an early age in any individual case will very much depend on the actual age of the patient. Thus, it may be found impossible to trace the history of a middle-aged patient much further, say, than school age, and in such a case the tendency would be to interpret "from an early age" more widely than in the case of a school child under paragraphs (b) and (c) of this section. The term was used in the Idiots Act, 1886, but there referred only to idiots or imbeciles under 21, so that the difficulty could not arise to the same degree.

(b) *Imbeciles*.—The definition suggested by the Royal Commission on the Feeble-minded, who got it from the Royal College of Physicians of London, was: "Persons who are capable of guarding themselves against common physical dangers, but who are incapable of earning their own living by reason of mental defect existing from birth or from an early age."

From birth or from an early age—see note to paragraph (a).

Incapable of managing themselves or their affairs.—Under the Lunacy Act, 1890 (section 90 (1)), the Judge in Lunacy may direct an inquisition whether a person is of unsound mind and "incapable of managing himself and his affairs." This has been held to mean "or his affairs." (*Re Cathcart*, 1892, 1 ch., 559.) A person may be an imbecile within paragraph (b) of the Mental Deficiency Act, though he is capable of managing himself if he is incapable of managing his affairs. "Incapable of managing his own affairs," the Home Secretary informed the House of Commons, should be read as meaning "completely incapable." The expression "children" is not defined by the Act, but see section 2 (2).

(c) *Feeble-minded Persons*.—The definition in the Bill of 1912, obtained

ceiving 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.

from the Royal College of Physicians of London, and recommended by the Royal Commission on the Feeble-minded, read as follows: "Persons who may be capable of earning their living under favourable circumstances, but are incapable through mental defect existing from birth or from an early age: (i.) of competing on equal terms with their normal fellows, or (ii.) of managing themselves and their affairs with ordinary prudence." The present definition, read with the interpretation to be placed on the definition of "imbeciles" (see above), should be taken as meaning "persons who are not completely incapable of managing themselves or their own affairs, and yet persons who are so mentally defective that they cannot look after themselves. They are still persons who, in the ordinary sense, are not capable of managing themselves or their affairs, but they are not completely incapable." [The Home Secretary, in the House of Commons, July 28.]

From birth or from an early age—see note to sub-section (a).

"*Appear to be permanently*" incapable.—The words quoted were inserted on the motion of the Home Secretary. "The object of the word 'permanent,' " he said, "is to distinguish mental defectiveness from other kinds of mental illnesses," and the word "has a meaning which applies both to the future and the past." The words "appear to be" were inserted on the protest that doctors could not certify definitely that a child would never recover.

Ordinary schools, i.e., as against special schools or classes, see section 2 (2) (a) and definition of "special schools or classes" in section 71. Paragraphs 3 and 4 of the Circular Letter (*post*) of the Board of Education to Education Authorities, dated 30th March, 1914, contain important observations as to the construction to be put on the terms of the Act as to educable feeble-minded children.

(d) *Moral Imbeciles*.—This is the definition suggested by the Royal College of Physicians of London and recommended by the Royal Commission, save that after the word "age," the words "and in spite of careful upbringing" were deleted, and the words "some mental defect coupled with" substituted. The Royal Commission on the Feeble-minded devoted considerable attention and received much evidence on the question of mental defect and crime. They found "that there is a large number of offenders who are not insane, in the meaning attached to that word in the ordinary administration of the Lunacy Act, 1890, and the criminal law, who, being mentally defective and not certifiable under that Act, are excluded from the care and protection of the State." (Report, page 152.) In the Habitual Drunkards Act, 1879, and the Inebriates Act, 1898, they found precedents which, they thought, with considerable modifications might be applied to the cases of offenders who are mentally defective in other ways. Finally, they made four recommendations in the matter (LXXXVI.—LXXXIX.). Sections 8 and 9 of the Act substantially meet such recommendations. Paragraph 4 of the Circular Letter of the Board of Education mentioned above makes special reference to the interpretation of the expression "Moral Imbeciles" as regards children.

CIRCUMSTANCES RENDERING DEFECTIVES SUBJECT TO BE DEALT WITH.

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—

(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 under-

Notes to Section 2.

(1) *An institution*, that is, a State institution or certified institution (section 71) or certified house (section 49 (2)). Subject to the limitation of section 50 (2), the term must here also be read as embracing approved homes.

(1) (a) The Royal Commission on the Feeble-minded recommended that—excluding the “persons of unsound mind” class, and the “persons mentally infirm” class, which are not included in the Act—provision should be made, following the precedent of the Idiots Act, 1886, whereby any mentally defective person under 21 years of age might be placed by the parents or guardians, or by the committee for defectives, in any registered institution or house for the mentally defective, upon the certificate in writing of a qualified medical practitioner, without the intervention of a judicial authority; and on reaching the age of 21 might, with the consent of the Central Authority, be retained after he is of full age [Recommendation LII.] They also recommended [Recommendation XLIX.] that where such a person, in the opinion of the committee, was not under suitable parental or other control, and not receiving suitable training, or was cruelly treated or otherwise neglected, the committee should be able to vest in themselves “until the child reaches the age of 21” all the powers and rights which the Guardians of the Poor now have in respect of chargeable children of persons unfit to have control of them. Sections 2 (1) (a) and 3 were drafted to meet these recommendations of the Royal Commission. The measure, however, has been amended to exclude a guardian from sharing the authority given to a parent to deal with a mentally defective child which is not an idiot or imbecile under section 1 (see following note). The procedure under which a parent or guardian acts under this section will be found in section 3, but procedure may be by way of petition under section 5, as explained in the note to that section. Although no mention is made of the interests of the defective, it should be borne in mind that the Board of Control and visitors (see sections 12 (2) and 11) will require to be satisfied that detention in an institution or supervision under guardianship is in the interest of the defective himself, if it is to continue.

“Parent or guardian.”—The Act defines this expression (section 71).

going 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 herein-after 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.

That the words "parent" and "guardian" are not defined in themselves arose in this way. When the Bill came up for third reading in the House of Commons, section 2 (1) (a) read: "At the instance of his parent or guardian, if he is an idiot or imbecile, or is under the age of 21." The provision was severely criticised; as read with section 3, it meant that a child could be dealt with at the instance of its parent or guardian without any judicial order. The words "or at the instance of his parent if" were inserted after "imbecile," to confine the power to a parent in the case of a mental defective not an idiot or imbecile under section 1 but under age, and to limit the authority of a guardian to the cases of idiots and imbeciles, in relation to which the authority of guardians and parents existed under the Idiots Act. Therefore, as this section stood before amendment, the expression "parent or guardian" stood without distinction between the two, and any need for distinct definition as the result of the amendment was overlooked in section 71.

Under the age of twenty-one.—It may be observed that: "The control of the parent (father or mother) lasts under ordinary circumstances, and in all cases ends, when the child attains the age of twenty-one, or marries under that age, and a father cannot appoint by will a guardian for his child to continue after the latter has attained his majority. But if . . . any dispute arise as to who should retain the custody and control of the child, and the child has attained the age of discretion—not less than fourteen years for a boy and sixteen for a girl—the Court may, if it think fit, allow him to exercise a discretion and withdraw himself from the control of his parent. It seems, however, indisputable that unless interfered with by the Courts, the *patria potestas* may be exercised by way of legitimate control over infant children; but that on majority they become emancipated by arriving at years of discretion, or the time appointed by law for the loosing of parental fetters." [Eversley's Law of "Domestic Relations."] (See section 10 (2)). For the procedure in cases to which section 2 (1) (a) applies, see section 3.

(b) (i.) The procedure is set forth in sections 15 and 5.

Neglected.—Neglect in the case of children has been held to mean the absence of such reasonable care as an ordinary parent would use for the care and protection of his child. [R. v. Senior, 1899, 1 Q. B. 283; 63 J. P. 8. Oakey v. Jackson, 1914, 1 K. B. 216.]

Abandoned.—Defectives found wandering about were included in the original Bill, but excluded from the present measure, and those found

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

“abandoned” included. Compare sections 13, 15 and 16 of the Lunacy Act, 1890, and section 58 of the Children Act, 1908, in the appendix.

- (b) (ii.) The procedure under this sub-section will be found in section 8.

Criminal offence.—The case of a mentally defective murderer, which is not intended to be covered by the Act, will be found dealt with in a note to section 8.

Found guilty found liable.—In the original Bill of 1912, defective persons could be dealt with merely if “charged with the commission of any offence.” The word “found” was only inserted before “liable” on the third reading of the present measure in the House of Commons. It has been omitted in section 4 (b), but inserted in section 8.

Industrial Schools.—The sections of the Children Act relating to the commitment of children to industrial schools are given in the appendix.

- (b) (iii.) The procedure will be found in section 9.

Civil process.—Process in its widest legal acceptance denotes the means by which a court gives effect to its authority. In cases in which magistrates have a summary civil jurisdiction, *e.g.*, as to certain debts recoverable summarily, or to make orders to do or to abstain from doing certain acts, *e.g.*, with reference to nuisances and buildings, the procedure differs in certain details from that in criminal cases. For instance, the summons is issued on a complaint, which need not be in writing nor on oath, and warrants for arrest cannot be issued. Again, the court’s decision is by order, and not by conviction. The original Bill of 1912 made no exception of imprisonment under civil process, but an exception in the case of imprisonment under the Debtor Act, 1869 (which, of course, comes under the phrase “civil process” finally employed) were inserted in committee.

Place of detention.—The Children Act (sections 106 and 8) requires police authorities to provide places, either by establishing them themselves or arranging with the occupiers of premises, for the detention of children either until they can be otherwise suitably dealt with or in lieu of imprisonment.

Reformatory or Industrial School.—The provisions of the Children Act, under which children may be sent to a reformatory or industrial school, are given in the appendix.

An Inebriate Reformatory.—The Inebriates Act, 1898 (sections 3 and 4) provided for the establishment of State inebriate reformatories, and enabled the Home Secretary to certify suitable institutions (sections 5 and 6).

Institution for Lunatics—see definition in section 71.

Criminal Lunatic Asylum.—Under section 1 of the Criminal Lunatic Asylums Act, 1860, the Crown, by warrant under the Royal sign manual, may appoint that any asylum or place in England which the Crown may

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 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

have caused to be provided or appropriated, and may deem suitable for this purpose, shall be an asylum for criminal lunatics.

(b) (iv.) The procedure (in other than cases dealt with under section 8 or 9) will be found in section 5.

“*Habitual drunkard*” means a person who, not being amenable to any jurisdiction in lunacy, is, notwithstanding, by reason of habitual intemperate drinking of intoxicating liquors, at times dangerous to himself or herself or to others, or incapable of managing himself or herself, and his or her affairs.” [The Habitual Drunkards Act, 1879, section 3.] A person comes within the definition, although in the intervals between drinking bouts he may not be dangerous. [Eaton v. Best (1909), 73 J. P. 113.] The Law Officers of the Crown have advised that the definition applies to a person who habitually drinks to excess, and who is, in consequence, at times, either when sober or drunk, dangerous or incapable. [Letter of Secretary of State to Chairman, West Riding County Council, 26th June, 1906.] See section 52.

(b) (vi.) These cases where provided for by the Poor Law Authority are to remain under Poor Law control except where dealt with under Regulations made under section 30 (ii.) or (if the woman is in a Poor Law Institution pursuant to a certificate or an order under section 24 of the Lunacy Act, 1890), section 30 (iii.). For the Regulations, see *post*. The expression “poor relief” would include cases in receipt of outdoor relief, even if that were merely medical relief, as well as cases in Workhouses. It should be noticed that the proposal made is not restricted to women who have not been married. The married woman, or widow, giving birth to or being pregnant of an illegitimate child, when in receipt of “poor relief,” is covered by the section if she is mentally defective under any of the classifications in section 1.

(2) *Subject to Regulations made by the Board of Education.* For these see *post*.

As hereinafter provided (section 68).

Local authority under this Act (section 27).

Special schools or classes is defined in section 71.

“*Or as respects whom . . . guardianship.*”—The measure till third reading read, “or for whom the Board of Education certify that no suitable special school or class is available.”

Notes to Section 3.

(1) See section 2 (1) (a) and note.

Local authority.—See section 27.

Board.—Board of Control, see sub-section (2). The words, “or the

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

Board," were inserted on an amendment, which accounts why the definition of "Board" comes in section 3 (2) instead of section 3 (1).

After such inquiry as he shall think fit.—In moving on the third reading in the House of Commons that these words should be inserted, Lord Hugh Cecil said that the purpose was that the judicial authority should not sign the certificate as a matter of form.

Judicial authority is defined in section 19.

Prescribed Form and Prescribed Particulars.—See Forms P. 8, P. 9, and, for Medical Certificates, Form P. 4 in Home Secretary's Regulations, 2nd April, 1914, *post*, together with 37 of those Regulations. The Regulation refers to procedure on petition, but regard should be had to it for Medical Certificates in cases under section 3 of the Act.

Withdrawal.—For the withdrawal of a defective from an institution, see section 12.

The expenses of maintenance.—See section 13 (4).

Section 3 (2) *Hereinafter constituted.*—Section 21.

Notice of his Reception, etc.—See 94 (d) and 208 and Form R 1 in above-mentioned Regulations.

Notes to Section 4.

(a) See sections 5, 6 and 7.

(b) See section 8 and section 2 (b) (ii) and notes.

(c) See section 9 and section 2 (b) (iii.) and notes.

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 herein-after 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 authorised in that behalf.

(2) Every petition shall be accompanied by two medical certificates, one of which shall be signed by a medical practitioner

Hereinafter specified.—Sections 5 to 12, inclusive.

Notes to Section 5.

The Procedure by Petition and the Form of Petition, Statutory Declaration, and Medical Certificate are prescribed by the Home Secretary's Regulations, 2nd April, 1914. See 30 to 43 of those Regulations, with Forms P. 1—P 9, *post*.

Application by petition to judicial authority has been adopted from the Lunacy Act, 1890 (sections 4—10), which provides for the making of orders for the reception of private patients, not found lunatic by inquisition, into institutions for lunatics. That Act, unlike the present Act, itself contains the exact procedure to be followed and the forms of petition, certificates, etc., to be used. The Home Secretary's Regulations under the present Act, however, follow the procedure of the Lunacy Act closely. Some points of difference may be pointed out so far as the texts of the Acts go. Under the Lunacy Act the petition is to be presented, if possible, by the husband or wife or by a relative of the alleged lunatic (section 5). It may be presented by anyone, though no express provision is made for an officer or a local authority to present it. There is, however, provision for summary reception orders, in cases of lunatics not under proper care and control or cruelly treated or neglected, in which it is the duty of constables, relieving officers and overseers to give information. A petition may not be presented by any person under 21 years of age, or who has not seen the alleged lunatic within 14 days from presentation of petition, or who does not undertake that he will personally, or by someone specially appointed by him, visit the patient

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,

once in every six months (section 5)—these provisions are copied into the Home Secretary's Regulations under the present Act. Under the Lunacy Act the judicial authority may, after consideration of the allegations in the petition, and on the due certificate of two qualified medical practitioners, make a reception order without having seen the patient (section 6)—under section 6 (1) of the present Act the judicial authority is to visit the person to whom the petition relates or summon him to appear before him. Under the Lunacy Act, where the patient has not been personally seen by the judicial authority making the reception order, the patient, after reception in the institution, may require to be taken before or to be visited by some other judicial authority (section 8)—a provision unnecessary in the present Act by reason of section 6 (1). Subject to the differences herein stated and allowing for the fact that section 5 covers cases for guardianship as well as for admission to institutions, the section broadly follows the lines of the Lunacy Act, 1890.

The provisions proposed by section 5 for orders for reception in institutions were recommended by the Royal Commission on the Care of the Feeble-minded only in respect of alleged mental defectives over 21 years of age who had not been previously under the wardship of the committee (see sections 28 and 30 (b) of the Act). In these cases it was recommended (Recommendation LIII.) that the committee should deal as they might think fit for the "proper care, control, and safeguard of the mentally defective person" with power—for securing the reception of the mentally defective person into an institution should they deem it right to exercise the power—to present, by one of their officers, a petition as next friend of the said person, under sections 4 to 8 of the Lunacy Act, 1890, or to make an urgency order under section 11, or to apply for a summary reception order under section 13 of the Act. The Act was to be amended to allow of this. For the Commission's recommendations in respect of mentally defective persons under 21 years of age see notes to section 2 (1). Section 5, following the Lunacy Act precedent, contains no stipulation as to the age of persons subject to be dealt with. The Act does contain other provisions with respect to defectives under 21 years of age (see section 2 (1) (a)). These provisions, however, do not in any way qualify the provisions of section 5 as to the age of the persons to be dealt with.

Judicial authority.—See section 19.

Relative or friend.—For "Relative" see section 71. An important question arises from the fact that the Guardians of the Poor are not men-

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.

PROCEDURE ON HEARING PETITIONS.

6.—(1) Upon the presentation of the petition and such documents as aforesaid, the judicial authority shall either visit the

tioned. Will the Guardians be able to bring a petition as "friend" by authorising one of their officers in that behalf? Reason and practice in other directions say "Yes."

Any officer.—It is submitted that, as the section stands, the local authority would be able to give a general authorisation to any of their officers to make applications by petition.

Local authority.—See section 27.

Board, i.e., Board of Control.—Section 3 (2) and section 21.

5 (2) (a).—See sections 1 and 6 (3) (b).

(2) (b).—See section 2.

(2) (c).—See the first note under this section.

(2) (d).—See section 6 (4).

5 (3).—This follows the precedent of section 5 (1) of the Lunacy Act, 1890, which says that the petition should be presented if possible by "the husband or wife or by a relative." See section 6 (a) and note.

5 (4).—See section 25 (d) and note.

For the effect and duration of orders.—See sections 10 to 12.

For the powers to recover expenses.—See section 13.

Perjury.—For the provisions of the Perjury Act, 1911, relating to statutory declarations, certificates, etc., see appendix. Also see section 63 of the present Act.

Notes to Section 6.

Judicial authority.—See section 19.

Such documents as aforesaid, i.e., the certificates and statements required in section 5 (2) and (3). See Home Secretary's Regulations [30-43], 2nd April, 1914, and Forms P. 1—P. 6 in those Regulations, *post*.

person to whom the petition relates or summon him to appear before him.

(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 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

In private, etc.—In the original Bill of 1912, none but the petitioner, the person to whom the petition relates and the persons signing the medical certificates and the statutory declarations, had a right to be present without consent, but the person to whom the petition relates and the petitioner had a right to be represented by counsel and to call witnesses. The wording of the section will allow the appearance of counsel or solicitor for the defective, as he may appoint "any two persons," but the petitioner is given no right to be legally represented without leave. Under the Lunacy Act, 1890, section 6 (3), the alleged lunatic is allowed to appoint "any one person," i.e., a friend or a legal or medical adviser. Under that section the petition must be considered in private.

In cases under the present Act, if the proceedings are to be conducted in private, the judicial authority is to so state, and is also to state what persons will be allowed to be present, in the notice he is required to give under 33 (c) of the above-mentioned Regulations. No proceedings on a petition are to be conducted in a police court or other court or room used for the hearing of criminal charges [see 42 of the aforementioned Regulations.]

Certificates and statutory declaration.—See section 5 (2).

6 (3) *Order.*—For the effect and duration of orders, see sections 7 and 10, 11, 12.

6 (3) *Institution.*—See section 71.

6 (3) (a) "*Unless*" to end of paragraph.—The importance of the word-

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; 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

ing of this paragraph will be gathered from the amount of discussion given it in the House of Commons. When the measure came up for third reading, it ran "unless in the opinion of the judicial authority such consent is unreasonably withheld." This wording might have left the onus of proof on the parent, and the Home Secretary, to throw the onus on the petitioner, moved to substitute "Unless it is proved to the satisfaction of the judicial authority that the parent or guardian is unable or unwilling to make suitable provision for the care of the defective." But he confessed that, although the Home Office had given much consideration to the words, they were not satisfactory, as they were open to the objection that the parents or guardians might profess themselves able or willing to make suitable care or suitable provision, and there would be no guarantee that it would be forthcoming. Another form of words was moved by Lord Hugh Cecil, who was anxious to make the character of the parent the test, and desired that the parent who was really doing the best for his child should be allowed an absolute veto. The Home Secretary finally moved the form of words which now appear in the measure.

Expenses of Maintenance, etc., where order made.—See generally section 13.

Revocation and variation of order before it has been executed.—See 40 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Dismissal of the petition.—See 34 and 36 of the Regulations above referred to. A new petition may, if the petitioner or other person thinks fit, be presented to another judicial authority. In such a case 35 of the said Regulations must be complied with.

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.

(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

Methods of dealing with defectives.—On the methods of dealing with defectives see generally paragraph 17 of the circular from the Board of Control to County and County Borough Councils, 2nd April, 1914. The Board consider that: "The more costly expedient of detention in Institutions should be resorted to only when the other possible courses are obviously inadequate or prove to be attended by danger to the defective." Where the local authority under the Act may become responsible for the maintenance of the case on an order being made by the judicial authority under section 6 (3) they must comply with 23 (case for institution) or 25 (case for guardianship) of the Home Secretary's Regulations, 2nd April, 1914, *post*, as the case may be, in the proceedings before the judicial authority. See also section 43 (2).

Notes to Section 7.

Variation of orders.—With section 7, see the Home Secretary's Regulations, 2nd April, 1914, *post* as follows:—Regulations 23, 27, 215, and 235 in respect of defective who has become unsuitable for guardianship; Regulations 25, 26, 27, 214, and 216 in respect of removal, etc., of guardian and appointment of new guardian.

7 (1) Judicial authority.—See section 19.

Order not made by a judicial authority—that is, by a court under section 8 or the Home Secretary under section 9.

Board, i.e., Board of Control (section 3 (2)).

Local authority.—See section 27.

Institution.—For definition of expression, see section 71, with section 49 (2), but note proviso to that sub-section.

7 (2) Any other person.—The expression "person" includes any body

or other person who presented the original petition and to the parent or guardian of the defective, an opportunity of being heard.

PROCEDURE IN CASES OF PERSONS GUILTY OF OFFENCES, ETC.

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 [8 Edw. 7, c. 57], 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—

- (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

of persons, corporate or incorporate (Interpretation Act, 1889, section 19), *e.g.*, Board of Guardians.

Notes to Section 8.

(1) *Any criminal offence punishable, etc.*, that is, excluding capital offences. The Bill of 1912 read for "any offence other than homicide." On the third reading of the present measure its opponents sought to obtain the inclusion of a new clause to secure that the sentence of death should not be passed on a mental defective, that is, that the court should order a defective found guilty of murder to be detained, as a murderer found insane, during His Majesty's pleasure. The Home Secretary, in opposing the proposed new clause, said: "The Royal Commission and the whole body of the judges have recommended that no such verdict (as guilty but mentally defective) should be given. In a trial for murder the whole body of the evidence will be directed to the question whether the prisoner is guilty or not. When the question comes up before the Home Secretary, he will be able to inquire into the circumstances of the case, quite apart from the question of guilty or not-guilty."

If satisfied on medical evidence.—Under sub-section 5, it is the duty of the police to bring such evidence as to the mental condition of an apparent

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 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 IMPRISONMENT, ETC.

9. Where the Secretary of State is satisfied from the certificate of two duly qualified medical practitioners that any person who

defective as may be available. It is left to the court to determine the amount of medical evidence required. The court may possibly be satisfied on the evidence of one medical man, but, as admitted by the Home Secretary when the Bill was before the House, might want the evidence of even more than two medical men. Generally on section 8, see Home Office Circular to Justices, 2nd April, 1914, *post*.

Defective within the meaning of this Act.—See section 1.

Children Act.—Section 58 is given in the appendix.

Petitions to judicial authorities and their effect.—See sections 5, 6, and 10, 11.

(3) *Institution for defectives or in a place of safety.*—See definitions in section 71.

(5) *Local authority.*—See section 27.

Evidence as to mental condition.—See sub-section 1 of this section and note thereto.

Forms for the purposes of section 8.—See Forms G 1—G 6 in the Home Secretary's Supplementary Regulations, 30th April, 1914, *post*.

Cost of maintenance of defectives dealt with under section 8.—See paragraphs 7 and 8 of Circular of Board of Control to County and County Borough Councils, 2nd April, 1914, *post*, and the Circular to Justices, *post*.

Notes to Section 9.

See 2 (1) (b) (iii.) and notes.

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, &c.

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 exercisable if he had been the father of the defective and the defective had been under the age of fourteen, and

Institutions for defectives, that is, State or certified institutions (section 71). See also section 49 (2), but note the proviso to that sub-section.

The like effect, &c.—The effect of an order made by a judicial authority is set out in the following sections, 10 and 11.

Cost of maintenance of defectives dealt with under section 9.—See paragraphs 7 and 8 of Circular of Board of Control to County and County Borough Councils, 2nd April, 1914, *post*.

Notes to Section 10.

Place of safety is defined in section 71.

Fourteen days.—The limit of 14 days is taken from section 36 (1) of the Lunacy Act, 1890.

As is hereinafter mentioned.—Section 11.

10 (2) *Guardian.*—See note, "Under the age of 21," under section 2. The order for guardianship may be made by a judicial authority (section 6), a Court of competent jurisdiction (section 8), or the Home Secretary (section 9). The case of the mental defective placed under guardianship without an order under section 2 (1) (a) is provided for by section 12. For the powers and duties of guardians, see 201—217 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Intoxicants.—For the offence of supplying intoxicants contrary to warning, see section 52. For definition of the expression "intoxicants," see section 71.

the guardian shall also have power to warn persons against supplying intoxicants to him or for his use.

DURATION OF DETENTION UNDER ORDERS.

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:

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 interests 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

Notes to Section 11.

A reception order under the Lunacy Acts remains in force for detention in the asylum, or as a single patient, for one year from its date, or by the order of the Lunacy Commissioners until the quarterly day next following that date, and thereafter for two years, and thereafter for three years, and thereafter for successive periods of five years, if not more than one month nor less than seven days before the expiration of each such period. "a special report of the medical officer of the institution or of the medical attendant of the single patient as to the mental and bodily condition of the patient, with a certificate under his hand certifying that the patient is still of unsound mind and a proper person to be detained under care and treatment," is sent to the Commissioners. (Lunacy Act, 1890, section 38, as amended by the Lunacy Act, 1891, section 7.)

The recommendation of the Royal Commission on the Care and Control of the Feeble-minded in the matter was that at least once in every year there should be a revision by the Committee (section 28) of all cases of

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 interests 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 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

mentally defective persons dealt with, and that any changes made should be reported to the Central Authority (section 21); and—as regards institutional cases—that the certificate of the medical officer of the institution should, under regulations made by the Central Authority and subject to the approval of the Committee and the Central Authority, “suffice for the continuance of residence of the mentally defective person in the institution.” (Recommendation LX.)

Section 11 as it now stands contains far greater safeguards in the interests of the defective than the original Bill (1912) gave. Under the original Bill there was no direction that the condition of a defective should be investigated by the Visitors (section 40) on the case coming up for reconsideration, and the Board of Control could proceed merely on the special report of the medical officer of the institution or, if the defective was under guardianship, of a duly qualified medical practitioner. Nor did the original Bill contain the provision for an examination by an independent doctor at the request of the defective or his relatives or friends. On the power of a Commissioner “to discharge at any time any person detained in a certified institution or certified house or under guardianship under this Act,” see section 25 (2). The Home Secretary’s

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

Regulations, 2nd April, 1914, *post*, make full provisions for visitation of patients by the Commissioners, the visitors, and others.

Definitions of "institution," "parent or guardian" and "relative" will be found in section 71. For the appointment of visitors see section 40. "Board" means "Board of Control" (see section 3 (2)).

Procedure on reconsideration of cases of patients attaining the age of 21.—See 96, 210, and 244—248 of the Regulations mentioned above.

Special reports and certificate and continuing order.—As to these, see 94 (j) and 210, with Forms D1 and D2 of the Regulations mentioned above, and 2 of the Supplementary Regulations, 30th April, 1914, *post*. Also section 49 (2) (d).

Notes to Section 12.

Duration of detention not under orders.—That is, in cases coming under section 2 (1) (a) and regulated by section 3.

Definitions of "institution," "certified institution," "certified house," "approved house," "parent or guardian" will be found in section 71. "Board" means Board of Control (section 3 (2)).

The discharge of the defective by managers acting under the sub-section (3) may be for quite other reasons than that the defective no longer requires to be under detention. The obvious purpose of requirement that

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 EXPENSES.

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.

(2) Any such order may, on the application of the managers of the institution in which the defective is for the time being de-

notice shall be given to the Board of any intended discharge is that the Board may consider what action, if any, need be taken in the case. (See section 5 (4).)

Notes to Section 13.

Persons liable to maintain him.—Under the Lunacy Acts the pauper lunatic who is sent to an institution for lunatics is chargeable to and paid for by the Guardians of the Poor (in England and Wales) where the lunatic has his settlement or status of irremovability, if any; otherwise he is chargeable to the county or county borough. But it is enacted by section 296 of the 1890 Act that: "The liability of any relation or person to maintain any lunatic shall not be taken away or affected, where such lunatic is sent to or confined in any institution for lunatics, by any provision herein contained concerning the maintenance of such lunatic." The present Act places the county and county borough in the same position as Guardians of the Poor under the Lunacy Acts (see section 43), except as regards Poor Law cases accepted by the County or County Borough Council as the local authority in which the Board of Guardians agree to terms of payment (see Circular Letter of Local Government Board to Boards of Guardians and Joint Committees of Guardians, 31st March, 1914, *post*)—but the Act does not include such a provision as section 296 of the Lunacy Act, 1890. Where the "defective person" has not sufficient property available for his maintenance, who then is to be deemed the person liable to maintain him? Ignoring agreements with Boards of Guardians, liability to maintain, as commonly understood, means liability of relatives under the law relating to the relief of the poor. Under the Poor Law the husband is liable for his wife and any children (though not grandchildren) his wife may have had before marriage until they are 16 or his wife dies (4 and 5 Will. IV. c. 76, s. 57). A wife with separate property

tained, or of the guardian, or of an officer authorised 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.

PROVISION AS TO CONTRIBUTION ORDERS.

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

is liable for the maintenance of her husband. (Married Women's Property Act, 45 and 46 Vict. c. 76, ss. 20 and 21.) The father, grandfather, mother, grandmother, and children are liable under 43 Eliz. c. 2, s. 7, but only in case of blood relationship. The grandfather is liable even if the father is alive and able to maintain the child (*R. v. Cornish*, 2 B. and Ad. 498). Section 14 of this Act says that a person liable to maintain a defective under the age of 21 shall include in the case of illegitimacy the putative father, and if the judicial authority thinks fit, a person other than the putative father cohabiting with the mother. A "step-father" was originally specially included in section 14, but struck out in the third reading on the motion of the Home Secretary.

Procedure in connection with contribution orders.—See section 35 of the Summary Jurisdiction Act, 1879, and 3, with Forms O1-O3, of the Home Secretary's Supplementary Regulations, 30th April, 1914, *post*; also section 15 (3) of the present Act. For official opinions on the responsibility of the local authority to take all necessary steps to obtain contribution orders, see paragraph 14 of Circular of the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*.

Judicial authority.—See section 19 and note.

Petitioner, that is, the relative or friend of the defective, or officer of the local authority who presented the petition for the order of detention.

Institution.—See definition in section 71. The provisions of section 13 are not available in cases sent to certified houses for defectives.—Section 49 (2) (c).

Local authority.—See section 27.

Notes to Section 14.

See notes to section 13.

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.

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

Notes to Section 15.

Compare sections 13 to 15 of the Lunacy Act, 1890, in the appendix.

On section 15 (2), the Home Office state: "This procedure should be used when it is suspected, on reasonable grounds, that there is actual neglect or ill-usage of a defective to whom access cannot otherwise be obtained, but, apart from the powers given by this sub-section, the Act does not authorise the forcible entry of premises or the forcible removal of a defective for the purpose of the local authority's investigations." (Home Office Circular Letter to County and County Borough Councils, December, 1913, *post*.) The Board of Control, in paragraph 21 of their Circular of 2nd April, 1914, to the same Councils (*post*) state: "It would not in general be right to authorise an application to a Magistrate for a warrant under section 15 (2) of the Act to enter a house for the purpose of searching for a defective believed to be neglected or cruelly treated unless they are satisfied that immediate action is necessary or that further efforts to obtain voluntary admission would be fruitless."

Any Officer.—It is submitted that the authorisation of the officer may be a general authorisation. (See 8 of the Home Secretary's Regulations, 2nd April, 1914, *post*.)

Neglected, etc.—See section 2 (1) (b) and notes.

Place of safety is defined in section 71.

A petition under this Act.—See section 5.

A justice, that is, any justice, who need not be a judicial authority

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 INSTITUTIONS FOR DEFECTIVES 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

under section 19. Compare section 15 (2) of the Lunacy Act, 1890, in the appendix.

Information on oath.—Wilful mis-statement will be punishable as perjury. See appendix for Perjury Act, 1911, and present Act, section 63.

(3) *Workhouse.*—For the use of the workhouse as a place of safety under the Lunacy Act, see section 20 in the appendix. Under section 11 of that Act an order for admission of a private patient to an institution for lunatics may be made in urgent case, pending the presentation of a petition to a judicial authority by any person entitled to present the petition. (See note to section 5.) Such an order is to be accompanied by one medical certificate, and remains in force from its date or until petition is finally disposed of.

Any expenses . . . maintenance.—See section 13 and notes.

Notes to Section 16.

“*Institution*” and “*institution for lunatics.*”—See definitions in section 71 and notes.

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.

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

PROVISIONS AS TO RELIGIOUS PERSUASION.

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.

(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

“*The Board*,” that is, Board of Control (section 3 (2)).

Lunacy Acts, 1890 to 1911.—The procedure will have to be by petition. As to that procedure, see note to section 5 of the present Act.

For the transfer of persons from *criminal lunatic asylums* and prisons, see sections 4 (c) and 9.

Notes to Section 17.

Generally, on the provisions made by section 17, it may be said that the provisions follow the Poor-Law and other enactments relating to State institutions and other institutions in which powers of detention are legally exercised. Sub-section (4) of the section is modelled on section 14 of the Poor-Law Amendment Act, 1866 (Children in Workhouses or District Schools), and on a provision in section 66 of the Children Act, 1908, as regards children in certified industrial school or reformatory not conducted in accordance with child's religious belief. Under the Home Secretary's Regulations, 2nd April, 1914, *post*, there must be submitted in respect of every certified institution, certified house, and approved home, to the Board of Control, for their approval, the arrangements for religious ser-

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.

PROVISIONS AS TO VISITING OF DEFECTIVES.

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.

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

vices and religious instruction for patients. (See 119, 137, 154, 170, and 193 of those Regulations.)

Notes to Section 18.

For definition of the expressions "relative" or "guardian," see section 71.

For the "prescribed" conditions as to visits by relatives and other persons, see generally 102—107 (defectives in certified institutions, certified houses, and approved homes) and 229—234 (defectives under guardianship) of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Notes to Section 19.

Any judge of County Courts.—Under the Lunacy Act, 1890 (section 9 (3)) judges of County Courts and magistrates are not required to exercise similar powers under that Act so as to interfere or delay the exercise of their ordinary jurisdiction.

Police or Stipendiary magistrate, i.e., the magistrates of the Metropolitan Police Courts and Stipendiary magistrates. (See above note.)

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 PROCEDURE, 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.

Judicial authority under the Lunacy Act.—The justices of every County and Quarter Sessions Borough appoint annually out of their own body as many fit and proper persons as they may deem necessary to exercise within the county and borough respectively the powers conferred by the Lunacy Act, 1890, upon the judicial authority. In making such appointments the justices of every county have to have regard to the convenience of the inhabitants of each Petty Sessional Division (section 10 (1) Lunacy Act, 1890). The Lord Chancellor may make the appointments if the justices fail to do so, or if he receives representation that the number appointed is not sufficient. (*Ibid.*) He has also powers of appointment, on representation, in cases of boroughs or places without separate Quarter Sessions. (*Ibid.*)

Section 19 (2) is modelled on section 9 (2) of the Lunacy Act, 1890, which itself is a re-enactment of sub-section 3 of section 4 of the Lunacy Act, 1889.

Notes to Section 20.

The Regulations must be laid before Parliament (see section 68). For the Regulations made, see *post*.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

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 exerciseable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors,

Notes to Section 21.

Board of Control.—The title “Board of Control” is taken from Recommendation V. of the Royal Commission on the Care and Control of the Feeble-minded. (See note to section 22.) The Board proposed by the Royal Commission were to deal with the whole class of mentally defective persons. On this proposal, see provisions made by section 65.

Subject to the provisions of this Act.—See section 25.

Control of defectives, that is, defectives who come within the definitions of section 1 and within the operation of the Act under the circumstances set out in section 2.

“*Any power exerciseable with respect to lunatics.*” For the purposes of the Lunacy Act, 1890 to 1911, the expression “lunatic” means “an idiot or person of unsound mind.” (The Lunacy Act, 1890—53 & 54 Vict. c. 5—section 341.) “The term lunatic ‘coined in more ignorant times’ from the Latin *luna*, in consequence of the notion that the moon had an influence on mental disorders . . . does not appear in the Statute Book till the reign of Henry VIII. It is defined by Coke as a ‘person who has sometimes his understanding and sometimes not, *qui gaudet lucidis intervallis*, and therefore he is called *non compos mentis* so long as he has not understanding.’ . . . In modern times *lunacy* has lost its old precise signification. . . . It is employed in a number of statutes in the most confused and confusing manner, sometimes as a general term, sometimes in contradistinction to idiots and imbeciles, and once at least, viz., in the Lunacy Act, 1890 . . . as including idiot, and frequently in conjunction with the words ‘unsound mind’ and ‘insane.’ . . . The term ‘unsound mind’ is used in many statutes indiscriminately to signify *non compos mentis*, lunacy, and permanent ‘adventitious’ insanity. Lord Eldon said that it imported a state ‘contradistinguished both from idiocy and from lunacy and yet such as to justify a commission.’” (The Law of and Practice in Lunacy, by A. Wood Renton, M.A., LL.B., Barrister-at-Law.) The present measure undoubtedly embraces classes of cases that are already dealt with, or liable to be dealt with, under the Lunacy Acts or Acts relating to the relief of the poor or by the local authorities under the Education Acts. The Act, however, contains provisions designed to prevent clashing and confusion among local authorities. See sections 30 (ii.), (iii.) and (iv.) and 2 (1) (b) (v.) and 2 (2).

The powers now legally exerciseable, with respect to “lunatics,” under the Lunacy Acts, 1890 to 1911, are powers exerciseable: (a) for the pro-

court, local authority or other persons, whether under the Lunacy Acts, 1890 to 1911, or otherwise.

ESTABLISHMENT OF COMMISSIONERS.

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)

tection and treatment of lunatics coming under official control or cognizance whether such lunatics are detained in institutions or otherwise; (b) for the protection of their property, if any, and the application of it for their maintenance; and (c) for safeguarding the liberty of the subject where the subject is an alleged lunatic, or a person who has recovered from his mental malady.

Save as otherwise expressly provided.—See section 65.

Lord Chancellor, &c.—The jurisdiction of Chancery in Lunacy is of ancient growth. The original theory was that the sovereign of the time had power to grant custody of a person found to be a lunatic or an idiot and care of his estate. The sovereign accordingly delegated this power to each successive Lord Chancellor by warrant under sign manual. The jurisdiction was placed on its modern basis in a number of Acts last century. The jurisdiction of the Judge in Lunacy under the Lunacy Acts (section 108 of the 1890 Act) is exercised by the Lord Chancellor or one or more of the Judges of the Supreme Court. A Judge in Lunacy may make orders for the custody of lunatics so found by inquisition and the management of their estates, and the jurisdiction of the Judge in Lunacy may be exercised by the Masters, whose orders take effect unless varied or annulled by the Judge. The office of Master in Lunacy was practically created by the Lunacy Act of 1842, which provided for the appointment of "two Commissioners in Lunacy" to whom the duties of existing Commissioners, the Masters in Chancery, and the Clerk of the Custodies in regard to Lunatics were transferred. Section 111 of the Lunacy Act, 1890, enacts that the Masters in Lunacy should continue as before, and that they should perform such duties in addition to those already attached to their office as the Lord Chancellor should direct. By the Act, they are required to execute all commissions, and conduct inquiries, and perform other duties with respect to lunatics and their estates in accordance with the Rules in Lunacy, and as the Judge in Lunacy may by special order direct. Under section 163 of the same Act the office of Chancery Visitors of Lunatics whose estates are in Chancery was continued. For the powers of the Lunacy Commissioners, Judicial Authority, Justices, and others with respect to lunatics, see notes to sections 25 and 30 of the present Act.

Notes to Section 22.

Section 22, together with the following four sections, take the place of the provisions of the Lunacy Act, 1890 [sections 150—158] relating to the constitution of "The Commissioners in Lunacy" and their staff.

Board of Control.—The title and constitution of the Central Authority

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

proposed by the Royal Commission on the care and control of the Feeble-minded are set out in V. and VI. of their Recommendations, which read as follows:—

RECOMMENDATION V.—That the Central Authority, which would deal with the whole class of mentally defective persons and the division of that class, be called "The Board of Control," and the members thereof be called Commissioners of the Board of Control.

RECOMMENDATION VI.—That there be appointed to the post of Commissioner, according to the demands of the business of the Board of Control, persons who are specially qualified for that post, subject to these qualifications: (1) that a certain proportion of the number be qualified medical men who have expert knowledge in regard to the various classes of mental defect mentioned in Recommendation IV., and respecting institutional and other administration; (2) that a certain proportion of the number be legal members, being barristers-at-law qualified to deal with particular cases and points of law, including such questions as may arise out of the new conditions which the plan proposed by us must necessarily entail; (3) that the number of Commissioners be sufficiently large to dispense with the necessity of appointing deputy Commissioners in case of temporary absence through illness or other cause; (4) that the Commissioners be appointed at such salaries as with the concurrence of the Treasury may seem reasonable in view of the scale of salaries generally paid in Government departments; (5) that a paid chairman be appointed on similar terms, due regard being had to the responsibilities of his office; (6) that sections 158 (1) and the first paragraph of section 165 of the Lunacy Act of 1890 be repealed provided that it be made a rule of the Board that no Commissioner should be deputed to visit a licensed place with which he has been connected within one year last preceding his appointment.

Section 158 (1) and the first paragraph of section 165 of the Lunacy Act, 1890, mentioned in Recommendation VI., contains disqualifications for appointment as Lunacy Commissioner, Secretary, or Clerk of the Commissioners, or as Chancery Visitor, of anyone who within the period of one year under section 158 (1), and two years under the first paragraph of section 165 (Chancery Visitor), has been interested in any licensed house—i.e., private asylum. The disqualification under the present measure is contained in section 24.

Not more than fifteen.—The Home Secretary, in the House of Commons on July 29th, 1913, pledged himself that no more than 11 of the 12 paid Commissioners would be appointed during his term of office. Of the 11

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.

eight would be existing Lunacy Commissioners. Of the remaining three one must be a woman and the other the chairman.

Woman.—Other provisions for the appointment of women are found in sections 23 (1), 28 (1), and 40. Under the first of these sections inspectors and other officers and servants of the Board of Control "shall include women as well as men." Under the second, committees for the care of defectives to be appointed by local authorities shall include "some" women. Under section 40 "one or more women" are to be added to the persons appointed under the Lunacy Act to act as visitors of institutions.

Inquiries among Welsh-speaking persons.—The Home Secretary stated in the House of Commons that the special qualification for holding such inquiries did not necessarily mean that one of the Commissioners should be able to speak Welsh.

22 (4) *Body Corporate.*—The provision that the Commissioners shall be a corporate body with power to hold land is necessary on account of the proposal to empower them to "provide and maintain institutions for defectives of criminal, dangerous, or violent propensities." (Section 25 (e) and 35 (1).)

22 (5) and (6) *Administrative Committee.*—An administrative committee was first suggested during the debates on the original Bill of 1912. That Bill proposed to amalgamate the Commissioners under this Act with the existing Lunacy Commissioners—a proposal met by section 65. An Administrative Council was then suggested and accepted by the Government as a temporary arrangement to secure Parliamentary control over the administrative functions of the Board during the period which would elapse before the amalgamation took place. The suggestion was that the Administrative Council should be composed of a chairman and four members of the Board of Control, two nominated by the Home Secretary and two by the Board itself.

22 (6) *Authorised by this Act.*—See section 25.

(7) *There shall be paid, &c.*—The eleven Commissioners, not counting the chairman, are the existing eight Commissioners in Lunacy and three

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 commencement 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,

new paid Commissioners. The chairman of the existing Lunacy Commissioners receives £1,800 a year, and the Commissioners £1,500 a year. On the third reading of the present measure the Home Secretary said he proposed to ask the Treasury to sanction not more than £1,200 a year as the commencing salary of the new Commissioners under this Act, and £1,800 as the chairman's. The Bill then contained no limitation as to the chairman's salary, but on the Home Secretary's statement the House of Commons inserted the words the section now contains, making £1,800 the maximum.

22 (9) *Commissioners in Lunacy*.—(See section 65.) Of the eight paid Commissioners in Lunacy there are four legal Commissioners (barristers), and four Medical Commissioners. They each receive a salary of £1,500 a year. It is enacted by section 150 (2) of the Lunacy Act, 1890, that "the salaries of the paid Commissioners and the expenses of the Commissioners to the amount sanctioned by the Treasury shall be paid out of moneys provided by Parliament"; and by section 151 (1) of that Act it is enacted that "As often as a Commissioner dies, or is removed from his office, or is disqualified, or resigns, or refuses or becomes unable through illness or otherwise to act, the Lord Chancellor may appoint a person to be Commissioner in his place."

Notes to Section 23.

Inspectors, &c.—See note to section 25 (d).

and servants of the Board such salaries or remuneration as the Secretary of State, with the consent of the Treasury, may determine.

DISQUALIFICATIONS.

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 COMMISSIONERS.

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

Women as well as men.—For other provisions for the appointment of women under the Act see note to section 22 under "Woman."

Salaries are to be paid out of moneys provided by Parliament, section 26.

Notes to Section 24.

Misdemeanour.—The punishment will be found in section 60, which also provides that an offender may be prosecuted summarily.

Notes to Section 25.

Taking section 25 as it stands, the Board of Control are to have more ample powers and duties than are given to the Commissioners in Lunacy (now the Board of Control—see section 65) in respect of lunatics as defined by the Lunacy Act, 1890—see definition of "lunatic" in note to section 21. Under the said Act, the chief functions of the Commissioners in Lunacy are: (a) to visit County and Borough Asylums and other institutions, including workhouses, in which persons of unsound mind are detained, that they may satisfy themselves that the detention is justifiable and necessary, and that the treatment is proper; and (b) to examine and report to the Secretary of State upon all plans, contracts, and estimates for the construction of County and Borough Asylums, and to determine themselves as to the additions to private asylums. They have

- 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

to furnish to the Lord Chancellor a half-yearly Report of the number of visits they have made and the number of patients they have seen, and to furnish him with an annual report "of the conditions of the institutions for lunatics, and other places visited by them, and of the care of the patients therein, with such other particulars as they think deserving of notice." And they are to submit copies of these Reports to Parliament. (Lunacy Act, 1890—53 & 54 Vict. c. 5—section 162.) They may with the sanction of the Secretary of State make regulations for the government of licensed houses (section 226), and with the approval of the Lord Chancellor they may, by rules, prescribe the books to be kept in institutions for lunatics and houses of single patients, and the entries to be made therein, and the returns and reports, etc., to be furnished to them. (Section 338 (1).) But they have no powers to provide institutions, nor anything to do with the "four shillings (weekly) grant" in respect of pauper lunatics maintained in institutions other than workhouses.

(a) *General supervision, etc.*—See section 21.

(b) *Supervise the administration by local authorities.*—See section 30 for the general powers and duties of local authorities, and note thereto as to the Home Secretary's Regulations.

(c) *Certify, approve, supervise, and inspect institutions, etc.*—See sections 36 (Certification of Institutions), 37 (Approval of Premises provided by Boards of Guardians), 41 (Regulations as to Management of Institutions for Defectives, etc.), 49 (Provisions as to Certified Houses), and 50 (Provisions as to Approved Homes), and the notes thereto.

(d) *Visits, &c.*—The Royal Commission on the Care and Control of the Feeble-minded recommended: "That all cases of mentally defective persons dealt with under any of these recommendations be registered at the office of the Board of Control; that the work of the Board be so arranged as to allow of the frequent personal visitation of mentally defective persons, and that this visitation consists of not less than two visits a year

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.

EXPENSES OF CENTRAL AUTHORITIES.

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.

paid to each such person, unless, in view of the circumstances of particular cases or classes of cases, the Board determines that in regard to them this frequent visitation is unnecessary." (Recommendation XI.) It was further recommended: "That England and Wales be divided into at least eight districts suitable for purposes of supervision and visitation," and "That an Assistant Commissioner be appointed to each district, and that for special branches of work Assistant Commissioners may, if necessary, be appointed, provided always that the Assistant District Commissioners be qualified medical practitioners." (Recommendations XV. and XVI.) Leaving aside the division of the country into districts "suitable for the purposes of supervision and visitation" (a matter of organisation for the Board of Control), the foregoing recommendations are practically met by the provisions of sections 23, 25 (d), and 25 (2), and the Regulations made under the Act. On official inspections and visitation, see 174—183, 194—200, and 218—225 in the Home Secretary's Regulations, 2nd April, 1914, *post*.

(*With a view to their certification*) elsewhere.—This is to provide for cases under section 5 (4).

(e) *Dangerous or violent propensities*.—The Home Secretary on the debate on the third reading of this paragraph said that the Home Office anticipated setting up not more than one or two institutions for this class. By dangerous or violent he meant really dangerous and violent, and not defective criminals dangerous merely in the way of petty thefts or offences of that sort. (See section 35.)

(h) *Grants*.—See section 47.

Notes to Section 26.

Moneys provided.—See section 47.

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.

COMMITTEES FOR THE CARE OF DEFECTIVES.

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 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

Notes to Section 27.

The proposal in section 27 accords with Recommendation XXVIII. of the Royal Commission on the Care and Control of the Feeble-minded. Section 240 of the Lunacy Act, 1890 (53 & 54 Vict. c. 5) constituted the Council of every administrative county and county borough respectively and twenty-eight boroughs named in the Fourth Schedule to that Act a local authority for the purposes of the Lunacy Acts. Many of the 28 boroughs named in the Schedule have since ceased, as provided by section 246 and the Amendment Act of 1891 (54 & 55 Vict. c. 65—Schedule), to be local authorities for the purposes of the Lunacy Acts, 1890 to 1911. The local authority under such Acts and the local authority proposed by the present Act are therefore, generally speaking, the same body.

As to special provision for Lancashire, see section 34.

Notes to Section 28.

The Royal Commission on the Care and Control of the Feeble-minded recommended that the proposed authority should exercise their powers "through a Statutory Committee" (Recommendation XXIX.), and made note that: "The statutory precedents for the course suggested are as follows:—Lunacy Act, 1890, sections 169, 175, 239, and the Local Government Act, 1888, section 82." The Commission further recommended that such Committee "be constituted so as to include within it by co-option additional members, of whom one at least shall be a woman, who have special experience or knowledge" (Recommendation XXXI.). This further recommendation suggests the observation that the statutory precedents cited by the Commission contain no provisions for co-option of additional members. Certainly there are precedents for co-option of additional members to Statutory Committees. One of the most recent is that of the Unemployed Workmen Act, 1905 (4 Edw. 7, c. 18), which provides (sections 1 (1) and 2 (1)) for co-option to Committees formed under the provisions of that Act of persons experienced in the relief of distress,

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

and further provides that one member at least of the Committee shall be a woman.

Section 28 of the present Act has been drafted to meet the recommendations of the Royal Commission with the alternative to the local authority to empower the Visiting Committee or an Asylums Committee appointed under the provisions of the Lunacy Acts, 1890 to 1911, to "act also as the Committee for the care of the mentally defective." The alternative is a considerable one.

It is the importance of this distinction which accounts for two such paragraphs as (a) and (b) of this section. When the Bill went to Committee it contained no paragraph (b). When the paragraph which now appears lettered (a) had passed, the wording of paragraph (b) was suggested as an amendment. The Home Secretary then promised, if paragraph (b) were inserted in Committee, to secure the deletion of paragraph (a) on third reading. When, however, he proposed in the House that paragraph (a) should be struck out, Mr. Goldsmith maintained that the paragraphs embodied an important distinction. Under paragraph (a), he said, the Asylums Committee acts as the committee under the Act, but in paragraph (b) the members of the Asylums Committee are "to be the members of the Council appointed by the Council to be members of the Committee" under the Act. Under sub-section (1) the members of the Council appointed to form the Committee are to be joined by co-opted members. It is possible that the Council, Mr. Goldsmith said, may wish that its own Asylums Committee, which is a statutory committee with independent spending powers, should be the committee for mental defectives, without the addition of any co-opted members, save the two women specially provided for in paragraph (a). If paragraph (a) were deleted the Council would be deprived of this choice. For proceedings of Asylums Committee, see the Lunacy Act, 1890, section 175, in appendix. Section 66 of the present Act enables the Home Secretary to authorise the Committee for the care of the mentally defective to act as Asylums Committee for the purposes of the Lunacy Acts.

Some shall be women.—For other sections securing the place of women in the administration of the Act see sections 22 (1), 23 (1), and 40.

28 (2) *Local authority's powers.*—See section 30. Sub-section (2) of

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

this section is in accord with Recommendation XXXII. of the Royal Commission. For the duties of the committee in the management of institutions provided by the local authority, see 108—122 in the Home Secretary's Regulations, 2nd April, 1914 (*post*), and, in connection therewith, paragraph 21 (iii.) of the Circular of the same date (*post*) from the Board of Control to County and County Borough Councils.

Raising a Rate.—The provisions are contained in sections 29, 33, and 34.

28 (3) *Disqualifications.*—Disqualification for membership of a County or County Borough Council is as enacted by section 12 of the Municipal Corporations Act, 1882 (applied to County Councils by section 75 of the Local Government Act, 1888—51 & 52 Vict. c. 41)—subject to one qualification made by section 2 (2) (a) of that Act. Section 12 of the Municipal Corporations Act, 1882, is amended as follows:—

1. “A person shall be disqualified for being elected and for being a Councillor, if and while he—

is an elective auditor . . . or holds any office or place of profit other than that of Mayor or Sheriff, in the gift or disposal of the Council; or is in Holy Orders, or the regular Minister of a Dissenting congregation (this disqualification does not apply to County Councils); or has directly or indirectly, by himself or his partner, any share or interest in any contract or employment with, by, or on behalf of the Council.

2. But a person shall not be so disqualified, or be deemed to have any share or interest in such a contract or employment, by reason only of his having any share or interest in—

any lease, sale, or purchase of land, or any agreement for the same; or any agreement for the loan of money, or any security for the payment of money only, or any newspaper in which any advertisement relating to the affairs of the Borough or Council is inserted; or any Company which contracts with the Council for lighting or supplying with water or insuring against fire any part of the Borough; or any Railway Company, or any Company incorporated by Act of Parliament or Royal Charter, or under the Companies Act, 1862 (or any Society registered under the Industrial and Provident Societies Acts, 1893 and 1895).”

Apart from said section 12, there are other disqualifications, viz., Infants, aliens, and persons in receipt of relief are disqualified. Conviction for treason or felony (Felony Act, 1870—33 & 34 Vict. c. 23) and corrupt and illegal practices (Corrupt and Illegal Practices Acts) disqualify, and officers of the Regular Forces on the active list are disqualified. (Army Acts.)

Formerly women could not be elected to County or Borough Councils.

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

but that disqualification is now removed by the Qualification of Women (County and Borough Councils) Act, 1907—7 Edw. 7, c. 33.

Notes to Section 29.

“It will often be expedient that two or more local authorities should join for the purposes of the execution of all or some of their duties under the Act, and by section 29 provision is made to enable this to be done.” [Home Office Circular, December, 1913, to County and County Borough Councils—*post.*]

In section 38 (1) (a) there is provision made for combination with respect to institutions for defectives. See Note to that section.

The expression “local authorities” in this section should be taken as meaning the local authorities “for the purposes of this Act,” as other authorities are mentioned in the Act. (See section 30 (ii.), (iii.), and (iv.) and section 31.) Section 29 evidently has been incorporated in the Act to meet Recommendations XXXVII. and XXXIX. of the Royal Commission on the Care and Control of the Feeble-minded. The two Recommendations read :—

RECOMMENDATION XXXVII.—“That with a view to promoting a common policy in the treatment and care of mentally defective persons in the administrative County and County Boroughs, and also for the supply of sufficient and suitable accommodation at the least expense, it is desirable that advantage should be taken of section 81 of the Local Government Act, 1888, by these authorities, adequate powers being given by statute to Joint Committees so appointed.”

RECOMMENDATION XXXIX.—“That it is desirable that, in accordance with the principle of section 242 of the Lunacy Act, 1890, Councils of Administrative Counties and County Boroughs, acting through their Committees for the care of the mentally defective, should associate in any way they may think best for the supply of accommodation for any class or classes of the mentally defective, subject to the approval of the Board of Control and, as to financial arrangements, subject to the approval of the Local Government Board.”

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.

(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

*The power and duties of the local authorities for the purposes of this Act are:—*1. Constitution of Committees for the care of defectives (section 28 (1)). 2. The general duties set out in section 30. 3. Powers and duties relating to expenditure and accounts (section 33). 4. Power to authorise an Officer to petition "judicial authority" for an order for "defective" to be sent to an institution or to be placed under guardianship (section 5 (1); or to apply for removal of interested guardian or appointment of fresh guardian (section 7 (2)). 5. Power to authorise Officer to remove, in certain circumstances, defective to a place of safety pending presentation of petition to "judicial authority" (section 15 (1)). 6. Power to take steps with respect to "defective" child in respect of whom notice has been given by a local education authority. 7. Through their Officer—power to recover contributions to expenses of maintenance and guardianship (section 13). 8. Power to establish or contribute to institutions, etc., for defectives (section 38). See also sections 43 and 44 with respect to liability of expenses of maintenance in any conveyance of defectives to and from institutions.

For the fund or rate out of which the expenses of the local authorities acting singly are to be met, see section 33 (1).

Public Health Act, 1875, section 297.—With respect to provisional orders authorised to be made by the Local Government Board under this Act, the following enactments shall be made:—

(1) The Local Government Board shall not make any provisional order under this Act unless public notice of the purport of the proposed order has been previously given by advertisement in two successive weeks in some local newspaper circulating in the district to which such provisional order relates.

(2) Before making any such provisional order, the Local Government Board shall consider any objections which may be made thereto by persons affected thereby, and in cases where the subject matter is one to which a local inquiry is applicable shall cause to be made a local inquiry, of which public notice shall be given in manner aforesaid and at which all persons interested shall be permitted to attend and make objections.

(3) The Local Government Board may submit to Parliament for confirmation any provisional order made by it in pursuance of this Act, but any such order shall be of no force whatever unless and until it is confirmed by Parliament.

(4) If while the Bill confirming any such order is pending in either House of Parliament, a petition is presented against any order comprised therein, the Bill, so far as it relates to such order, may be referred to

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 [38 & 39 Vict. c. 55] (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.

GENERAL POWERS AND DUTIES OF LOCAL AUTHORITIES.

***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—

(a) to ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than

a Select Committee, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

(5) Any order confirming any provisional order made in pursuance of any of the Sanitary Acts or of this Act, and any Order in Council made in pursuance of any of the Sanitary Acts, may be repealed, altered, or amended by any provisional order made by the Local Government Board and confirmed by Parliament.

(6) The Local Government Board may revoke, either wholly or partially, any provisional order made by them before the same is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the order is pending in either House of Parliament.

(7) The making of a provisional order shall be *prima facie* evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of such provisional order have been complied with.

(8) Every Act confirming any such provisional order shall be deemed to be a public general Act.

Section 298.—The reasonable costs of any local authority in respect of provisional orders made in pursuance of this Act, and of the inquiry preliminary thereto, as sanctioned by the Local Government Board, whether in promoting or opposing the same, shall be deemed to be the expenses properly incurred for purposes of this Act by the local authority interested in or affected by such provisional orders, and such costs shall be paid accordingly; and if thought expedient by the Local Government Board, the local authority may contract a loan for the purposes of defraying such costs.

Notes to Section 30.

Regulations made by the Secretary of State.—For the duties of local authorities, as prescribed by the Regulations, see 4—29 in the Home Secretary's Regulations, 2nd April, 1914 (*post*), together with the Home Office Circular, December, 1913 (*post*), and the Circular of the Board of Control, 2nd April, 1913 (*post*), to County and County Borough Councils.

(a) *Ascertaining the number of defectives.*—For the defectives subject to be dealt with see sections 1 and 2 (b). Under section 31 (1) it is the

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

duty of the local education authority to ascertain as to children. See sections 31, 30 (iv) and 2 (2). But the duty of local authorities under the Act in the way of ascertaining defectives is confined to defectives who are *subject* to the provisions of the Act, that is, to such defectives as render themselves liable under the circumstances enumerated in the paragraphs of section 2 (b). A comparison of wording of sections 30 (a) and 31 (1) (a) will make this clear. The Home Secretary's Regulations (4—7), 2nd April, 1914 (*post*), direct what the local authorities shall and may do to ascertain, and on ascertaining what defectives subject to be dealt with as aforesaid are within their area; and, in connection therewith, in paragraph 21 of the Circular from the Board of Control, of the same date (*post*), to County and County Borough Councils, there are dealt with some points on which the Board consider it "desirable that local authorities should be informed of the views of the central authorities." The requirement that the local authority shall ascertain what persons are subject to be dealt with is based on Recommendation LV. of the Royal Commission on the Feeble-minded, who wished to facilitate the work of the local authority's committee under section 28, by furnishing them with information as to the number of persons to be provided for. Under the original Bill the scope of the inquiry was to be much broader, and was in fact to be an inquiry into the number of all defectives within the definitions of the Act, whether subject to be dealt with or not; indeed, the Bill provided that registers of *all* mental defectives should be compiled, a proposal that was fiercely attacked and withdrawn.

(b) *Supervision and Control of Cases.*—Subject to Regulations made in that behalf, the Royal Commission recommended:—

"That subject to the Regulations of the Board of Control, it shall be at the discretion of the Committee to deal with mentally defective persons on whose behalf they deem that intervention on their part is necessary as they shall think best in the individual case, either registering the case only, or having it certified also, or taking steps for the certification and detention, or placing it in an Institution or Home or House or Colony or under private care or family guardianship, or leaving it to the care of its parents or guardians with or without the appointment of a

- 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 persons

Friendly Visitor, or taking any other measures that seem to them desirable." (Recommendation XXXIV.)

For the Regulations now made in the matter, see 14—17 of the Home Secretary's Regulations, 2nd April, 1914 (*post*).

Provision is made that Societies may undertake the duty of "assisting or supervising defectives whilst not in institutions" (see No. 16 in the said Regulations and section 48 of the Act). "It is hoped that in many cases where defectives are now neglected or improperly maintained in their own homes, systematic and kindly supervision will bring about a sufficient amelioration of their condition to render further steps unnecessary. If this is impracticable, it should then be considered whether guardianship in the home of some relative or other suitable person will not provide the care and control that is necessary. . . . The more costly expedient of detention in institutions should be resorted to only when the other possible courses are obviously inadequate or prove to be attended by danger to the defective." (See paragraph 17 of Circular, 2nd April, 1914, *post*, from the Board of Control to County and County Borough Councils.)

(c) *Provision of Institutional Accommodation by Local Authority.*—See sections 38 and 43. As to classification of cases by or in institutions, see 23 and 80 of the Home Secretary's Regulations, 2nd April, 1914 (*post*). And for the Regulation on conveyance of defective to institution, see 24 of the said Regulations.

(d) *Under guardianship by orders*; that is, otherwise than under section 2 (1) (a). The different orders are enumerated in section 4. For Regulation requiring local authority to suggest suitable guardians, see 25 of the Home Secretary's Regulations, 2nd April, 1914 (*post*). See also section 10 (2).

(e) and (f). These are permissive powers—that is, there is no obligation on the local authority to exercise them as there is—subject to proviso (i.) of the section—to perform the duties mentioned in paragraphs (b), (c), (d), and (g). The cost of exercising these permissive powers is not taken into the reckoning under proviso (i.) for the State grant fixed by section 47. (See paragraph 5 of the Circular from the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*.) A special grant towards expenditure in the exercise of permissive powers was a feature of the 1914 Budget proposals. Some weighty observations on these permissive powers, and the extent of them, will be found in paragraph 19 of the above-mentioned Circular, and also in the paragraph headed "permissive powers of local authorities" of the Home Office Circular (*post*) to the same Councils, dated December, 1913.

As regards the burial of the dead, it may be pointed out that the common law casts the obligation upon the person under whose roof the death has taken place. In the case of death in a hospital or other institution, the expression "person" means the governing body or managers. (*Rex v. Stewart*, 10 L.J.M.C., 40.)

(g) *Officers and other persons.*—See 6—8 of the Home Secretary's Regulations, 2nd April, 1914 (*post*), as regards instructions, etc., to

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

officers and other persons. On the expediency of local authorities availing themselves of the services of officers who are already employed by a public authority, as, for instance, Medical Officers of Health, Relieving Officers, School Attendance Officers, and so forth, see paragraph 21 (ii.) of the Circular from the Board of Control to County and County Borough Councils, of the 2nd April, 1914, *post*. As regards officers and servants to be appointed for certified institutions provided by local authorities, see 116—118 of the above-mentioned Regulations.

(h) *Reports*.—See 28-29 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

(i) *The financial provision on which obligations rest*.—On the financial provisions of the Act, see paragraphs 3—16 in the Circular from the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*.

(ii.) and (iii.) *The Lunacy Acts and the Poor-Law Acts*: For the local authorities under the Lunacy Acts, 1890 to 1911, see Note to section 27. The powers and duties of every such authority are as shown in this Note. The local authority have to provide and maintain an asylum or asylums for the accommodation of pauper lunatics. (Lunacy Act, 1890, section 238.) "Lunatic" means "an idiot or person of unsound mind" (section 341). The local authority may also provide asylum accommodation for private patients, together with pauper patients or in separate asylums, and may provide separate asylums for idiots or patients suffering from any particular class of mental disorder (section 241). But the primary duty of the local authority is to provide for pauper patients. "Pauper patient" means "a person wholly or partly chargeable to a union, county, or borough"; and "private patient" means "a patient who is not a pauper" (section 341). Pauper lunatics are ordinarily sent to county and borough asylums under "summary" reception orders made by a judicial authority or other Justice (see sections 13-16 of the Lunacy Act, 1890, in appendix), but in certain cases they may be sent there on order of two or more Lunacy Commissioners (sections 23 (1) and 60 (1)), while the Secretary of State may by his warrant direct a criminal lunatic to be transferred to such an asylum, who on ceasing to be dealt with as a criminal may become a pauper lunatic—there is also power for Justices to make reception or detention orders in certain cases where Secretary of State does not act or has not done so. (The Criminal Lunatic Acts, 1838 and 1884.) A pauper patient may be transferred to the "private" class, and a private patient transferred to the "pauper" class. (Lunacy Act, 1890, section 37.) Private patients are sent to county or borough asylums or other institutions for lunatics—i.e., hospitals or licensed houses where lunatics are received—on reception orders made on petition. (See Note to section 5.) The powers and duties of the local authority under the Lunacy Acts are exercised through the Committee of Visitors "subject, if the local authority think fit, to their directions as to which of the methods of providing asylum accommodation authorised by this Act shall be adopted." (Lunacy Act, 1890, section 239.) The Committee are

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

required to make rules "for the government of the asylum," which rules must be made subject to the approval of the Secretary of State (section 275); they determine the diet of patients (section 275), appoint asylum officers (section 276), and fix the maintenance charges (section 283). The Committee may order the discharge of any person in the asylum "whether he is recovered or not (section 77), or discharge any pauper lunatic to the care and custody of a relative or friend of the lunatic upon satisfactory undertaking that the lunatic will be no longer a public charge and will be properly taken care of and prevented from doing injury to himself or others (section 79). Further, the Committee may discharge a pauper lunatic to the workhouse of the union of chargeability or of the union from which he was sent to the asylum when the medical officer of the asylum has certified that the case is a proper one for the workhouse (sections 25 and 80). And they may, with the consent of the Local Government Board and the Lunacy Commissioners, contract with the Guardians of any union for the reception into the workhouse of any chronic cases not being dangerous (section 26). For a somewhat similar provision in present Act see sections 37 and 38 (b). The Committee have to make to the local authority an annual report in writing of the state and condition of the asylum—or asylums—and as to its sufficiency to provide the necessary accommodation, and as to its management and the conduct of the officers and servants and the care of the patients therein (section 190). See as to accounts and erection of buildings sections 33 and 38 and the Notes thereto. For Regulations made by the Home Secretary, with the concurrence of the Lord Chancellor, pursuant to section 30, proviso (iii.) of the present Act, and dated the 20th March, 1914, see *post*. By these Regulations, the powers conferred and the obligations imposed by section 30 on local authorities under the present Act now apply to defectives of the classes named in the Regulations, notwithstanding that they are for the time being, or might be, provided for by the local authorities under the Lunacy Acts, 1890 to 1911.

The whole of England and Wales is divided into areas under Boards of Guardians for purposes of the relief of the poor—the Local Government Board being the central authority. It is the legal duty of the Guardians—and in and between their meetings of their Relieving Officers—to relieve destitution. The cause of the destitution is immaterial. In their Report the Royal Commission on the Care and Control of the Feeble-minded dealt at length with the powers and duties of Boards of Guardians. The following extract is from Part I., pages 13 to 16, of the Report. The references in parenthesis are not part of the extract.

Extract.

FORMS OF POOR-LAW RELIEF.—The Poor-Law authorities deal with the greater number of "uncertified persons" who are mentally defective. Such persons are very often by reason of their infirmity in a state of destitution, and are unable to take proper care of themselves. . . .

- (i) Indoor Relief and the Workhouse: For indoor relief there is the

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 [49 & 50 Vict. c. 25], 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

“workhouse,” a term which in Poor-Law administration has a very wide signification. It is “construed to include any house in which the poor of any parish or union shall be lodged and maintained, or any house or building purchased, erected, hired, or used at the expense of the poor rate . . . for the reception, employment, classification or relief of any poor person therein. (Poor-Law Amendment Act, 1834, section 109.) And, in effect, “every Board of Guardians in England and Wales may provide for the housing in a separate building or in separate wards attached to an existing building of any uncertified persons . . . who may require indoor relief. . . . Boards of Guardians have also powers under which they may form combinations for the provision of indoor relief. . . . In the Metropolis under these Statutes (Metropolitan Poor Acts) institutions are provided for “children, who, by reason of defect of intellect, or physical infirmity, cannot properly be trained in association with children in ordinary schools”; and there are also institutions for adult paupers who are chronic and harmless lunatics, idiots, or imbeciles, such as might be lawfully retained in a workhouse. . . . In the country it is possible . . . for the workhouse of a union to be used for the reception of idiotic, imbecile and insane paupers from another Union (Poor-Law Amendment Act, 1868, section 13), and special provision is made by law whereby two or more unions may, with the consent of the Guardians, be combined for any purpose connected with the administration of the relief of the poor. (Poor-Law Act, 1879, section 8. There are provincial combinations existing for dealing in special institutions with “defectives” chargeable to the Guardians.) . . .

(ii) Outdoor Relief : . . . This is regulated by the Orders of the Local Government Board. . . . The regulations permit the Guardians to give outdoor relief at their discretion to persons suffering from mental infirmity, and to persons members of whose families are so suffering, whether or not such persons be resident in the union, and whether or not they be employed and receive wages. . . .

(iii) Poor-Law Institutional Relief outside the “Workhouse” : Apart from their maintenance in an establishment of a Board of Guardians, . . . and apart also from the possibility of their receiving . . . outdoor relief, the “uncertified” poor who are afflicted may also, under several statutes, be lodged or cared for by Boards of Guardians in institutions not managed by the Guardians themselves. Children who are idiotic may be sent to certified or to uncertified schools. (Poor-Law (Certified Schools) Act, 1862, and subsequent Acts.) Adults and children alike who are idiotic or imbecile may be sent to institutions established for their reception, whether maintained by a county rate or voluntary contributions. (Poor-Law Amendment Act, 1868, section 13; Idiots Act, 1886, section 15.) . . . Guardians, too, may make grants to voluntary associations which are dealing with persons who are suffering from any permanent or “natural infirmity” but are not themselves

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

paupers. (Poor-Law Amendment Act, 1851, section 4, and Poor-Law Act, 1879, section 10.) . . . Proprietary establishments may be also used by the Guardians, under a contract between the Guardians and the proprietor, subject to the rules, orders and regulations (of the Local Government Board) wherein any poor person is lodged . . . for hire or remuneration. (Poor Relief Act, 1849.) . . .

(iv.) Further Powers of Guardians: Two other powers of the Guardians may be mentioned, one which refers to defective and epileptic children, and one which refers to children alleged to be suffering from neglect or cruelty. (The two powers referred to are: (1) power to make contributions—in respect of pauper children—to expenses of special schools or classes under the Elementary Education (Defective and Epileptic Children Act, 1899—for that Act see in the Appendix—and (2) power to prosecute in neglect or cruelty cases under the Children Act, 1908, whether the children be chargeable to the poor rate or not.) . . . Lastly, the workhouse is used as a place for the reception, relief and (temporary) detention of alleged lunatics, and for the detention of lunatics certified as proper persons to be allowed to remain in a workhouse. (Lunacy Acts.) . . . Thus, speaking generally, there are in the hands of the Poor-Law Guardians, on certain conditions and subject to the consent of the Local Government Board, ample legislative powers for providing for mentally defective paupers who are not certifiable. . . . These ample legislative enactments form part of the general poor relief system of the country, and are not applicable to mentally defective persons as such, but only on the ground of their pauperism. . . .

The Guardians may make an order for the discharge of any lunatic detained in their workhouse although the detention may be made under an order of a Justice made in accordance with the provisions of the Lunacy Act (Lunacy Act, 1890, section 81), but of course it would be contrary to their duty to do so unless proper provision was first made for the care and maintenance of the lunatic outside the workhouse. Workhouses are regularly used as a "place of safety" for "urgency" lunacy cases. See Note to section 15.

For Regulations made by the Home Secretary, with the concurrence of the Local Government Board, under section 30, proviso (ii.), of the present Act, see *post*. "The effect of the Regulations, briefly stated, is that if a Poor Law authority has reason to believe that relief is being afforded to a mental defective subject to be dealt with under the [Mental Deficiency] Act, who should, for special reasons, be provided for by the local authority, a report on the case may be made by the Poor Law authority to the Local Government Board. The Local Government Board may, if they concur in the report, transmit it to the Board of Control, and the Board of Control, if satisfied that the local authority are able and willing

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 (herein-after referred to as defective children) are defectives shall rest with the local education authority as herein-after 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 addresses have been notified to them by the local education authority under the provisions of this Act.

DUTIES OF LOCAL EDUCATION AUTHORITIES.

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,—

- (a) for ascertaining what children within their area are defective children within the meaning of this Act;

to take the person under their control, may issue a certificate, which will have the effect of taking the case out of the category of cases which, for the time being, are being provided for by the Poor Law authority, and placing it in the category of cases in respect of whom the local authority have a duty to perform . . . the initiative in the matter of the transfer of these cases from one authority to the other rests with the Poor Law authority." (See under "Position of Poor Law Authorities," in Local Government Board's Circular to Boards of Guardians and Joint Committees, 31st March, 1914, *post*.)

(iv) *The Local Education Authorities and Defective Children.*—For the purposes of elementary education the local education authorities are, for their areas respectively, the council of every county, county borough, non-county borough subject to the Municipal Corporation Act, 1882, with a population of over ten thousand, and non-borough urban district with a population of over twenty thousand. (Education Act, 1902, section 1.) The present Act leaves unimpaired the powers of the local education authorities, but would add (see section 31) an additional duty to them in respect of "defective" children. The said authorities are empowered by the Elementary Education (Defective and Epileptic) Children Act, 1899, to make provision for defective children; and by section 1 of the Elementary Education (Defective and Epileptic Children) Act, 1914, are required, subject to the provisos of that section, to do so "in the case of mentally defective children whose age exceeds seven years." (For the 1899 Acts and the Amendment Act of 1914, see Appendix.)

Except those . . . notified to them, etc.—See section 2 (2) and section 31, with Notes.

Notes to Section 31.

Duties of a local education authority.—See section 2 (2), section 30 (iv.), and Circular from Board of Education to local education authorities, 30th

- (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 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, [62 & 63 Vict. c. 32] shall apply with the necessary modifications for the purposes of this section.

POWER OF SECRETARY OF STATE TO ACT IN DEFAULT.

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.

(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

March, 1914, *post*, with the Regulations, etc., therein referred to, *post*. For the provisions that may be made, or must be made, for the education of educable defective children, see the Elementary Education (Defective and Epileptic Children) Acts, 1899 and 1914, *post*.

Local Education Authority.—For meaning see note to section 30 (iv.).

(b) *In Special Schools or Classes.*—See section 2 of the Elementary Education (Defective and Epileptic Children) Act, 1899, as amended by section 1 of the Elementary Education (Defective and Epileptic Children) Act, 1914, with section 14 of the former Act. Under such Acts, idiots and imbeciles are excluded from special schools and classes certified for the purposes of the Acts. (See sections 1, 2, and 7 of the 1899 Act, with section 9 (1) of the 1914 Act.)

(c) *Hereinbefore contained.* — Section 2 (2) (a) and (b) and previous note to this section.

Notes to Section 32.

“Board,” that is Board of Control, (section 21).

For the local authority “for the purpose of this Act,” see section 27 with section 34; and for their duties see section 30 and Note thereto.

Section 247 of the Lunacy Act, 1890, empowers the Secretary of State, on report made by the Lunacy Commissioners that the local authority

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 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 BORROWING 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

have "failed to satisfy the requirements of this Act," to require "the local authority to provide such accommodation in such manner as he may direct"; and thereupon the local authority are to "forthwith carry the requisition into effect." In Acts relating to local government the Central Authority invariably have large powers to enforce the performance of duties by local authorities, *e.g.*, power of the Local Government Board on default of the local authority under the Public Health Acts (Public Health Act, 1875, section 299) and under the Housing, Town Planning, &c., Act, 1909 (section 61); power of Board of Education Authority on default of "local Education Authority" (Education Act, 1902, section 16).

See section 5 (4) for power of the Board where "local authority" have refused or neglected to cause petition to be presented for order to place "defective" in institution or under guardianship.

Notes to Section 33.

The expenses of a local authority.—Local authority is defined in section 27. For the expenses of local authorities who combine for the purposes of the Act, see section 29.

Obligations under this Act.—The obligations are set out in section 30. Expenditure under section 30 (b), (c), (d), and (g), in excess of half the contribution is expenditure otherwise than in fulfilment of an obligation. On this, see paragraph headed "Permissive Powers of Local Authorities," in Home Office Circular to County and County Borough Councils, December, 1913, *post*, and paragraph 10 of Circular from the Board of Control to the same Councils, 2nd April, 1913, *post*.

Sixty years.—The period of sixty years substituted by section 33 (2) for

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.

(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, [51 & 52 Vict. c. 41] 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.

(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 borrow-

the thirty years' period is the maximum period allowed by section 234 (4) of the Public Health Act, 1875.

Section 69 (2) of the Local Government Act, 1888, enacts that: "Where the total debt of the County Council, 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 rate, the amount shall not be borrowed, except in pursuance of a provisional order made by the Local Government Board and confirmed by Parliament." Section 234 (2) and (3) of the Public Health Act, 1875, enacts that: "(2) The sum borrowed shall not at any time exceed, with the balances of all the outstanding loans contracted by the local authority under the Sanitary Acts and this Act, in the whole the assessable value for two years of the premises assessable within the district in respect of which such money may be borrowed. (3) Where the sum proposed to be borrowed with such balances (if any) would exceed the assessable value for one year of such premises, the Local Government Board shall not give their sanction to such loan until one of their Inspectors has held a local inquiry and reported to the said Board." The effect of section 33 (3) is to leave borrowing money for the purposes of the present Act unlimited, subject to the controlling power as regards buildings that may be exercised by the Secretary of State. (See section 38 generally.)

Accounts and Audit.—The accounts of County Councils are made up annually in the form prescribed by the Local Government Board, and are audited by the District Auditors of the Board. District Auditors are invested with powers of surcharge and disallowance and to prosecute for penalties and recovery of moneys. There is right of appeal as to the allowance as well as to the surcharge or disallowance of any item by the District Auditor. (Local Government Act, 1888, section 71, and enactments therein mentioned.) Under the Municipal Corporations Act, 1882, accounts are made up by the Borough Treasurer and are audited by three Borough Auditors, two elected by the burgesses, called elective auditors,

ing under sub-sections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875 [38 & 39 Vict. c. 55.]

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

SPECIAL PROVISIONS AS TO LANCASHIRE.

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 [54 & 55 Vict. c. xx.] as to expenses, borrowing, accounts, and audit shall apply accordingly in substitution for the provisions as to the like matters contained in this Act.

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, &c.

STATE INSTITUTIONS.

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.

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

and one approved by the Mayor, called Mayor's auditor (sections 25 and 26), but these auditors are not empowered as are the Local Government Board's District Auditors to disallow illegal payments or to make surcharges. The accounts of county and borough asylums under the Lunacy Acts are dealt with as are County Council accounts as regards audit, etc. (Lunacy Act, 1891, section 18.) See section 34 as regards Lancashire. In respect of the accounts of certified institutions provided by local authorities, see 114 and 121 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Note to Section 34.

The special provision made for County of Lancaster in regard to lunatic asylums has arisen through the many (17) county boroughs in the geographical county. The Asylums Board is the local authority for Lancashire under the Lunacy Acts.

Notes to Section 35.

The Board of Control (see section 21), subject to the regulations of the Secretary of State, are, among other things, to "provide and maintain institutions for defectives of dangerous or violent propensities." (Section 25 (e) and note.)

Acquire land.—Power to hold land without licence in mortmain is con-

CERTIFICATION OF 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.

APPROVAL OF PREMISES PROVIDED BY BOARDS OF GUARDIANS.

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

ferred by section 22 (4). In the paragraph headed "The Central Authority" of the Home Office Circular to County and County Borough Councils, December, 1913, *post*, it is definitely stated that the Board *will* "themselves establish and maintain State institutions for defectives of violent or dangerous propensities."

Transfer of Institution.—See section 39.

Notes to Section 36.

The Board, i.e., the Board of Control established under section 21.

Certification, etc.—The application must be in accordance with Regulations made by the Secretary of State (see section 41 (1) (a)). For the Regulations, see 44—63, and the Forms therein referred to, of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Certified Institution.—See definition in section 71. Provision is made for the certification of houses run for private profit in section 49 (and the above-mentioned Regulations apply), but no public money can be applied in respect of defectives in such houses. (Section 49 (2).) As to "approved home," see section 50 and Note, and 64—79 of the said Regulations.

Notes to Section 37.

The expression "*Board of Guardians*," as respects England and Wales, means a Board of Guardians elected under the Poor-Law Amendment Act, 1834, and the Acts amending the same, and shall include a Board of Guardians or other body of persons performing under any local Act the like functions to a Board of Guardians under the Poor-Law Amendment Act, 1834 (Interpretation Act, 1889, section 16). Accordingly the local authority will be able to contract with a joint committee of Boards of Guardians in combination for special purposes, including the Metropolitan Asylums Board. (See under "Form of Poor-Law Relief" in Note to section 30.) At page 55 of the Report of the Royal Commission on Care and Control of the Feeble-minded, the Commission state:—"Many representations have been made to us by Boards of Guardians that 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.

(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.

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

new organisation for the care of the mentally defective, which is admitted to be necessary, should form part of the Poor-Law system of the country. We have considered that suggestion most carefully, but we have found ourselves unable to agree with it. . . . But under our recommendations it will be possible to utilise in a most economical and effectual manner any accommodation which may be available in Poor-Law institutions and is suitable for the purpose." Section 37 is a provision for the utilisation of suitable accommodation which may be available in Poor Law Institutions. It practically follows the precedent of section 26 of the Lunacy Act, 1890, under which contracts may be made, subject to the consent of the Local Government Board and the Lunacy Commissioners, for reception into the workhouse of asylum patients who are chronic patients and who are not dangerous. For the views of the central authorities on section 37, see in the Home Office Circular to County and County Borough Councils, December, 1913, *post*, under paragraph headed "Modes of Providing Accommodation," and paragraph 20 of the Circular of the Board of Control to the same Councils, 2nd April, 1914, *post*; also in Circular of the Local Government Board to Boards of Guardians, 31st March, 1914, *post*, under paragraph headed "Agreements between Poor Law Authorities and Local Authorities."

The Application and Approval: Regulations and Forms.—See 61 and Forms C9 to C12 of the Home Secretary's Regulations, 2nd April, 1913, *post*.

Into agreement with any local authority.—The local authority, as the context shows, must be a local authority under the Act, as defined in section 27. "Any" must therefore be read as meaning whether in their own area or not, *i.e.*, the area of the Guardians. The agreements, although approved by the Local Government Board, have also to be submitted to the Board of Control, and cannot be carried into effect until approved by the Secretary of State. (See section 38 (1) (b) with 19—22 of the Home Secretary's Regulations, 2nd April, 1914, *post*.)

Transfer of premises.—Provision is made for the transfer of premises in section 39.

Notes to Section 38.

Local authority is defined in section 27.

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

May.—An obligation to provide suitable and sufficient accommodation for cases is laid on a local authority by section 30 (c), but is subject to the provision of section 30 (i). The Board of Control state that they will have no funds out of which they could make direct grants towards expenditure incurred by local authorities in purchasing sites or erecting buildings. They point out, however, that by the State's contribution to the cost on "income account"—as approved by them—which includes expenditure by way of interest on or repayment of capital raised, or by way of rent or other similar payment, the State will bear its due share of the cost of sites and buildings (see paragraphs 5 and 6 of the Board's Circular to County and County Borough Councils, 2nd April, 1914, *post*). The question of the Institution provision for defectives is dealt with at length under the head of "Methods of Dealing with Defectives," in paragraphs 17—20 of the Circular of the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*, and more shortly under the head of "Modes of Providing Accommodation" in the Home Office Circular to the same Councils, December, 1913, *post*. The Board of Control consider that: "The more costly expedient of detention in institutions should be resorted to only when the other possible courses are obviously inadequate, or prove to be attended by danger to the defective." (Paragraph 17 of their Circular.) As to the required institutional classification of defectives, see 23 and 80 of the Home Secretary's Regulations, 2nd April, 1914, *post*. Provision for expenses and borrowing power is made in section 33.

Subject to the Approval of the Secretary of State.—For the Regulations for obtaining the approval in respect of any matter coming within section 38, see 18—22 of the Home Secretary's Regulations, 2nd April, 1914, *post*. Section 38, in requiring the approval of the Secretary of State to erection, etc., of buildings and plans therefor, follows the provisions of the Lunacy Act, 1890 (section 254 (2)) with respect to county and borough lunatic asylums.

Undertake or combine.—Provision for combination is made in section 29.

(a) *Institutions certified, etc.*—It is submitted that this will include premises provided by Boards of Guardians, under section 37. See definition of certified institution in section 71, and see also section 36 and note.

(b) *Required or authorised.*—See note on "may" above, and 19—22, the Regulations referred to above.

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 [51 & 52 Vict.

(3) *Acquisition of land.*—The provisions for acquiring land incorporated by section 38 (3) are as follows:—

Local Government Act, 1888—

Section 65.—(1) A County Council may from time to time for the purpose of any of their powers and duties, including those which are to be executed through the Standing Joint Committee, acquire, purchase, or take on lease or exchange any lands or any easements or rights over or in land whether situate within or without the county, and may acquire, hire, erect and furnish such halls, buildings and offices as they may from time to time require, whether within or without their county.

(2) For the purpose of the purchase, taking on lease or exchange of such lands, sections 176, 177, 178 of the Public Health Act, 1875, shall apply as if they were herein re-enacted and in terms made applicable to the County Council.

(3) Where the County Council with the consent of the Local Government Board sell any land, the proceeds of such sale shall be applied in such manner as the said Board sanction towards the discharge of any loan of the Council or otherwise for any purpose for which capital may be applied by the Council.

Public Health Act, 1875—

Section 175.—Any local authority may for the purposes and subject to the provisions of this Act purchase or take on lease, sell or exchange any lands, whether situate within or without their district; they may also buy up any water mill, dam or weir which interferes with the proper drainage of or the supply of water to their district.

Any lands acquired by the local authority in pursuance of any powers in this Act contained and not required for the purpose for which they were acquired shall (unless the Local Government Board otherwise direct) be sold at the best price that can be gotten for the same, and the proceeds of such sale shall be applied towards discharge by means of a sinking fund or otherwise of any principal moneys which have been borrowed by such authority on the security of the fund or rate applicable by them for the general purposes of this Act, or if no such principal moneys are outstanding shall be carried to the account of such fund or rate.

The provisions of the Public Health Act referred to in section 175 are (excluding provisions as to sale of waterworks, gasworks and markets) those of section 176, which incorporates, with modifications, the Land Clauses Consolidation Acts and includes regulations *re* the publication of notices of intention to acquire land, etc., and as to petitions to the Local Government Board and of local inquiries by the Local Government Board, etc. Section 177 relates to power of the local authority

c. 41] and in the case of the council of a county borough as for the purposes of the Public Health Acts.

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

to let land subject to the consent of the Local Government Board, and section 178 contains special provisions *re* sales, etc., of lands, to the local authority, belonging to the Duchy of Lancaster.

Notes to Section 39.

Prison Commissioners.—Compare section 35.

Board of Guardians.—Compare section 37.

Other public authority.—*e.g.*, Local Education Authority, Local Authorities under Lunacy Act, Public Health Acts, or even the present Act.

Notes to Section 40.

Lunacy Act Visitors.—The persons appointed under the Lunacy Acts, 1890-1911, as visitors of licensed houses, are appointed in accordance with the Lunacy Act, 1890, which makes the following provisions in the matter :—

Section 177.—(1) The justices of every county and quarter sessions borough not within the immediate jurisdiction of the Commissioners shall, whether there is a licensed house within the county or borough or not, annually appoint three or more justices, and also one medical practitioner, or more, to act as visitors of licensed houses within the county or borough and otherwise for the purposes of this Act. . . . (7) The annual appointment of visitors shall be made by justices of a county at their Michaelmas quarter sessions, and by justices of a borough at special sessions to be held in the month of October; other appointments (*i.e.*, to fill vacancies) may be made by justices of a county at any

shall be taken into consideration in determining the remuneration, if any, of the visitors and clerks to visitors.

(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.

special sessions to be held at the same time as any quarter sessions. . . .

(12) Every visitor, being a medical practitioner, shall be entitled to such remuneration for services rendered under this Act as the justices of the county or borough may approve.

The places within the immediate jurisdiction of the Commissioners—i.e., the Commissioners in Lunacy—are : The cities of London and Westminster, the counties of London and Middlesex, and the following parishes and places (that is to say) : Barnes, Kew Green, Mortlake, Merton, Mitcham, and Wimbledon, in the County of Surrey ; Southend, in the County of Kent ; and East Ham, Leyton, Leytonstone, Low Leyton, Plaistow, West Ham, and Walthamstow, in the County of Essex ; and also every other place, if any, within the distance of seven miles from any part of the cities of London or Westminster, or of the borough of Southwark. (Section 208 (1) and Third Schedule of Act.)

One or more women.—For the part of women in the administration of the Act, see note to section 22.

Section 40 (2) means that visitors of institutions for defectives in areas within the immediate jurisdiction of the Commissioners in Lunacy will have to be appointed as in other places.

A clerk . . . in like manner.—Section 178 of the Lunacy Act, 1890, provided : (1) The clerk of the peace or some other person to be appointed by the justices for the county or borough shall act as clerk to the visitors. (5) Every clerk to the visitors should be allowed such salary or remuneration for his services as the justices for the county or borough direct. The payment is made out of the county or borough fund (section 225).

Expenses and remuneration of visitors.—See note on Lunacy Act visitors above.

Functions.—See sections 11 (3), 12 (2), 20 (d), and 40.

Regulations . . . under this Act.—For the “further functions” assigned to the visitors, see generally 174—183 (Visitation of Institutions and of Patients therein) and 221—222 (Visitation of Patients under Guardianship) of the Home Secretary’s Regulations, 2nd April, 1914, *post*.

REGULATIONS AS TO MANAGEMENT OF INSTITUTIONS FOR DEFECTIVES, ETC.

41.—(1) The Secretary of State may make regulations as to—

- (a) the granting, transfer, renewal, revocation, and resignation 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;
- (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

Notes to Section 41.

Secretary of State.—The expression means one of His Majesty's principal Secretaries of State for the time being (Interpretations Act, 1889, section 12 (3)). In practice, so far as the internal affairs of England and Wales

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 sub-section shall be construed as restricting any power of the Secretary of State under sub-section (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 a 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, ETC.

43.—(1) Where a person is ordered to be sent to a certified institution or to be placed under guardianship, the local authority

are concerned, it means the Home Secretary. For the Regulations made under section 41 see *post*; also section 68. For the Regulation in any particular matter, except as regards paragraphs (k) and (p), for which Regulations have not yet been made, see under "Regulations" in Index to the present Publication.

Notes to Section 42.

Section 42 is practically an adaptation of section 85 of the Lunacy Act, 1890, and section 11 of the Criminal Lunatics Act, 1834. Where an insane patient escapes from an institution for lunatics, or a workhouse, within the meaning of the Lunacy Act, 1890, he must be re-taken within fourteen days after the escape, otherwise he cannot be again brought under detention without fresh orders as a new case. Under the present Act, as under the Criminal Lunatic Act, there is no limitation of time for effecting the recapture of the escaped patient. Notice of the escape and recapture of the patient is to be given to the Board of Control within two clear days.—See 94 (f) of the Home Secretary's Regulations, 2nd April, 1914, *post*. (See sections 52 and 62.)

Section 42 does not cover the case of a defective escaping from a guardian. Under section 10 (2) a guardian, subject to the Home Secretary's regulations, is to have the power exercisable by the father of a child under 14. And a Guardian, by the said Regulations, is required within twenty hours of the escape and recapture of the patient to give notice of the fact to the Board of Control, and to the persons or authority responsible for the payments. (See 209 of the Regulations above referred to.)

Notes to Section 43.

Certified institutions.—See definition in section 71.

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.

(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 his conveyance to, and his reception and maintenance in, such an institution.

Ordered.—The cases in which defectives are dealt with under orders are given in section 4. Defectives dealt with by parents or guardians under section 2 (1) (a) are not cases of "orders" within section 4.

In which he resided.—Residence will be determined according to section 44.

The duty to provide, etc.—The duty is laid on the local authority, but the local authorities may recover expenses from relatives or other persons liable under section 13. See also section 30 (i.).

(2) *Order made by the Secretary of State, i.e., in case of defectives undergoing imprisonment or in an industrial school, reformatory, or inebriates' reformatory (section 9).* On the local authority becoming liable, they will have powers of recovering expenses from relatives or other persons liable (section 13). See also section 30 (i.).

The Council responsible.—"It is not anticipated that difficulty will often arise in ascertaining which Council is responsible. It is understood that few cases of dispute have arisen under the analogous provisions of section 74 of the Children Act." (See under paragraph headed "Ascertainment of Responsible Local Authorities," in Home Office Circular to County and County Borough Councils, December, 1913, *post*, in which paragraph sections 43 and 44 of the present Act are dealt with; also see under paragraph headed "Cost of Maintenance" in the Home Office Circular to Justices, 2nd April, 1914, *post*.)

DETERMINATION OF RESIDENCE.

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:

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, inebriate 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 place of residence of any person, they may, within three months

Notes to Section 44.

Order in respect of a person found guilty of offence; that is, in the case of an adult, of a criminal offence punishable with penal servitude or imprisonment, or of a child found liable to be sent to an industrial school (see section 8).

Where the order is made by the Secretary of State; that is, in cases of persons undergoing imprisonment otherwise than under civil process, or detention in a place of detention or in a reformatory, industrial school, inebriate reformatory, or criminal lunatic asylum (section 9).

Under sec. 74 of the Children Act (1908) a youthful offender or child is presumed to reside in the place where the offence was committed, or the circumstances which rendered him liable to be sent to a certified school occurred, unless it is proved that he resided in another place. If the court which makes the order is a court of assizes or quarter sessions, the determination of the place of residence is to be remitted to a court of summary jurisdiction for the place where the youthful offender or child was committed for trial. Provision for appeal is made, as in section 44 (3) of this Act. (See Note to section 43, headed "The Council responsible.")

Removal of chargeability.—The position in section 44 (3) for removing chargeability, after the original order, to some other Council follows the precedent—allowing for the difference that the charge is on the

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 common fund of the Poor-Law union—in section 1 (5) of the Released Persons (Poor-Law Relief) Act, 1907, and in the Lunacy Act, 1890 (sections 286-291).

The Law of Settlement.—It may be a very intricate business to determine the settlement of a person under the Poor Law. A settlement may be obtained by birth, parentage, marriage in case of a wife, estate, apprenticeship, renting a tenement, payment of poor rate, or continuous residence in a parish, without relief, for three years. The Statute Law is contained in statutes ranging from the Poor Relief Act, 1662 (13 and 14 Carl. II., c. 12) to and inclusive of the Divided Parishes and Poor Law Amendment Act, 1876 (39 and 40 Vict., c. 61) (sections 34 and 35). The birth settlement remains until a "superior" settlement can be proved, a "superior" settlement being the settlement last acquired. A child under 16 takes the settlement of its father, or widowed mother, and retains it after 16 unless it has acquired one in its own right (39 and 40 Vict., c. 61, sections 34 and 35), a wife takes her husband's settlement (*ibid*). The purchase of an estate or interest in a place to the amount of £30, *bona fide*, and residence there, gives a settlement (Poor Relief Act, 1722, 9 Geo. I., c. 7, section 5), but the settlement is lost if the person goes to live beyond 10 miles from the parish where it was gained (Poor Law Amendment Act, 1834, section 68). If a person is bound apprentice by indenture, and inhabit any town or parish, such binding and inhabitation shall be adjudged a good settlement (Poor Relief Act, 1691, 3 Will. and Mary, c. 11), but apprenticeship settlement cannot be gained if the apprenticeship is to a collector of or person renting tolls (Turnpike Roads Act, 1822, section 51), or to sea service, or to sea fishermen (Poor Law Amendment Act, 1834, section 67). On settlement by Renting a Tenement (£10 minimum yearly Rental) and by payment of Rates, it may be mentioned that since 1834 by section 66 of the Poor-Law Amendment Act of that year the law has been that "no settlement shall be acquired or completed by occupying a tenement, unless the person occupying the same shall have been assessed to the poor rate, and shall have paid the same in respect of such tenement for one year." Apart from settlement by birth, parentage, or marriage, the most modern settlement is that acquired by residence under s. 34 of the Divided Parishes and Poor-Law Amendment Act, 1876, where it is enacted that "Where any person shall have resided for the term of three years in any parish, in such manner and under such circumstances in each of such years as would in accordance with the several statutes in that behalf render him irremovable, he shall be deemed to be settled therein until he shall acquire a settlement in some other parish by a like residence or otherwise, provided that an order of removal in respect of a settlement acquired under this

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.

(5) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879 [42 & 43 Vict. c. 49] 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.

SUPERANNUATION OF OFFICERS.

45.—(1) The Asylums Officers' Superannuation Act, 1909 [9 Edw. 7. c. 48] 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

section shall not be made upon the evidence of the person to be removed, without such corroboration as the justices or court think sufficient." The Statutes relating to pauper irremovability are the Poor Removal Acts, 1846, 1848, 1861, 1864, and the Union Chargeability Act, 1865 (section 8). (See also section 69 of the present Act and Note thereto.) The law of paupers' settlement and removal has been astoundingly prolific in decisions of the courts. A very handy treatise on the whole subject is Maude's "Law of Settlement," published by the Poor-Law Publications Company, 27-29, Farnival Street, London, E.C., at the price of 5s. net. These are Statutes applying to the removal of Scotch and Irish paupers resident in England, but who have not obtained a settlement or status of irremovability in England. Those Statutes do not apply to any case coming under the present Act (see section 72 (2)), any more than they apply to cases dealt with under the English Lunacy Acts.

Rules of procedure.—The rules that the Lord Chancellor may make under section 29 of the Summary Jurisdiction Act, 1879, are to be submitted before both Houses of Parliament as soon as may be after they are made, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the next session of Parliament; and it is enacted that "they shall be judicially noticed." For the Lord Chancellor's "Rules of procedure to determine place of residence," see the "Summary Jurisdiction (Mental Deficiency Act) Provisional Rules," *post*.

Notes to Section 45.

The Asylums Officers' Superannuation Act, 1909, repeals the sections of the Lunacy Act, 1890, that relate to superannuation of established officers and servants of county and borough asylums for lunatics; and makes new provisions of an obligatory character—the previous provisions were not so—on the same matter. These new provisions require the division of officers and servants by the asylum committee into divisions of first class and second class. (Section 1.) Officers and servants of the first class are able to retire on the full superannuation allowance after twenty years' service if not less than 55 years of age—the allowance being computed on the basis of one-fiftieth of the salary or wages and emoluments—reckoned on the annual average of the last ten years of service—for each complete year of service; for the second class the age of retirement must not be less than sixty years and the service not less than twenty years, basis of computation of the allowance being one-sixtieth of salary, etc., for each completed year of service (sections 2 and 16). Provisions are made

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 authorise 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

for retirement earlier in case of injury or incapacity, and for addition of years on account of peculiar professional qualifications or special circumstances (section 2), and for grants in special cases to widows or children of officers dying in the service (section 4), and for return of contributions to female officers or servants leaving to be married, and to officers and servants in certain cases where the service is left before superannuation (section 10). Provision is also made for forfeiture for grave misconduct (section 5), and for the asylum committee to be able to require retirement of officer or servant of first class at 55 years of age, and of the second class at 60 years of age (section 11). No superannuation allowance may exceed two-thirds of the usual salary or wages and emoluments (section 2). The scale of contribution payable by the officers and servants towards the superannuation is: For officers and servants with less than five years' service at the passing of Act, 2 per cent. of the salary or wages and emoluments for each year, $2\frac{1}{2}$ per cent. where more than five years' service and less than 15 years had been rendered, and 3 per cent. where more than 15 years' service had been rendered or appointed after the passing of the Act (section 9). The contributions are carried to the credit of the fund out of which salaries and wages are paid—i.e., to the Asylum Maintenance Fund or Building and Repair Fund, according to the nature of the service of the officers and servants respectively (section 8). The fund which receives the contributions bears the superannuations (section 12). Superannuations borne by the Asylum Maintenance Fund is, therefore, an item to be covered by the weekly sum fixed as maintenance charge for each patient; superannuations borne by the Building and Repair Fund, the deficiency of which is met out of the county or borough rate, as the case may be. The incidence of the charge for superannuation explains the provision in section 45 (1) of this Act limiting the authority of the Home Secretary in modifying scales to reducing the amount of allowances or increasing contributions.

Certified Institutions provided, etc.—The definition in section 71 includes as well as institutions to which certificates have been granted under section 36, approved premises provided by Boards of Guardians. The Poor

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.

SCHEME FOR THE PAYMENT OF SUPERANNUATION ALLOWANCES OR
GRATUITIES TO OFFICERS.

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.

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

CONTRIBUTIONS BY THE TREASURY.

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 towards 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:

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

Law has its own Superannuation Act, and the words limiting the Asylum Officers' Superannuation Act to "certified institutions provided by the local authorities" means institutions established under section 38 (1) by local authorities under the Act, *i.e.*, as defined in section 27, taken with section 34. For superannuation schemes in other institutions, see section 46.

Notes to Section 47.

Expenses incurred by local authorities.—For the local authorities, see sections 27 and 34; and for their financial obligations see section 30 (i). The expenses of the central authorities are provided for by section 26.

Contributions by the Treasury.—On this matter, see paragraphs 3–16 (financial) in Circular from the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*. In those paragraphs, the Board of Control deal at length with the provisions made by section 47 and the application of those provisions.

£150,000.—The money is to be administered by the Board of Control (section 25 (h)). The Royal Commissioners on the Care and Control of 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.

TREASURY CONTRIBUTIONS TOWARDS EXPENSES OF SOCIETIES
ASSISTING DEFECTIVES.

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.

Feeble-minded recommended substantial financial assistance, from the Exchequer, for the care and maintenance of mentally defective persons. (Recommendation XLI.) They thought that the cost per bed (colony system) should not exceed approximately £100—£120, including site, roads, sewers, water, lighting, buildings, furniture and fittings, and that the cost of maintenance (inclusive of everything except central office expenses, rent or interest, and sinking fund) should not exceed from 8s. to 9s. per week. (Report, page 241.) The original Bill of 1912, which was based on the Commission's Report much more closely than the present measure, provided that there should be no obligation on a local authority to provide accommodation for a patient, towards whom the State contributed less than 7s. a week. In the Finance Bill, 1914, was a proposal to repeal section 47 of the present Act and to substitute therefor a grant of half the net amount of the cost on income account properly incurred by the Council in performing their duties under paragraphs (b), (c), (d), and (g) of section 30 of the present Act. The reason for that proposal, and why it did not during the session receive sanction will be found dealt with in the Introduction. Had it received legislative sanction, the effect would have been to have removed the limit of £150,000 fixed by section 47 as the aggregate amount to be paid in any financial year.

By order of the Secretary of State.—See section 9.

By order of a court, etc.—See section 8.

Notes to Section 48.

See (1) paragraph headed "Societies for the Assistance of Defectives" in Home Office Circular to County and County Borough Councils, December, 1913, *post*;

(2) Paragraph 21 (iv.) [Local Societies Supervising and Assisting Defectives] of Circular from the Board of Control to the same Councils, 2nd April, 1914, *post*;

(3) Memorandum on "Treasury Contributions towards the Expenses of Societies Assisting or Supervising Defectives," *post*;

(4) And 7 and 16 [Delegation of Functions by Local Authorities to Local Societies] of the Home Secretary's Regulations, 2nd April, 1914, *post*.

The Royal Commission on the Care and Control of the Feeble-minded saw much value in the service of friendly visitors, especially as regards mentally defective persons under 21 years of age. (Recommendation LI.)

PROVISIONS AS TO CERTIFIED HOUSES.

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

Notes to Section 49.

The proposal of this section follows the precedents of the Lunacy Acts with regard to licensing houses as "private asylums." Owing to an outcry some 30 years ago against such houses the grant of new licences for the opening of additional "private asylums" kept for private profit was prohibited, and is still prohibited. (Lunacy Act, 1890, section 207 (6).) Under the Lunacy Act, 1890, a "licensed house" is included with "asylum" and "hospital" (see note to section 50) in the definition of "institution for lunatics." The distinction between "certified institution," "certified house," and "approved home" (see definitions in section 71 (1), and 108—122, 123—143, 144—161, 162—173, and 184—193 of the Home Secretary's Regulations, 2nd April, 1914, *post*), under this Act, as between "asylum," "hospital," and "licensed house" under the Lunacy Act, is one of management. Presumably, the managers of premises, supported wholly or partly by voluntary contributions, may apply under section 49 for certification as a "certified house," or under section 50 for certification as an "approved home," or under section 36 for certification as a "certified institution." As in the case of certified institutions, patients may be received in certified houses under Order (see section 4), as well as under private agreement with parent or guardian (see section 3), but it is only the private agreement cases that can be received in approved homes. See section

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

67 (2) (a) as to premises registered under the Idiots Act, 1886 (repealed by the present Act) becoming a "certified house."

For the Regulations with respect to the grant, transfer, renewal, revocation, and resignation of certificates for certified houses, see 44—63, with Forms C1 to C10 of the Home Secretary's Regulations, 2nd April, 1914, *post*; and also, in respect of certified houses, those Regulations as follows: 80—107: Management—General Regulations; 162—173: Management—Special Regulations; 174—179: Inspection of the Houses and Visitation of Patients therein; 238—243: The Absence of Patients; 244—248: Procedure on Reconsideration of Cases of Patients attaining the age of 21 years.

(a) *Money provided by Parliament.*—See section 47.

(b) *Local authority no power to contribute.*—See section 38.

(c) *Recovery of maintenance.*—See sections 13 and 14. Any question of maintenance is one for agreement between the owner of the house and the defective and his representatives.

Notes to Section 50.

The wording of the first four lines of this section follows the definition of "hospital" under the Lunacy Act, 1890. Presumably the managers, instead of applying under section 50 for the approval of the premises as an "approved home," may apply for certification under section 36 (certified institution) or under section 49 (certified house). See section 67 (2) (b) as to premises registered under the Idiots Act, 1886 (repealed by present Act) being treated as an approved home. An "Approved Home" may form part of a hospital, institution, or licensed house within the meaning of the Lunacy Acts, or of an "Institution" under the present Act—see 64 (5) of the Home Secretary's Regulations, 2nd April, 1914, *post*.

For the Regulations with respect to the grant, renewal, and revocation of approvals of homes, see 64—79, with Forms A1 to A4 of the Home

withdrawn under this Act, and any premises or house so approved are in this Act referred to as an approved home.

(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, &c.

OFFENCES WITH RESPECT TO THE RECEPTION AND DETENTION OF DEFECTIVES.

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.

(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

Secretary's Regulations, 2nd April, 1914, *post*; and also, in respect of approved homes, those Regulations as follows:—80—107: Management—General regulations; 184—193: Management—Special Regulations; 194—200: Inspection of the Homes and Visitation of Patients therein.

(2) *It shall not be lawful, etc.*—The only defectives who can be placed in an approved home under the Act are those voluntarily dealt with by parents or guardians under section 3, but any other defectives than the excluded class may be received. Under their permissive powers, local authorities may contribute towards the maintenance of defectives in approved homes. (See section 30 (e); also paragraph 19 of the Circular from the Board of Control to County and County Borough Councils, 2nd April, 1914, *post*.)

Notes to Section 51.

This section is based on provisions in the Lunacy Act, 1890, particularly section 315.

A defective or as being a defective, i.e., a defective within the meaning of the Act, is defined in section 1. It will be noticed that the Act speaks both of "defectives" and "defectives under this Act" (compare section 51 with section 52), but without legal distinction.

Elsewhere than in an Institution, etc.—To the savings from the operation of sub-section (1) made by sub-section (4) it is submitted that defectives dealt with under the Poor Law must be added. [See section 30 (ii).] The mentally defective admitted to and detained in Poor Law institutions are usually admitted and detained there under the provisions of the Lunacy Act, and to these sub-section (4) would apply. But no doubt there are defectives in such institutions who are not dealt with under

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 and 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.

OFFENCE OF SUPPLYING INTOXICANTS CONTRARY TO WARNING.

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 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 the Lunacy Acts. On the "Protection of Defectives in Single Care," see 249 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Institution, certified house, or an approved home.—See definitions in section 71.

Misdemeanour and offence.—For punishment, see section 60.

Prescribed Form.—See Form R1 in schedule to Home Secretary's Regulations, 2nd April, 1914, *post*.

Local authority, i.e., as defined in section 27, taken with section 34.

Board, i.e., Board of Control (sections 3 (2) and 21).

The Lunacy Acts.—Section 315 (2) of the Lunacy Act, 1890, provides that "except under the provisions of this Act, it shall not be lawful for any person to receive or detain two or more lunatics in any house unless the house is an institution for lunatics or workhouse."

Elementary Education (Defective and Epileptic Children) Act, 1899, as amended.—See Appendix for the 1899 Act and the Amendment Act, 1914.

Notes to Section 52.

Appointed to be a guardian, i.e., appointed by the parent or guardian under section 2 (1) (a) or under orders as enumerated in section 4. Guardians are empowered to give notice against the supply of intoxicants to defectives under section 10 (2).

Defective under this Act.—See second note to section 51. The person need not be an habitual drunkard.

Institution or from a certified house.—For definitions, see section 71.

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

The omission of approved homes from section 51 is to be noted. The section remains as drafted in the original Bill of 1912, which contained no provisions for "approved homes."

Intoxicants.—For definition see section 71.

An offence.—The punishment is given in section 60.

Production of authority.—The written appointment as guardian, or, in case of other person, the official document showing that he has been placed in charge of the defective would, if produced on demand, be sufficient authority.

Notes to Section 53.

Secretes a patient in any institution, etc.—Definitions of institution, certified house, and approved home will be found in section 71. The word "patient" is used in section 41, which sets out the matters in which the Home Secretary is authorised to make regulations. The word is not defined, though its meaning is of importance, as other classes of defectives than those under the Act, *e.g.*, persons not afflicted from birth or an early age, may be in the institution or house. The word is similarly used in the Lunacy Act, 1890, section 323 of which makes it an offence wilfully to permit or assist or connive at the escape or attempted escape of a patient. See section 42 on "Apprehension of Defectives Escaping," and the Notes to that section.

Either on licence or without licence.—For the regulations made in the matter see 238-243 of the Home Secretary's Regulations, 2nd April, 1914, *post*, with section 41 (1) (*h*) *ante*.

Place of safety.—See definition in section 71.

Under guardianship under this Act, i.e., placed under guardianship by a parent or guardian (section 2 (1) (a)) or by orders, as enumerated in section 4.

Conditions of guardianship or licence.—See 206-207, and 217 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

An offence.—For punishment, see sections 60 and 243 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Notes to Section 54.

Obstructs.—This provision is on the lines of section 321 of the Lunacy Act, 1890.

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 authorised 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 authorised 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, ill-treats or wilfully neglects the defective, he shall be guilty of a misdemeanour.

Commissioner.—See section 22.

Inspector.—See section 25 (*d*) and section 65.

Visitor.—See section 40.

Officer or person, etc.—See section 30 (*g*).

Misdemeanour.—For penalty, see section 60. Also see 107 and 234 of the Home Secretary's Regulations, 2nd April, 1914, *post*.

Secretary of State.—One of His Majesty's principal Secretaries of State (Interpretations Act, 1889, 52 and 53 Vict., c. 63, section 12). In practice, the Home Secretary.

Institution, etc.—For definitions, see section 71.

Or place.—For powers of search, see section 15 (2).

Any order of the Board, i.e., Board of Control (see sections 21 and 3(2)).

Offence.—See references above under "Misdemeanour."

Notes to Section 55.

This section corresponds to section 322 of the Lunacy Act, 1890.

Ill-treats.—The ill-treatment of a lunatic is a misdemeanour at common law, as well as under the Lunacy Laws.

Wilfully neglects.—To leave a knife near a lunatic might amount to wilful neglect (compare Dent's case, 29th Annual Report of Commissioners in Lunacy, p. 56), and a conviction before justices has been obtained against the head attendant of an asylum who allowed a patient to go out into the asylum grounds, and remain there unattended for upwards of half an hour, at the expiration of which time the patient, who was known by the attendant to be of suicidal tendency, was found to have hanged himself. (M. F. Hill's case, 1886, 50, J.P. 137); Wood Renton on Lunacy, p. 682.) The Lunacy Commissioners have issued memoranda on epileptic and suicidal patients, and precautions against fire.

Misdemeanour.—For punishment, see section 60.

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 women 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 with-

Notes to Section 56.

The Royal Commission on the Care and Control of the Feeble-minded in closing that part of their report which deals with "mental defect and crime," states:—

"We cannot conclude this chapter without referring incidentally to a question that lies outside our main arguments. It will have been evident that the aberrations of mental defect and disorder often take the form of sexual offences and impropriety, and that feeble-minded women and girls are especially liable to be taken advantage of by the vicious. Considerable discussion has taken place before us as to whether the law as it stands provides due protection against such acts and attempts. It is not necessary here, we think, to state the existing law on the subject in any detail or to examine the evidence at any length. We recommend that the attention of the Lord Chancellor and the Secretary of State be called to this evidence and that they be invited to consider whether the existing law provides adequate protection for the persons referred to."

(a) *Unlawfully and carnally knows.*—The offence is defined in section 63 of the Offences Against Persons Act. Under the Criminal Law Amendment Act, 1885, section 5 (2), any person is guilty of 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 but which prove that the offender knew at the time of the commission of the offence that the woman or girl was an idiot or imbecile. The punishment is imprisonment for a period not exceeding two years with or without hard labour. Rape is a crime punishable as a felony and any person convicted thereof is liable, at the discretion of the court, to be kept in penal servitude for life or for any term not less than three years, or to be imprisoned for any term not exceeding two years, with or without hard labour (Offences against the Person Act, 1861, section 48).

Institution, certified house, or approved home.—See section 71 for definitions.

(b) (c) *Procures or attempts to procure.*—Under the Criminal Law Amendment Act, 1885, as amended by the Criminal Law Amendment Act, 1912, section 2, it is made a misdemeanour punishable with two years' imprisonment and one whipping of such a number of strokes and with such implement as the Court specifies to procure or attempt to pro-

in 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.

cure any girl or woman under 21 not being a common prostitute or of known immoral character to have unlawful carnal connection, or to become a common prostitute, either within or without the King's Dominions, or attempt to procure any girl or woman to leave her usual place of abode to frequent or become an inmate of a brothel. No person is to be convicted upon the evidence of one witness unless that witness is corroborated in some material particular by evidence implicating the accused. The additional punishment of whipping is for cases in which the convicted person is a male.

(d).—Under section 6 of the Criminal Law Amendment Act, 1885, it is a felony punishable with imprisonment for life to induce or knowingly suffer a girl under 13 to use premises as stated in this sub-section, and a misdemeanour punishable with two years' imprisonment in the case of a girl over 13 and under 16.

Knowingly suffers.—A mandamus was refused where an offence under the section of the Criminal Law Amendment Act, 1885, above cited, committed by a girl's mother, consisted in laying a trap to catch a man who had previously committed an offence with her daughter. That section, on the wording of which this sub-section is based, has been held to apply to a mother permitting her daughter's prostitution in her own house. (*R. v. Webster*, 16 Q. B. D. 134, 50 J. P. 456.) Section 16 of the Children Act, 1908, provides:—If any person having custody, charge, or care of a child or young person between the ages of 4 and 16 allows that child or young person to reside in or frequent a brothel, he shall be guilty of a misdemeanour and shall be liable on conviction, on indictment, or on summary conviction to a fine not exceeding £25, or alternatively, or in default of payment of such fine, or in addition thereto, to imprisonment with or without hard labour for any term not exceeding six months.

(e) Section 7 of the Criminal Law Amendment Act, 1885, contains a similar provision in the case of a girl under 18. In a case on the words

(2) Section ten of the Criminal Law Amendment Act, 1885 [48 & 49 Vict. c. 69] 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.

(3) Without prejudice and in addition to the provisions of the Criminal Law Amendment Act, 1880 [43 & 44 Vict. c. 45] 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.

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

"out of the possession of" it was held that that section did not cover the case of a master who took a girl away while in his employment. On the word "takes," in *R. v. Kauffman* (68 J.P. 189), it was held that there must be some persuasion, inducement, or blandishment. On a case on the words "lawful care," under section 53, Offences Against the Persons Act, 1861, Mr. Justice Hawkins held that "if the defendant at the time he took the girl away did not know, and had no reason to know, that she was under the lawful care of her father, mother, or some other person, he was not guilty of abduction."

Case at Nottingham Assizes, October 31st, 1887, Mr. Justice Hawkins gave as his authority *R. v. Hibbert* 1 C.C.R. 184; 33 J.P. 234; and *R. v. Green* 3 Foster and Finlayson 274.

Sub-section 2.—Section 10 of the Criminal Law Amendment Act, 1885, reads: "If it appears to any justice of the peace, on information made before him on oath by any parent, relative, or guardian of any woman or girl, or any other person, who, in the opinion of the justice, is *bonâ fide* acting in the interest of any woman or girl, that there is reasonable cause to suspect that such woman or girl is unlawfully detained for immoral purposes by any person in any place within the jurisdiction of such justice, such justice may issue a warrant authorising any person named therein to search for, and, when found, to take to and detain in a place of safety such woman or girl until she can be brought before a justice of the peace; and the justice of the peace before whom such woman or girl is brought may cause her to be delivered up to her parents or guardians, or otherwise dealt with as circumstances may permit and require. The justice of the peace issuing such warrant may, by the same or any other warrant, cause any person accused of so unlawfully detaining such woman or girl to be apprehended, and brought before a justice and proceedings to be taken for punishing such person according to law. A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is so detained for the purpose of being unlawfully and carnally known by any man, whether any particular man or generally, and (a) either is under the age of 16 years, or (b) if of, or over, the age of 16 years, and under the age of 18 years, is so detained against her will, or against the will of her father or mother, or of any other person having the lawful care or charge of her; or (c) if above the age of 18 years is so detained against her will.

The operative part of the Criminal Law Amendment Act, 1880, is section 2. by which it is enacted that: "It shall be no defence to a charge or indictment for an indecent assault on a young person under the age of thirteen to prove that he or she consented to the act of indecency."

(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 sub-section (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 [61 & 62 Vict. c. 36] shall have effect as if this section of this Act were included in the Schedule to that Act.

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 UNTRUE STATEMENT 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

(5) The Criminal Law Amendment Act, 1885, section 9, contains a similar provision.

(6) *Section 4 of the Criminal Evidence Act, 1898*, provides that the wife or husband of a person charged with an offence under certain Acts may be called as a witness either for the prosecution or defence and without the consent of the person charged. Nothing in the Act affects a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.

Notes to Section 57.

This section is identical with section 318 of the Lunacy Act, 1890.

Misdemeanour.—For penalty see section 60.

Notes to Section 58.

This section is based on section 214 of the Lunacy Act, 1890.

Board.—i.e., Board of Control (section 21).

Misdemeanour.—For penalty see section 60

Notes to Section 59.

The Home Secretary's Regulations, 2nd April, 1914, *post*, prescribe as follows :—

(1) Penalty for breach of any of the Regulations where no other penalty is prescribed : Not exceeding £20.—Regulation 3.

(2) Penalty for (1) reception of too many patients, (2) the retention of

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

any patient more than two months after expiration or revocation of certificate or approval, (3) failure to comply with the conditions of the certificate as to the sex of the patients or the class of the patients: Not exceeding £50 for each patient received or allowed to remain contrary to the conditions of the certificate or approval.—Regulations 60 and 78.

(3) Penalty for superintendent of certified institution, certified house or approved house or guardian who makes default in complying with obligation imposed on him by Regulations 98 or 226 to forward unopened all letters written by any patient and addressed to the Lord Chancellor, a Secretary of State, or to others named in the Regulation: Not exceeding £20 for each offence.—Regulations 98 and 226.

(4) Penalty for superintendent or guardian refusing, preventing or obstructing admission to any patient of any person duly authorised to see the patient: Not exceeding £20.—Regulations 107 and 234.

(5) Penalty against guardian for resigning guardianship without due notice, or failure to carry out certain Regulations: Not exceeding £20.—Regulation 217.

Note to Section 60.

Except where otherwise expressly provided.—See section 56.

Notes to Section 61.

It is enacted by section 13 (11) of the Interpretation Act, 1889, that "The expression 'court of summary jurisdiction' shall mean any justice or justices of the peace, or other magistrate, by whatever name called, to whom jurisdiction is given by, or who is authorised to act under, the Summary Jurisdiction Acts, whether in England, Wales, or Ireland, and whether acting under the Summary Jurisdiction Acts or any of them, or

court of summary jurisdiction under this Act may appeal to quarter sessions.

PROTECTION OF OFFICERS FOR THE PURPOSES OF ARREST.

62. The managers of an institution and the owner of a certified house and every officer of such institution or house authorised 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.

under any other Act, or by virtue of his commission, or under the common law."

An appeal to Quarter Sessions must be in accordance with the procedure enacted by section 31 of the Summary Jurisdiction Act, 1879. While the provisions of that section should be referred to, it may be here stated shortly that the appeal must be made to the next practicable Court of Quarter Sessions holden not less than fifteen days after the date of the conviction or sentence. Within seven days of the conviction or sentence the appellant must serve on the other party and on the Clerk of the Court of Summary Jurisdiction notice in writing of his intention to appeal, and of the general grounds of his appeal. And within three days after the day on which he gives notice of appeal he must enter into a recognizance (or give security) to prosecute the appeal and to abide by the decision of Quarter Sessions.

Note to Section 62.

For definition of "Institution" and "Certified House" see section 71.

Powers, protections, and privileges of a Constable.—There are several Acts relating to the police (viz., the Metropolitan Police Act, 1829; the County Police Act, 1839; the City of London Police Act, 1839; the Municipal Corporations Act, 1882, section 191 (2))—which give to the constable all such powers and privileges—as well as duties—as any constable has for the time being in his constablewick at common law or by statute. Taking section 62 of the present Act, so far as it relates to conveyance of a "person to or from the institution or house," the requirements laid down by 24 of the Home Secretary's Regulations, 2nd April, 1914, *post*, for the care and protection of the defective should be followed. As regards the apprehension of an escaped defective (on this see also section 15 (1) and section 42), applying police law it would be lawful to search the defective, to take away from him any articles that might be dangerous, and also lawful to use force necessary to take him back to the institution or house. In regard to the use of force it is submitted that it would be improper procedure to handcuff a defective, even if violent, in the same way that a constable may handcuff a violent prisoner. A constable in the lawful arrest of any person has the right to call private persons to his aid when there is reasonable necessity for such aid; and private persons able to render such aid and refusing may be dealt with on indictment at common law (*R. v. Brown* (1841), *Car. & M.*, 314; *R. v. Sherlock* (1866), *I.C.C.R.* 20). To assault or obstruct a constable in the execution of his duty is an offence for which the offender may be dealt with on indictment at common law (Offences against the Person Act, 1861, section 38) or summarily (Police and Prevention of Crimes Acts). Any action brought against a constable acting in execution of his duty must be commenced within six calendar months next after the Act complained of (Public Authorities Protection Act, 1893, section 1).

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 summons witnesses, shall have effect as if they were herein enacted and in terms made applicable to this Act.

Notes to Section 63.

Section 330 of the Lunacy Act, 1890, reads :—

(1) A person who before the passing of this Act has signed or carried out or done any act with a view to sign or carry out an order purporting to be a reception order, or a medical certificate that a person is of unsound mind, and a person who after the passing of this Act presents a petition for any such order, or signs or carries out or does any act with a view to sign or carry out an order purporting to be a reception order, or any report or certificate purporting to be a report or certificate under this Act, or does anything in pursuance of this Act, shall not be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, if such person has acted in good faith and with reasonable care.

(2) If any proceedings are taken against any person for signing or carrying out or doing any act with a view to sign or carry out any such order, report, or certificate, or presenting any such petition as in the preceding sub-section mentioned, or doing anything in pursuance of this Act, such proceedings may, upon summary application to the High Court or a judge thereof, be stayed upon such terms as to costs and otherwise as the court or judge may think fit, if the court or judge is satisfied that there is no reasonable ground for alleging want of good faith or reasonable care.

Section 332 reads : (1) The Commissioners, or any two of them, and also the visitors of any licensed house, or any two of them, may, as they see occasion, require, by summons under the common seal of the Commission, if by the Commissioners, and if by two only of the Commissioners or by two visitors, then under the hands and seals of such two Commissioners or two visitors, as the case may be, any person to appear before them to testify on oath touching any matters respecting which such Commissioners and visitors respectively are by this Act authorised to inquire (which oath such Commissioners or visitors are hereby empowered to administer).

(2) Every person who does not appear pursuant to the summons, or does not assign some reasonable excuse for not appearing, or who appears and refuses to be sworn or examined, shall, on being convicted thereof before a court of summary jurisdiction, for every such neglect or refusal be liable to a penalty not exceeding fifty pounds.

(3) Any two or more Commissioners or visitors may, if they think fit, examine on oath any person appearing before them as a witness, without having been summoned.

(4) Any Commissioners or visitors who summon a person to appear and give evidence may direct the secretary of the Commissioners or the clerk of such visitors, as the case may be, to pay to such person all reasonable expenses of his appearance and attendance, the same to be considered as expenses incurred in the execution of this Act and to be taken into account and paid accordingly.

Supplemental.

ADMINISTRATION OF PROPERTY.

64. The provisions of section fifty and Part IV. of the Lunacy Act, 1890 [53 & 54 Vict. c. 5] 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.

TRANSFER TO BOARD OF POWERS AND DUTIES OF LUNACY COMMISSIONERS.

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

Note to Section 64.

Section 50 of the Lunacy Act, 1890, is given in the appendix. Part IV. of the Lunacy Act, 1890, contains 41 sections of that Act. The part is headed "Judicial Powers over Person and Estate of Lunatic," and embraces the jurisdiction of the Judge in Lunacy and the Masters in Lunacy, with power to County Court Judge in the matter of the application of small estates of lunatics. Shortly Part IV. contains provisions the use of which are in practice not called into requisition except as regards lunatics, or alleged lunatics, with considerable estates, or with considerable interest in estates of much value except that one of the sections (132, given in the appendix) gives power to County Court Judge to deal with property of small amount.

Notes to Section 65.

See section 22 (9) and notes to that section; also see the Order in Council, 9th March, 1914, *post*, transferring to the Board of Control certain powers and duties of the Commissioners in Lunacy. The provisions of section 65 meet, practically at least, recommendations made by the Royal Commission on the Care and Control of the Feeble-minded. (Recommendations 1, and VII-IX.)

Section 337 of the Lunacy Act, 1890, is as follows:—

(1) The Lord Chancellor may, if it seems expedient to him so to do, by order under his hand, amalgamate the office of the Masters and their staff, and the office of Chancery Visitors and their staff, and may amalgamate such offices, or either of them, with the office of the Commissioners, and may give such directions as he may think fit for the

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:

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.

reconstitution of the Commissioners, and for the exercise and performance of the powers and duties of the Commissioners, and of the officers and staff amalgamated respectively under any order under this section.

(2) In the event of any such amalgamation, the Lord Chancellor may, with the concurrence of the Treasury, fix the qualifications and salaries of the members of the amalgamated office and of the staff attached thereto, and may, with such concurrence, increase or diminish the number of such members and staff.

(3) An order under this section shall not be made so as to prejudice the rights of the Masters, Visitors, and Commissioners respectively holding office at the passing of this Act.

(4) The Lord Chancellor may by order direct that such proportion as he may consider reasonable of the expenses incurred in carrying any such amalgamation into effect, including the cost of providing office accommodation, shall be paid out of the percentage charged on the incomes of lunatics.

As far back as 1859 the amalgamation of the Lunacy departments was recommended, and a scheme was embodied in the report of a Select Committee of that year. Section 337 of the Lunacy Act, 1890, which was taken from the Lunacy Act, 1889 (repealed), is said to be the outcome of the labours of the Dillwyn Committee of 1878. That such provisions as that section contains have remained on the Statute Book for nearly a quarter of a century with amalgamation still unaccomplished may cause surprise. By the Lunacy Act, 1911, section 3, the paid Commissioners in Lunacy were increased by two.

Sections 150 to 161 of the Lunacy Act, 1890, which are repealed by this Act, provide for the constitution of the Commission in Lunacy, the appointment of Commissioners, chairman, secretary, and clerks, their salaries and expenses, the qualifications for office, meetings, and proceedings, and reports and records.

POWER TO AUTHORISE COMMITTEE FOR CARE OF MENTALLY DEFECTIVE TO
ACT AS ASYLUMS COMMITTEE.

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.

REPEAL OF IDIOTS ACT, 1886.

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.

Note to Section 66.

See section 28.

Note to Section 67.

For definitions of certified institution, certified house, and approved home under this Act, see section 71.

PROVISIONS AS TO REGULATIONS.

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.

LIABILITY TO REMOVAL.

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 [9 & 10 Vict. c. 66] as amended by any subsequent enactment.

Note to Section 68.

Regulations made under this Act shall have effect as if enacted in this Act.—Although there may be irregularity in the making of the Regulations, and the delegated authority to make the Regulations exceeded, apparently the Regulations are to be taken technically as part and parcel of the Act. See *Patents Agents' Institute v. Lockwood* (1894), A.C. 347; *Ex parte Ringer* (1909), 73 J.P. 436; 25 T.L.R. 718.

Notes to Section 69.

Section 1 of the Poor Removal Act, 1846, provides: "No person shall be removed, nor shall any warrant be granted for the removal of any person, from any parish in which such person shall have resided for five years next before the application for the warrant, provided always that the time during which such person shall be a prisoner in a prison, or shall be serving her Majesty as a soldier, marine, or sailor or reside as an in-pensioner in Greenwich or Chelsea Hospitals, or shall be confined in a lunatic asylum, or house duly licensed or hospital registered for the reception of lunatics, or as a patient in a hospital, or during which any such person shall receive relief from any parish, or shall be wholly or in part maintained by any rate or subscription raised in a parish in which such person does not reside, not being a *bonâ fide* charitable gift, shall for all purposes be excluded in the computation of time hereinbefore mentioned, and that the removal of a pauper lunatic to a lunatic asylum under the provisions of any Act relating to the maintenance and care of pauper lunatics, shall not be deemed a removal within the meaning of this Act."

The Poor Removal Act, 1861, section 1, reduced the five years' residence in a parish for status of irremovability to three years' residence in any part of the Union; the Union Chargeability Act, 1865, section 8, further reduced it to one year. Section 69 of the present Act, in the computation of time, is limited to detention in an "Institution" or "Approved Home." Defection in a "Certified House" or under "Guardianship" is not mentioned. It is submitted, however, that section 49 (2) has the effect of bringing the "Certified House" within section 69.

PROVISIONS AGAINST DISFRANCHISEMENT.

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.

INTERPRETATION.

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

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:

Note to Section 70.

Section 70 is consistent with the direction that legislation has taken for many years. There are many precedents, among which may be named that of the Elementary Education (Defective and Epileptic Children) Act, 1899, section 8. The section also meets Recommendation XCII. of the Royal Commission on the Care and Control of the Feeble-minded.

Notes to Section 71.

Parent or Guardian.—See note to section 2 (1).

Special School or Class.—See notes to sections 30 and 31.

“Institution.”—The expression is often used in the Act to cover “Certified House” [See section 49 (2).]

Certified Institution.—See sections 37 and 49 (2)

Institution for Lunatics.—The definition is in section 341 of the Lunacy Act, 1890, and is as follows: “Institution for Lunatics,” means an asylum, hospital, or licensed house. The same section gives the further definitions.

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 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.

"*Asylum*" means an asylum for lunatics provided by County or Borough, or by a union of Counties or Boroughs. "*Hospital*" means any hospital or part of a hospital or other house or institution not being an asylum) wherein lunatics are received and supported wholly or partly by voluntary contributions, or by any charitable bequest or gift, or by applying the excess of payments of some patients for or towards the support, provision, or benefit of other patients. It will be understood that "Licensed House" means place for private patients received for profit. See Note to section 49.

SHORT TITLE, EXTENT, AND COMMENCEMENT.

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.

SECTION 22.

POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE.

1. The supervision of the administration by local authorities of their power and duties under this 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 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.

Mental Deficiency Act, 1913.

PROVISIONAL REGULATIONS.

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE
UNDER THE MENTAL DEFICIENCY ACT, 1913.

[**Note.**—These regulations are made in accordance with sections 20, 30 and 41 of the Act. Section 68 of the Act requires that Regulations should be laid before Parliament, and as the thirty sitting days of either House of Parliament which that section allows for an address to the Crown praying for the annulment of the Regulations have now expired without exception being taken to them, the Regulations have acquired full authority and have effect as if they were incorporated in the Act—see section 68 of the Act.

I hereby certify in pursuance of Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations shall come into immediate operation, and in pursuance of the powers conferred upon me by the Mental Deficiency Act, 1913, I hereby make the following Regulations to come into operation forthwith as Provisional Regulations:—

1. These Regulations may be cited as the Mental Deficiency Act Provisional Regulations, 1914.

“ The Act ” means the Mental Deficiency Act, 1913.

“ The Board ” means the Board of Control.

“ A Commissioner ” or “ Commissioners ” means a Commissioner or Commissioners of the Board of Control.

“ Guardian,” except when used in the phrase “ parent or guardian,” means a guardian appointed under the Act.

Other words have the same meaning as in the Act.

[**Note.**—See section 71 of the Act and Note thereto for interpretation of expressions in the Act.]

3. The penalty for a breach of any of these Regulations shall, where no other penalty is prescribed, be a penalty not exceeding a fine of £20.

[**Note.**—For the authority to prescribe a penalty for breach of any Regulation see section 59 of the Act.]

DUTIES OF LOCAL AUTHORITY.

I. Ascertainment of Defectives subject to be dealt with.

4. The Local Authority shall forthwith take the steps set out in the following Regulations to enable them to ascertain what persons within their area are defectives subject to be dealt with under the provisions of paragraph (b) of sub-section (1) of Section 2 of the Act.

[**Note.**—For the views of the Board of Control in this particular see paragraph 21 (i.) of their circular letter to County and County Borough Councils, dated 2nd April, 1914. See also Regulation 6. The expression “forthwith” in the Regulation is the same as the expression “immediately” on which see Note to Regulation 17.]

5. They shall receive, preserve, and record in the manner prescribed by the Board the names and addresses of such defectives and all notices, certificates, reports, opinions, and other information respecting such defectives which are communicated to them—

- (i) by the local education authority;
- (ii) by any police authority (Section 8 (5));
- (iii) by a court directing under Section 8 (1) (a) the presentation of a petition to a judicial authority, or itself making an order under Section 8 (1) (b);
- (iv) by the Secretary of State;
- (v) by any poor law authority;
- (vi) by the authorities of any institution or other premises in which lunatics or defectives are maintained;
- (vii) by any other local authority.

6. They shall instruct their officers to ascertain by all lawful and proper inquiries what defectives subject to be dealt with as aforesaid are within their area, and for this purpose shall get into communication with all available and reliable sources of information.

[**Note.**—See Note to Regulation 4. Lawful and Proper Inquiries: A reference to the list given in section 2 (1) (b) of the defectives liable to be dealt with shows that the only class presenting any difficulty is the first, i.e., defectives found neglected, abandoned or without visible means of support or cruelly treated. It will be well for officers in order that their inquiries should not run the danger of becoming unlawful to bear in mind the provision for search warrants in section 15 (2) of the Act, and the caution against too free use of the search warrant itself contained in par. 21 of the circular letter of the Board of Control to county councils and county boroughs dated 2nd April, 1914, and in the Home Office's circular letter to the same councils dated 22nd December, 1913, in the paragraph headed “Duties of Local Authorities.”]

7. They may, if they think fit, delegate to approved members or officers of local societies for assisting or supervising defectives, any of their functions connected with the ascertainment of defectives which they think can properly be carried out by them either alone or in co-operation with the officers of the Local Authority.

[Note.—“Approved members”: This expression is not to be taken in any technical sense. See paragraph 21, (iv.), of the circular letter of the Board of Control to County and County Borough Councils, dated 2nd April, 1914, together with the observations of the Secretary of State, under “Societies for the Assistance of Defectives” in Home Office circular letter to the same councils dated the 22nd December, 1913.]

8. Officers of, and other persons employed by, the Local Authority on any of the duties above mentioned shall be furnished with and, when required, shall produce evidence of their authority.

[Note.—EVIDENCE OF THEIR AUTHORITY.—No form of certificate of appointment is prescribed. The following is suggested:—

MENTAL DEFICIENCY ACT, 1913.

To whom it may concern.

This is to certify that [name of person]
of [address of person] is employed by the
Local Authority under the Mental Deficiency Act, 1913, for the
County [or County Borough] of
to [set out the duty
or duties of the person employed].

Dated this _____ day of _____ 19____
at [postal address], the office of the Local
Authority.

(Signed) _____
Chairman of the Local Authority.

Countersigned—

Clerk to the Local Authority.

9. In addition to the names and addresses of defectives, the Local Authorities shall instruct their officers to obtain, with regard to all defectives subject to be dealt with as aforesaid, all necessary information as to the nature and degree of their mental defects and other defects, if any, as to their means and mode of living and circumstances generally and as to the care and control which exists or is needed in each case. This information shall include details as to parentage of the defectives and the age and mode of life of parents, the number of their children and the relative position in family of the alleged defective. Inquiries for the purposes of obtaining this information shall be carried out under the directions of a medical officer.

[Note.—Information as to parentage and size of family would enable a local authority to decide whether a defective should be removed from the care of his parents or not. Information as to financial position of the family may also be required, in case the local authority should decide to lay a petition to a judicial authority and apply under section 13 of the Act for a mainten-

ance order on the parent. It should not be forgotten, however, that the Act authorises nothing in the nature of an inquisition to secure facts of medical or sociological interest on the part of local authorities.]

10. The information obtained under Regulation 6 shall be embodied in a register to be kept in such form as may be prescribed by the Board.

11. There shall also be kept up to date a card index to the register in the form and containing the particulars prescribed by the Board.

12. A duplicate of each card shall forthwith be sent to the Board of Control.

13. In the event of any defective being removed from the district of a Local Authority, a copy of the particulars on his card shall be forwarded to the Local Authority of the area to which he has removed.

II. *Supervision, Etc.*

[**Note.**—These Regulations are made because section 30 of the Act makes it a duty on local authorities to “provide suitable supervision” for defectives subject to be dealt with under section 2 (1) (b).]

14. It shall be the duty of a Local Authority to ascertain through their officers, what provision (if any) exists for the well-being, care and protection of the defectives who are subject to be dealt with under Section (2) (1) (b), and who are not in institutions or under guardianship and to decide in what cases supervision affords sufficient protection.

15. Such supervision shall be carried out by visitation and inspection of the homes or places of residence of such defectives through such officers, and at such times and under such conditions as the Local Authority may direct. Such advice, assistance and guidance as the Local Authority approve shall be given to the relatives for the benefit of the defective.

16. Such visitation and inspection may, if the Local Authority think fit, be delegated under conditions approved by the Board of Control to a local society for assisting or supervising defectives.

[**Note.**—If the local authority wish to delegate the visitation and inspection to a local society direct application will have to be made to the Board of Control for approval to the conditions agreed to between the local authority and the society.]

17. Reports of the result of such supervision shall be laid before the Local Authority at such times as they may direct. A special report shall be made to the Local Authority immediately if the physical or mental state of any defective or the conditions and surroundings in which he is living, and the means available for his care and control become such that in the opinion of the supervising officer the supervision affords insufficient protection.

[**Note.**—“Immediately”: This expression in the Regulation is to be construed as if contained in an Act of Parliament and

implies "speedy and prompt action and an omission of all delay; in other words, that the thing to be done should be done as quickly as is reasonably possible." [Per Cockburn, C.J., *R. v. Berkshire Justices*, 48 L. J., M. C.137.]

III. *Provision of Institutions.*

[**Note.**—On the Regulations 18-22 see generally section 38 of the Act and Notes thereto. And on provision of accommodation for "different types of defectives" see Regulations 23 and 80; also paragraph 17 of the circular letter of the Board of Control to County and County Borough Councils dated the 2nd April, 1914.]

18. Where the Local Authority has decided to provide accommodation for defectives by undertaking the establishment of an Institution, the Committee for the Care of the Mentally Defective appointed by such Local Authority may agree upon a site or premises to be purchased and upon plans and estimates for lands and buildings to be provided for that purpose, or for the restoration, alteration, or enlargement of such an Institution, and shall report to the Local Authority all plans, estimates, and contracts which they have agreed upon, and such plans, estimates and contracts shall be subject to the approval of the Local Authority, except where the decision upon such matters has been delegated to the Committee, or when the amount to be expended does not exceed an amount previously fixed by the Local Authority: but no such purchase shall be made or agreement or contract entered into, without the approval of the Secretary of State.

[**Note.**—On delegation of powers to the Committee, see section 28 (2) of the Act.]

19. Contracts for the reception and maintenance of defectives entered into by a Local Authority with the Managers of any Certified Institution shall be reported by the Local Authority to the Board of Control, and shall not be carried into effect until approved by the Secretary of State.

20. For the purpose of procuring the approval of the Secretary of State to any agreement, contract, or plan requiring approval under this Act, the agreement, contract, or plan, with an estimate of the probable cost of carrying it into effect, shall be submitted to the Board of Control, who, after making such inquiries as they think fit, shall report thereon to the Secretary of State, who may approve the agreement, contract, or plan, with or without modification, or may refuse his approval.

21. An approval, consent, modification or other decision of the Secretary of State will be communicated to the Local Authority by the Board.

22. A Local Authority shall be entitled to make representations to the Secretary of State as to any proposed modification of a plan, agreement, or contract, and it shall be the duty of the Local

Authority to give effect to the decision which the Secretary of State comes to after his consideration of such representations.

IV. *General.*

23. The Local Authority shall take steps to secure, so far as is possible, that a defective sent to an Institution for whose maintenance they may become responsible shall be sent to an Institution suitable for the age, sex, class, and grade of defectives to which he belongs.

[**Note.**—Defectives have to be classified inside Institutions according to their age, sex, capabilities, their habits and behaviour. Epileptics who have frequent fits have to be accommodated separately. (Regulation 80).

24. The Local Authority shall provide for the proper and suitable conveyance of a defective to or from any such Institution and for the care and protection of such defective during removal; the defective shall be suitably clothed and be accompanied by at least one attendant, who in the case of the removal of a female defective must be of the same sex.

[**Note.**—Regulation 24 should be read subject to the qualification made by the Act as to the financial obligations of the local authority—see section 30 (i.) and Note thereto. Doubtless, in many cases, as in the cases of “private” patients under the Lunacy Acts, conveyance of the defective and care and protection during the removal, will be suitably provided by the relatives or friends of the defective who presented the petition in the case—see Regulation 39 and Regulation 239.]

25. Where proceedings are taken for the placing of a defective under guardianship, the Local Authority which may become responsible for his maintenance shall lay before the Judicial Authority the names of such persons, including relatives of the defective, as are in their opinion suitable persons to undertake the duties of guardianship under this Act.

26. No person who already has charge of a defective or a person certified under the Lunacy Acts shall be recommended to the Judicial Authority as a suitable person to undertake the duties of guardianship without the consent of the Board.

[**Note.**—The expression “defective” means a defective within the meaning of the Act—see section 1 of the Act, together with Regulation 2. For the purposes of the Lunacy Acts the expression “Lunatic” means “an idiot or person of unsound mind” (Lunacy Act, 1890; section 341). The expression “a person certified under the Lunacy Acts” is not defined by statute or judicially. It is, therefore, submitted that for the purposes of Regulation 26 the expression should be taken as meaning any person of unsound mind in regard to whom a medical certificate or medical certificates has or have been given for the making of an order under the provisions of those Acts and who is subsequently given over to the charge of another person under any

provisions of those Acts; and it is further submitted that it is immaterial whether the person who has the charge of the lunatic is or is not remunerated for his services.]

27. The Local Authority, on becoming aware that a defective for whose maintenance they are responsible is or has become unsuitable for guardianship or that a guardian is unfit for the office of guardian or has died or resigned or abandoned his office, shall take all necessary steps for the care and protection of the defective.

[**Note.**—See generally section 7 of the Act; and also Regulations 214-217 as to Notices to be given, etc.]

V. Reports.

28. Every Local Authority shall, in or before the month of June in every year, make to the Board a report, made up to and including December 31st of the preceding year, of the performance of their duties under this Act, of the condition and management of any Institution which they may have provided either alone or in combination with another Local Authority, and of the care of the defectives for whom they are responsible, with such other matters as they think deserving of notice.

The report shall be accompanied by financial statements for the year ending the 31st of March, and by statistical tables, made up to the 31st December, relating to the patients, in such form as may be approved by the Board or as may be prescribed by them from time to time.

The report shall, with other particulars respecting such defectives, supply information as to

- (a) The total number dealt with during the year, the mode in which they have been provided for, and a general account of their mental and physical condition.
- (b) The number of admissions, removals, and deaths during the year and the number remaining under care at the end of the year, distinguishing in each instance those dealt with in Institutions, under guardianship and under supervision, or in Approved Homes.
- (c) Provision for—
 - (i) Classification.
 - (ii) Industrial training and education.
 - (iii) Employment.
 - (iv) Promotion of industry and good behaviour, including any system of encouragement and rewards.
 - (v) Recreation and play.
 - (vi) Attendance at religious services.

[**Note.**—The Committee for the care of Defectives is once a year

to present to the local authority a written report on any institution provided by that authority (Regulation 113) and a financial statement (Regulation 114).

29. Every Local Authority shall also furnish such other reports as the Board may from time to time require.

PROCEDURE ON PETITIONS.

[**Note.**—The procedure is in many respects copied from the provisions of the Lunacy Act, 1890, as explained in the Note to section 5 of the Act.]

30. No person shall present a Petition unless he is at least 21 years of age, and has, within 14 days before the presentation of the Petition, personally seen the alleged defective.

[**Note.**—The form of the petition is prescribed in the schedule to the Regulations (Forms P1 to P3).]

31. No Petition shall be presented unless signed by the Petitioner and accompanied by the certificate or certificates and the statutory declaration required by the Act and a statement of particulars.

[**Note.**—For Form of Medical Certificates and Statutory Declaration see Forms P4 to P6 in the schedule to the Regulations. The Certificates and the Statutory Declaration are required under section 5 (2) of the Act.]

32. If the Petition is presented by a relative or friend, the petitioner shall in the Petition undertake that he will personally, or by someone specially appointed by him, visit the defective once at least in every six months, and the undertaking shall be recited in the Order.

33.—(a) The Judicial Authority shall visit the defective or summon him to appear before him as soon as practicable after receiving the Petition.

(b) After seeing the alleged defective, the Judicial Authority shall either forthwith consider the Petition and make an order thereon or dismiss the same, or shall appoint as early a time as practicable, not being more than seven days from the presentation of the Petition for considering the same, and notice of the time appointed shall be given to the petitioner, the alleged defective, the parent or guardian, and the Local Authority (if any) concerned. (28)

(c) If the proceedings are to be conducted in private, the notice shall so state, and shall also state what persons will be allowed to be present.

[**Note.**—For the provisions of the Act on "Procedure on Hearing Petitions"—see generally section 6 of the Act and Note thereto. The proceedings "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" (section 6 (2). See also Regulation 42.

"Forthwith": see Note to Regulation 4.

"Not being more than seven days": In the computation of the days see Note to Regulation 94.

For the prescribed Form of order for sending a defective to an institution or certified house or placing him under guardianship, see Form P7 in the schedule to the Regulations.]

34. If a Petition is dismissed, the Judicial Authority shall deliver to the petitioner a statement in writing under his hand of his reasons for dismissing the same, and shall send a copy of such statement to the Board.

[**Note.**—No form of statement is prescribed.]

35. If, after a Petition has been dismissed, another Petition is presented as to the same alleged defective, the person presenting such other Petition shall obtain from the Board, and present with his Petition, a copy of the statement referred to in paragraph 34.

36. Any Judicial Authority making or refusing to make an Order, shall, if so required by the Board, give to them all such information as they may require as to the circumstances in which the Order was made or refused.

37.—(a) One of the medical certificates accompanying the Petition shall whenever practicable be under the hand of the usual medical attendant, if any, of the alleged defective. If, for any reason, it is not practicable to obtain a certificate from such usual medical attendant, the reason shall be stated in the Petition.

(b) Every medical certificate accompanying a Petition shall state the facts upon which the certifier has formed his opinion that the alleged defective is a defective, distinguishing facts observed by himself from facts communicated by others, and an Order shall not be made upon a certificate which is not founded wholly or in part upon facts observed by the certifier.

21 (c) An Order shall not be made unless each medical practitioner who signs a certificate has, separately from the other medical practitioner, personally examined the alleged defective not more than seven clear days before the date of the presentation of the Petition.

(d) a medical certificate accompanying a Petition shall not be signed by the petitioner, or by the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the petitioner.

(e) Neither of the persons signing the medical certificates accompanying the Petition shall be the husband or wife, father or

father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of the other of them.

(f) A medical certificate shall not be signed by a Visitor unless he is ordered by the Judicial Authority to examine the alleged defective.

(g) An Order shall not be made sending any defective to an Institution or certified House or placing him under guardianship where any certificate accompanying the Petition has been signed by any of the following persons:—

- (i) A manager or owner of the Institution or certified House, or the person appointed guardian of the defective.
- (ii) Any person interested in the payments on account of the defective.
- (iii) Any regular medical attendant of the Institution or certified House.
- (iv) The husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner, or assistant of any of the foregoing persons.

(h) Where the person who joins with the petitioner in making the statutory declaration is not one of the persons who gave a medical certificate the following provisions shall apply to him:—

- (i) He or she shall not be the husband or wife, father or father-in-law, mother or mother-in-law, son or son-in-law, daughter or daughter-in-law, brother or brother-in-law, sister or sister-in-law, partner or assistant of the petitioner or of either of the persons who gave the medical certificates.
- (ii) The preceding sub-section (g) shall apply as if he or she had signed one of the medical certificates.

[**Note.**—Generally on Regulation 37 see section 5 (2) of the Act and Note to Regulation 31. In the computation of the “seven clear days” mentioned in paragraph (c) of the Regulation the day of the presentation of the petition should be excluded. The expression “visitor” in paragraph (f) means one of the visitors under the Act. See section 40 and Regulation 2.]

38. The documents upon which an Order is founded shall be attached to the Order, and the Order and documents shall be delivered or sent by post to the petitioner, and shall be delivered by him or his agent to the superintendent of the Institution or

certified House into which the defective is to be received or to the person appointed to be his guardian.

[**Note.**—For the Form of Order see Form P7 in the Schedule to the Regulations. See Note to Regulation 40.]

39. An Order made upon a Petition, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner, or any person authorised by him, to take the defective and convey him to the place mentioned in such Order, and for the defective's reception and detention therein, and the Order may be acted on without further evidence of the signature or of the jurisdiction of the person making the Order.

[**Note.**—See Regulation 24 and Note thereto.]

40. At any time before an Order has been executed, the Judicial Authority who made it, or, if he is not available, any other Judicial Authority, may, on being satisfied that it is necessary or expedient so to do, revoke the Order, or may vary the same by substituting another Institution or certified House for the Institution or Certified House, or another guardian for the guardian named in the Order; and an Order so varied shall take effect as if the substituted Institution, certified House, or guardian had been originally named therein.

[**Note.**—An order for a defective to be sent to an institution must be executed, if at all, within the fourteen or twenty days, as the case may be, fixed by section 10 (1) of the Act. There is no time fixed within which an order for guardianship must be executed, but it is submitted that it cannot be executed after the end of one year from its date—see section 11 (1). In the case of guardianship the order will have been executed when Regulation 38 has been complied with.

The Regulation contains no provision for securing to interested parties an opportunity of being heard in the matter, but see section 7 (3) of the Act.

There is no prescribed Form for the revocation of an order. A simple endorsement, on the face of the order, of the fact of revocation being in accordance with the Regulation, signed and dated by the judicial authority who revokes the order, would be sufficient.]

41.—(1) When a patient has been received under an Order into an Institution or certified House or under guardianship—

- (a) If the Order or any document upon which the same is founded be found to be in any respect incorrect or imperfect it may, with the sanction of a Commissioner, be amended or supplemented within fourteen days from the reception of the patient.
- (b) If the Board or any two Commissioners deem the Order or any document upon which the same is founded to be incorrect or defective they may authorise such Order or document to be amended or supplemented as they shall, by

notice to the Superintendent of the Institution or certified House or to the guardian, direct. If the Order or document is not amended or supplemented in accordance with the direction so given within fourteen days or such longer period as may be allowed for the purpose, the Board or any two Commissioners may, if they think fit, make an Order for the patient's discharge.

(2) Every Order and document amended or supplemented under this section shall take effect as if the amendment or supplementary matter had been contained therein when it was signed.

42. No proceedings on a Petition shall be conducted in a police court or other court or room used for the hearing of criminal charges.

43. The forms P1 to P9 in the Schedule hereto or forms to the like effect may be used wherever applicable with such modifications as circumstances require.

THE GRANTING, TRANSFER, RENEWAL, REVOCATION AND RESIGNATION OF CERTIFICATES FOR CERTIFIED INSTITUTIONS AND CERTIFIED HOUSES FOR DEFECTIVES.

44. Applications for the granting, transfer, or renewal of a Certificate for a certified institution or for a certified house for the reception, control, detention, care, treatment and training of defectives shall be signed by the managers or owner or by some person authorised on their behalf, and should be sent to the Secretary of the Board of Control.

[**Note.**—"Certified Institution" and "Certified House." For these expressions see section 71 of the Act. For forms of application see the forms C1 to C8 in the Schedule to Regulations.]

45. Applications for the granting of Certificates should give, with respect to the certified institution or certified house, the following particulars:—

- (1) The name and locality of the proposed institution or house; and the persons, incorporated or unincorporated body, society or association who are to be the managers of the certified institution or certified house.
- (2) An exact description and plan of the site of the certified institution or certified house, and of the land occupied in connection with or annexed to it, and particulars of the estate or interest of the managers or owner therein.
- (3) Detailed descriptions and plans of the buildings drawn upon a scale of 16 feet to 1 inch, showing the area, height, arrangement and proposed use of the rooms (distinguishing those to be occupied by the patients from

those of the officers and servants), the workshops, external offices and conveniences, baths, fire escapes, heating, lighting, ventilation and sanitary arrangements; also a plan of the drains and a statement as to the mode of disposal of the sewage and as to the water supply.

- (4) A statement of the quantity of land, not covered by the certified institution, certified house or buildings, which is occupied in connection with or annexed to them, and appropriated to the use, exercise and recreation of the patients, and of the character of the land.
- (5) The number of patients whom it is proposed to receive, if of both sexes, the number of each sex and a statement of the means by which the sexes are to be kept apart. If the patients are to be limited to any particular type of defective or class or age or to defectives sent from any particular locality, or belonging to any particular religious persuasion, exact information as to the restrictions proposed must be given.
- (6) The name of the superintendent (*i.e.*, the resident head of the certified institution or certified house), with particulars of the staff whom it is proposed to employ, and of the arrangements proposed for the medical care of the patients.
- (7) A statement respecting the work upon which the patients are to be employed and the arrangements for affording them simple education and industrial training.

[**Note.**—For penalty for wilfully making untrue statement to obtain certificate or renewal of certificate, see section 58 of the Act. The Board of Control reserve power to insist that the superintendent should be a medical man (Regulations 116, 131, 151, and 164). See also Regulation 80 on classification of cases. For fees for certificates in respect of "Certified House," see Regulation 62. Also see Regulations 57 and 83.]

46. An application for a Certificate shall be deemed to be an undertaking on the part of the managers or owner to feed, clothe, maintain, and suitably educate, train and employ any patient received by them in accordance with the provisions of this Act and the Regulations made thereunder so long as the patient remains in the certified institution or certified house.

47. The Board may, on application, if they think fit, by writing under their seal endorsed on the Certificate, transfer the Certificate with all the privileges and obligations annexed thereto to such persons as the Board approve. An application for the transfer of a Certificate should contain the like particulars with regard to the proposed transferees as are required in the case of applicants for a Certificate.

[**Note.**—There is no prescribed form of application for transfer

of certificate. For the particulars to be supplied, with the application, as to the proposed transferees, see particularly Regulation 45 (1), and that Regulation generally.]

48. A Certificate for a certified institution shall be granted for such period not exceeding ten years as the Board may determine, and for a certified house for such period not exceeding thirteen months as the Board may determine: provided that the Board, if dissatisfied with the condition or management of any certified institution or certified house, may at any time by notice under their seal served upon the managers or owner prohibit the reception by them of defectives of all or any descriptions until the notice is revoked.

[**Note.**—The form of the certificate for an institution is that lettered C2 in the Schedule, and for a certified house that lettered C4.]

49. The Board may, by an instrument under their seal, revoke or modify the terms and conditions of any Certificate granted by them.

No revocation or modification of a Certificate shall be ordered until the managers or owner have had an opportunity of laying before the Board a statement of their reasons against such a step being taken.

50. A revocation shall take effect at a date to be named in the instrument of revocation not more than two months from the time when a copy or notice thereof has been published in the London Gazette, and unless the revocation is withdrawn the certified institution or certified house shall at that date cease to be a certified institution or certified house.

[**Note.**—As to removal of the patients, see Regulation 58; also Regulation 60 as to penalty for retention of cases.]

51. A copy or notice of the instrument of revocation shall be published in the London Gazette and shall, before publication, be posted to the managers or owner of, or be left at, the certified institution or certified house affected.

52. The managers or owner may at any time resign a Certificate, but such resignation shall not take effect until accepted by the Board who will require to be satisfied that proper arrangements have been made for the accommodation, care, treatment, control and detention of the patients of the certified institution or certified house.

53. If one of the joint managers of a certified institution or one of the joint owners of a certified house dies the Certificate with its privileges and obligations shall pass to the survivor or survivors: provided that if the manager or owner so dying is the superintendent, arrangements are made to the satisfaction of the Board for the performance of his duties by another super-

intendent: provided also that in the case of a certified institution a Certificate may, if the Board think fit, be granted to the managers for the time being and to the persons who shall be the managers from time to time during the currency of the Certificate, and if so granted shall take effect accordingly. If the sole manager or owner dies the Certificate may be transferred as provided by Regulation 47.

54. An application for the renewal of a Certificate in respect of a certified institution or certified house shall be made at least six weeks before the expiration of the Certificate and shall in the case of a certified house be accompanied by a statement signed by the applicant containing the number of patients of each sex.

[**Note.**—The forms of application are Forms C5 and C7 in the Schedule to the Regulations.]

55. Before any alteration or addition is made in or to any certified institution or certified house or its appurtenances the managers or owner shall send notice in writing of the proposed alteration or addition to the Board. Such notice shall be accompanied by full descriptions of the proposed alteration or addition with plans drawn to a scale of 16 feet to 1 inch.

The use of any part of the premises for a purpose different from that contemplated in the Certificate shall be deemed to be an alteration within the meaning of this paragraph.

[**Note.**—For certain particulars to be supplied on original application for certificate, see Regulation 45 (2) (7). And as regards penalty for false statement, see section 58 of the Act.]

56. No such alteration or addition as is in the last preceding Regulation referred to shall be made in or to any certified institution or certified house without the previous consent in writing of the Board.

57. The Certificate of a certified institution or certified house may include any premises wherever situate ancillary to any of the purposes of, or used in connection with, the certified institution or certified house.

58. Within two months from the expiration or revocation of the Certificate of a certified institution or certified house all the patients therein shall be removed.

59. The powers of the Board and Visitors with reference to any certified institution or certified house and the patients therein and all powers and provisions of the Act and the Regulations thereunder having reference to the discharge, removal and transfer of the patients, shall, after the expiration or revocation of the Certificate, continue in force so long as any patients remain therein.

60. If the managers of a certified institution or the owners of a certified house, except with the consent of the Board, receive any

patients beyond the number specified in the Certificate, or retain any patient more than two months after the expiration or revocation of the Certificate, or fail to comply with the conditions of the Certificate as to the sex of the patients or the class of patients, they or he shall for each patient received or allowed to remain contrary to the conditions of the Certificate be liable to a penalty not exceeding £50.

61. These regulations shall apply to premises provided by a board of guardians, which have been approved or in respect of which an application for approval has been made by a local authority under Section 37 of the Act as if such premises were an institution; and as if the term "certificate" included an approval of such premises granted by the Board under that section.

[**Note.**—For forms of application, certification, and renewal for such premises, see those lettered C9 to C12 in the Schedule to the Regulations.]

62.—(1) For any Certificate, or renewed Certificate, for a certified house there shall be paid to the Secretary of the Board, a fee of £5 and in addition the sum of 10s. for every patient beyond the number of ten.

(2) If the period for which the Certificate is granted is less than 13 months, the Board may reduce the payment.

(3) The payment for a Certificate for a new certified house granted upon the transfer of patients from a certified house, shall be not less than £1 10s.

(4) No Certificate shall be delivered until the sum payable for the same has been paid.

[**Note.**—For the statutory sanction for these fees, see section 49 (1) of the Act.

63. The forms C1 to C10 in the Schedule hereto or forms to the like effect may be used with such variations as circumstances require, for the purposes of these regulations.

THE GRANTING, RENEWAL AND REVOCATION OF APPROVALS OF HOMES FOR DEFECTIVES.

64. An application for the approval of any premises as an approved home for the reception, control, care, treatment and training of defectives should be signed by the managers or owner or some person authorised on their behalf and should be sent to the Secretary of the Board of Control and should give the following particulars:—

- (1) The name and situation of the proposed home and whether
 - (i) it is conducted for private profit; (ii) the patients are 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.

- (2) The persons, incorporated or unincorporated body, society or association who are the managers or owner of the approved home.
- (3) An exact description and plan of the site of the approved home, and particulars of the estate or interest of the managers or owner therein.
- (4) Detailed descriptions and plans of the buildings drawn upon a scale of at least 16 feet to 1 inch, showing area, height, and arrangement of rooms (distinguishing those to be occupied by the patients from those of the officers and servants), the workshops, external offices and conveniences, baths, fire escapes, heating, lighting, ventilation and sanitary arrangements; also a plan of the drains, and a statement as to the mode of disposal of the sewage, and as to the water supply.
- (5) If the approved home forms part of a hospital, institution or licensed house within the meaning of the Lunacy Acts, or of an Institution under the Mental Deficiency Act, the plans should clearly show the exact portion of the premises it is proposed should be approved as a home and how, if deemed necessary, such portion is or can be shut off and separated from the rest of the building.
- (6) A statement of the quantity of land not covered by the house or buildings which is occupied in connection with or annexed to them and appropriated to the use, exercise and recreation of the patients residing in the home, and of the character of the land.
- (7) The number of patients whom it is proposed to receive, if of both sexes, the number of each sex and a statement of the means by which the sexes are to be kept apart, and if the house is not to be conducted for private profit, whether it is proposed to receive any, and how many, aided patients.
- (8) The name of the superintendent (that is the resident head of the house) with particulars of the staff whom it is proposed to employ, and the arrangements proposed for the medical care of the patients.
- (9) A statement respecting the work upon which the patients are to be employed and the arrangements for affording them simple education and industrial training.

[**Note.**—For forms of application and approval see those lettered A1 to A4 in the Schedule to the Regulation. For penalty for wilfully making untrue statement for purpose of approval, see section 58 of the Act. The Board of Control may direct that the superintendent be a resident medical man if the home is

to hold more than 100 patients—see Regulation 186; see also Regulation 80 on classification of case; and Regulations 76 and 83. And as to fees for the approval, Regulation 77.]

65. An application for an approval of premises as an approved home shall be deemed to be an undertaking on the part of the managers or owner to feed, clothe, maintain and suitably educate, train, and employ, any patient received by them in accordance with the provisions of this Act and the Regulations made thereunder so long as the patient may remain in the home.

66. The Board may on application, if they think fit, by writing under their seal endorsed on the approval, transfer the approval with all the privileges and obligations annexed thereto to such person or persons as the Board may approve. An application for the transfer of an approval shall contain the like particulars with regard to the proposed transfer as are required in the case of an application for an approval.

[**Note.**—There is no prescribed form of application for transfer of approval. For form for the original application see Form A1 in the Schedule to the Regulations.]

67. In the case of a home not conducted for profit the approval shall be granted for such period not exceeding 10 years as the Board may determine, and in the case of a home conducted for profit for such period not exceeding 13 months as the Board may determine; provided that the Board, if dissatisfied with the condition or management of the home, may at any time by writing under their seal served on the managers or owner, prohibit the reception of defectives of all or any descriptions until the notice is revoked.

68. The Board may by an instrument under their seal revoke or modify the terms and conditions of any approval for a home granted by them. No revocation or modification of an approval shall be ordered until the managers or owner have had the opportunity of laying before the Board a statement of their reasons against such a step being taken.

69. A revocation shall take effect at a date to be named in the instrument of revocation not more than two months from the time when a copy or notice thereof has been published in the London Gazette.

[**Note.**—See Regulation 78 for penalty for retention of cases.]

70. A copy of the notice or instrument of revocation shall be published in the London Gazette and shall before publication be posted to the managers or owner or left at the home.

71. The managers or owner may at any time resign an approval but such resignation shall not take effect until accepted by the Board, who will require to be satisfied that proper arrangements

have been made for the accommodation, care, treatment and control of the patients.

72. If one of the joint managers or owners of an approved home dies, the approval with its privileges and obligations shall pass to the survivor or survivors, provided that if the manager or owner so dying is the superintendent, arrangements are made to the satisfaction of the Board for the performance of his duties by another superintendent: if the sole manager or owner dies the approval may be transferred as provided by Regulation 66.

73. An application for the renewal of an approval in respect of an approved home shall be made at least six weeks before the expiration of the approval and shall be accompanied by a statement signed by the applicant giving the number of patients of each sex.

[**Note.**—For forms of application see Form A3 in the Schedule to the Regulations.]

74. Before any alteration or addition is made in or to an approved home or its appurtenances the managers or owner shall send notice in writing of the proposed alteration or addition to the Board. Such notice shall be accompanied by full descriptions of the proposed alteration or addition with plans drawn to scale of at least 16 feet to 1 in. The use of any part of an approved home for a purpose different from that for which it was approved shall be deemed to be an alteration within the meaning of this paragraph.

[**Note.**—For certain particulars to be supplied on original application for approval see Regulation 64 (3)—(9). And as regards penalty for false statement see section 58 of the Act.]

75. No alteration or addition as in the last preceding regulation referred to shall be made in or to any approved home without the previous consent in writing of the Board.

76. An approval of a home may include any premises ancillary to any of the purposes of or used in connection with the home.

77.—(1) For every approval for a home conducted for private profit there shall be paid to the Secretary of the Board a fee of £5 and in addition the sum of 10s. for every patient beyond the number of ten.

(2) If the period for which the approval is granted is less than 13 months the Board may reduce the payment.

(3) The payment for an approval for a new approved home granted upon the transfer of patients from an approved home shall be not less than £1 10s.

(4) No approval shall be delivered until the sum payable for the same has been paid.

[**Note.**—For the statutory sanction for these fees see section 50 (1) of the Act.]

78. If the managers or owner of an approved home, except with the consent of the Board, receive any patients beyond the number specified in the approval or retain any patient more than two months after the expiration or revocation of the approval or fail to comply with the conditions of the approval as to the sex and class of the patients, he shall for each patient received or allowed to remain contrary to the approval or the regulations be liable to a fine not exceeding £50.

79. The forms A1 to A4 in the Schedule hereto or forms to the like effect may be used, with such variations as circumstances require, for the purposes of these regulations.

THE MANAGEMENT OF CERTIFIED INSTITUTIONS, CERTIFIED
HOUSES, AND APPROVED HOMES.

[**Note.**—In addition to the general regulations special regulations are prescribed for the various types of institution and home (Regulations 108 to 200)].

(GENERAL REGULATIONS.)

I. Classification and Treatment.

80. The patients shall be classified generally according to their age, sex, capabilities, their habits and behaviour. Epileptics who have frequent fits shall be accommodated separately.

The arrangements for the classification and the separation of the sexes shall be submitted to the Board and when approved by them shall be observed.

[**Note.**—For views of the Board of Control on “different types of defectives requiring wholly different conditions of treatment” see under paragraph 17 of their letter to County and County Borough Councils of the 2nd April, 1914.]

81. The Institution and House Rules shall provide for:—

1. Outdoor exercise, and regular walks.
2. Frequent instruction and physical drill.
3. Employment in appropriate and useful work.
4. Instruction in school for the younger patients, especial regard being paid to training for hand and eye.
5. Separating as far as possible the younger from the older patients.
6. Methods to counteract the patients' tendency to evil and perverted habits.

[**Note.**—Provisions for Institution and House Rules and written instructions to Officers are contained in the Special Regulations for the various types of Institution.]

82. It shall not be lawful to employ any male person in the personal custody or restraint of any female patient. This shall not prohibit the employment of male persons on such occasions of urgency as may, in the judgment of the superintendent, render such employment necessary, but the superintendent shall in each case report the employment to the Commissioners, Inspectors, Committee, or Visitors at their next visit.

83. No part of any Certified Institution, Certified House or Approved Home shall, without the consent of the Board, be used for any purpose other than that for which it was specially intended and certified.

[**Note.**—Responsibility for the observation of this Regulation is laid on the committee of a local authority in case of institutions provided by such an authority (Reg. 109), and on the committee of managers in the case of institutions provided by a society or association (Reg. 124); and in other cases by the managers (Reg. 144)].

84. If complaints are made by persons, resident in the neighbourhood of a Certified Institution, Certified House or Approved Home, that the patients are allowed to go outside the Certified Institution, Certified House or Approved Home without a sufficient number of officers to control them, or that the patients are allowed to wander at large without any control, the Board may, if they are satisfied that there are *prima facie* grounds for such complaints, inquire into the same, and make such order in relation thereto as the Board think fit.

85.—(1) Mechanical means of bodily restraint shall not be applied to any patient unless the restraint is necessary for the purposes of surgical or medical treatment, or to prevent the patient from injuring himself or others.

(2) In every case where such restraint is applied a medical certificate shall, as soon as it can be obtained, be signed, describing the mechanical means used, and stating the grounds upon which the certificate is founded.

(3) The certificate shall be signed by the medical officer or the medical attendant as the case may be.

(4) A full record of every case of restraint by mechanical means shall be kept from day to day; and a copy of the records and certificates shall be sent to the Board at the end of every quarter.

(5) In the application of this Regulation “mechanical means” shall be such instruments and appliances as the Board may approve.

[**Note.**—For prescribed form of register and certificate, see Form R12 in the Schedule to the Regulations. A copy of every entry in the register is to be forwarded to the Board of Control at the end of every quarter (Regulation 94 (k))].

86. A record shall be kept of all seclusion adopted in the treatment of patients.

(Seclusion is the enforced isolation of a patient by day between the hours of 7 a.m. and 7 p.m., by the closing by any means whatsoever of the door of the room in which the patient is.)

[**Note.**—No particular form is prescribed for this record.]

87. In no case shall corporal punishment be administered to any patient.

II. *Records to be kept.*

88. The Superintendent of every Certified Institution, Certified House or Approved Home, shall keep, or cause to be kept, in such form as the Board may from time to time direct—

- (a) a register of admissions;
- (b) a register of removals, transfers, discharges and deaths;
- (c) a register of mechanical restraint;
- (d) a case book;
- (e) a medical register when the Board so direct.

A Visitors' Book and a Patients' Book shall also be provided.

[**Note.**—For Forms prescribed under present Regulations see Forms referred to in Regulation 90. No form of case book or of medical register is prescribed, but see Regulation 92. The form of visitors' book and form of patients' book are left to be settled by the management of the institution, house or home.]

89. The Medical Officer to the Certified Institution, Certified House or Approved Home, or an Assistant Medical Officer shall keep a Medical Journal in the form prescribed by the Board, in which entries shall be made once in every week, or, in a Certified Institution, Certified House or Approved Home where the Medical Officer is non-resident and his visits are permitted at more distant intervals than once a week, at each visit.

[**Note.**—For Form see Form R13 in Schedule to the Regulations.]

90. Until the Board otherwise direct, the register of patients, the register of removals, transfers, discharges and deaths, the register of mechanical restraint and the Medical Journal shall be respectively in the forms R1 to R13 in the Schedule hereto.

91. The Superintendent of every Certified Institution, Certified House and Approved Home shall, immediately on the reception of a person as a defective, make an entry with respect to such patient in the register of admissions according to the form prescribed therein and containing the particulars therein specified, except as to the form of mental disorder and the bodily condition. The entries as to the form of mental condition and the bodily condition shall be supplied by the Medical Officer of every certified

Institution, Certified House and Approved Home within seven days after the reception of a patient.

92. Within seven days after the admission of a patient there shall be entered in the case book for patients the following particulars:—

A statement of the name, age, date of birth, sex and previous occupation of the patient, and whether married, single, or widowed, and a copy of the statement of facts contained in the medical certificates accompanying the reception order.

A statement of the mental and physical condition of the patient.

Every particular that has been obtained respecting the previous history of the patient, and his family.

Subsequent entries shall be made at least twice a year, and all special circumstances affecting the patient, and all information obtained as to his family history, shall be recorded.

Those entries which are of a purely medical character shall be made by the Medical Officer, but other entries may be made by the Superintendent or by some competent person deputed by him.

93. The Superintendent of every Certified Institution, Certified House and Approved Home shall within two clear days after the removal, discharge, death or transfer from the private to the aided class, or *vice versa*, of any patient, make an entry thereof in the register of admissions, and also in the register of removals, transfers, discharges, and deaths, according to the form prescribed therein respectively, and in the case of death an entry shall be made also in the Medical Journal by the Medical Officer.

The Superintendent of every Certified Institution and Approved Home receiving aided patients, shall, half-yearly, on the 1st day of January and the 1st day of July, send to the Local Authority and to the Guardians of every union a statement of the mental and bodily condition of every aided defective chargeable to the Local Authority or to the union.

[**Note.**—For certain notices that are to be given to Board of Control see generally Regulation 94; and for notices to be given in case of death to various authorities or individuals see Regulations 95 and 97.]

III. *Notices and Copies of Reports.*

94. The Superintendent of every Certified Institution, Certified House and Approved Home shall send, or cause to be sent, to the Board the following written notices and copies of reports:—

- (a) Notice within seven days of any change among the assistant medical officers.

- (b) Notice within two clear days after the dismissal for misconduct of any person employed.
- (c) Notice within fourteen days giving a list made up to the 1st of January and the 1st of July in every year of all the patients with the rates of payment.
- (d) Notice within seven days of the admission of a patient together with a medical statement to be made and signed by the medical officer of the Certified Institution or Certified House together with copies of the order by which the patient was sent and of the documents on which the same was founded, or if the patient was placed in the Certified Institution or Certified House by his parent or guardian copies of the statement by the parent or guardian and of the certificates: and in the case of persons not dealt with under the Act such notice as the Board may require.
- (e) Immediate notice of any patient's mental condition becoming such that he ought to be transferred to an Institution for lunatics.
- (f) Notice within two clear days of the removal, discharge, transfer to an Institution for lunatics, escape or recapture of a patient.
- (g) Immediate notice of the outbreak of any infectious disease and its nature.
- (h) Within two clear days copies of every entry made in the visitors' book or patients' book by any Commissioner or Commissioners, Inspector or Visitors.
- (i) If required, correct copies of all the entries, or of any particular entries or entry, in any official book relative to any specified patient who is, or may have been, resident.
- (j) Not more than one month nor less than fourteen days before the expiration of the order or authority under which a patient is detained, the special reports and certificate required under sections 11 and 12 of the Act for the continuance of the order or authority and any report that may have been made under those sections by a medical practitioner at the request of the patient's parent, guardian, relative or friend.
- (k) At the end of every quarter a copy of every entry made in the register of mechanical restraint during the quarter.
- (l) Notice of any other matter as the Board may from time to time direct.

All notices and reports shall be made in a manner so clear and distinct as to admit of being easily referred to and extracted

whenever the Board shall so require, and all notices shall be sent on white paper of foolscap size.

[**Note.**—For the Forms of Notices so far as they have been prescribed see Form RI. and the Forms that follow it in the Schedule to the Regulations.

In Regulation 94 there are such expressions as (1) "*within seven days,*" and (2) "*within two clear days*"; also the expressions "*immediate,*" "*month,*" and "*at the end of every quarter.*" These expressions should be construed as they would be if they were in the Act itself. The rule is that when a statute directs an act to be done within so many "*clear days*" both the terminal days are excluded from the computations, but if the Act has to be done "*within*" so many days, omitting the word "*clear,*" then the rule is to exclude the first and include the last day. The expression "*days*" means consecutive days, Sunday, etc., included. On the expression "*immediate*" see Note to Regulation 17. "*Month*" means calendar month (Interpretation Act, 1889, section 3). The expression "*at the end of every quarter*" is adopted from section 40 (4) of the Lunacy Act, 1890, under which copies of records of mechanical restraint in cases under the Lunacy Act are sent to the Commissioners at the end of every quarter ended March 31st, June 30th, September 30th, and December 31st.

"Institution for Lunatics": For meaning see Note to section 71 of the Act.

"Infectious Disease," as defined by section 6 of the Infectious Disease (Notification) Act, 1889, means any of the following diseases:—Small-pox, cholera, diphtheria, membranous croup, erysipelas, the disease known as scarlatina or scarlet fever, and the fevers known by any of the following names:—Typhus, typhoid, enteric, relapsing, continued, or puerperal. By the same section the notification is, in any particular district, also to be made in respect of any other infectious disease made notifiable by the local health authority in accordance with the provisions of the Act. There are local Acts in some places dealing with notification of diseases. It is submitted that the expression "*the outbreak of any infectious disease*" should be read as including not only every infectious disease notifiable to the local health authority, but any disease which, in the opinion of the Medical Officer of the Institution, House, or Home, is infectious although not notifiable to the local health authority.

The expression "*Visitors*" in Regulation 94 (h) means the Visitors under the Act (see section 40 and Regulation 2).

95. The superintendent shall within 48 hours of the death of a patient send, or cause to be sent, a notice of such death together with a statement relating thereto—

- (a) To the Board; together with a copy of any letter to the coroner supplementary to the notice;
- (b) To the relative or one of the relatives named in the statement accompanying the order for the reception of the patient, or, if none be known to the person named for the purpose in such statement;

- (c) To the registrar of deaths for the district;
- (d) To the coroner of the district;
- (e) To the clerk of any local authority, guardians, or any other public body responsible for the payments for such patient's maintenance.

[**Note.**—The form of notice is prescribed in the schedule to the Regulations (Form R7).]

96. The Superintendent of a Certified Institution or a Certified House shall when any patient attains the age of twenty-one years send or cause to be sent within seven days to the Board and to the visitors notice in writing of such fact.

97. The Superintendent of a Certified House shall send or cause to be sent notice of the death of a patient as ordered in Regulation 2.

- (a) To the clerk to the Visitors;
- (b) To the person upon whose petition the order for the admission of the patient was made or who made the last payment on account of the patient;
- (c) To the clerk to the guardians of the poor of the union to which the patient was chargeable.

[**Note.**—Regulation 2 is obviously a misprint for Regulation 95.]

IV. Correspondence.

98. The Superintendent of every Certified Institution, Certified House and Approved Home shall forward unopened all letters written by any patient and addressed to the Lord Chancellor, to a Secretary of State or to the Commissioners or any Commissioner or to the person who placed him in a Certified Institution, Certified House or Approved Home, or on whose petition an order for his reception was made or to any Visitors or Visitor or to the Committee for the Care of the Mentally Defective of any Local Authority who have established or contributed to the establishment of the Institution where the patient is resident, and may also at their or his discretion forward to its address any other letter if written by a patient, provided that no such letters shall be forwarded to persons other than those to whom they are addressed.

Every Superintendent of a Certified Institution, Certified House or Approved Home who makes default in complying with the obligation imposed on him by the foregoing regulation shall for each offence be liable to a penalty not exceeding £20.

[**Note.**—On penalty, see section 59 of the Act.]

99. Patients shall be allowed to write letters at reasonable intervals, but, except as is hereinbefore provided, every letter to or from a patient may be read by such Superintendent, and if the contents are objectionable or if it is considered undesirable

that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received it shall not be forwarded or delivered. But all such letters shall be retained and produced on request to any Commissioner, Inspector, or Visitor. Provided that any such letters so retained may be destroyed after the lapse of one month from the last visit of a Commissioner, Inspector, or Visitor.

[**Note.**—"Except as is hereinbefore provided": see Regulation 98.]

"Inspector," i.e., of the Board of Control, see section 23 of the Act. "Visitor," see section 40.]

100. No patient in a Certified Institution, Certified House or Approved Home shall be permitted to sign any legal document brought or sent to him without the consent of the Superintendent.

[**Note.**—See Regulation 103.]

101. Whenever the Board think fit there shall be posted up in every Certified Institution, Certified House and Approved Home printed notices setting forth:—

1. The right of every patient to have any letter written by him forwarded in pursuance of the previous regulation.
2. The right of every patient to request a personal and private interview with a Commissioner, Inspector, or Visitor at any visit made to the Certified Institution, Certified House or Approved Home.
3. The notices shall be posted in such a position that every inmate may be able to see them.
4. The Visiting Commissioners may give directions as to the places in which such notices are to be posted.
5. If any Superintendent of a Certified Institution, Certified House or Approved Home make default in posting such notices and does not within ten days carry out any directions as aforesaid as to such notices he shall for each offence be liable to a penalty not exceeding £20.

[**Note.**—On penalty, see section 59 of the Act.]

V. Visits.

102. Visits by the nearest adult relative or the guardian who is entitled under the statute to visit a patient in a Certified Institution or Certified House and visits by relatives and other persons to a patient in a Certified Institution, Certified House or Approved Home shall, so far as is consistent with the due administration of the Institution, House, or Approved Home, be encouraged and shall be permissible at such reasonable times and under such conditions as may, with the approval of the Board, be prescribed by the Superintendent.

[**Note.**—See definition of Relative in section 71 of the Act.]

103. The special consent of the Superintendent shall be required in each case of visits to patients by solicitors, officers of the law and other persons in connection with business transactions.

104. If there be reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him or encouraging him to break the rules of the Superintendent, his visit may be suspended and he may be removed from the premises.

105. In any case where, owing to the character and antecedents of the person proposing to visit a patient, such a visit would, in the opinion of the Superintendent, be contrary to the interests of the patient a report to that effect shall forthwith be sent to the Board and such visit shall not be allowed unless the Board shall make an order granting permission to visit.

106. Any one of the Commissioners may at any time give an order in writing under his hand for the admission of any person to visit any patient in a Certified Institution or a Certified House. The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

107.—If the Superintendent refuses, prevents or obstructs the admission to any patient of any person who produces any such order of admission he shall for every offence be liable to a penalty not exceeding £20.

[**Note.**—On penalty, see section 59 of the Act.]

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY
LOCAL AUTHORITIES.

(SPECIAL REGULATIONS.)

[**Note.**—Special Regulations are prescribed separately for the management of certified institutions provided by:—(a) local authorities, (b) an incorporated or unincorporated body, society or association, and (c) private individuals. Special Regulations follow for certified houses and approved homes.

The special Regulations for certified institutions contain naturally, a large common element. Apart from verbal differences necessary on account of the differences of management, Regulations for the following purposes are identical—the preservation of the building in proper repair and the prohibition against the use of any part of it for purposes other than that for which it was approved (Regulations 109, 124 and 144); responsibility for the feeding, clothing, training, and employment of patient (Regulations 110, 125 and 145); the preparation of Insti-

tution Rules and written instructions to officers (Regulations 115 and 118, 130 and 136, 149, 150 and 153).

There are various differences. Salaries and wages in the case of institutions not provided by the local authorities may be subject to the approval of the Board of Control, but not in the case of institutions provided by local authorities (Regulations 117, 132 and 152). The Regulations for the appointment of a superintendent or resident medical officer are identical, save that the appointment is not in the case of institutions provided by local authorities to be submitted to the Board of Control for approval (Regulations 116, 131, and 151). The Regulations as to accounts (form, closing, and audit, and Government grant) are identical in the case of institutions other than those provided by the local authorities (Regulations 126, 133-135, and 146-148). But there are not the same Regulations for institutions provided by the local authorities owing to provisions contained in the Act (section 33 (4)) as regards the accounts of those institutions. See, however, Regulations 114 and 121.

The chief point of difference in the Regulations are as to supervision. In the case of Institutions provided by local authorities the Committee for the care of the Mentally Defective are to visit and inspect the Institution "regularly and frequently" and at least once every two months at least two members of the Committee are to make a close inspection and see every patient (Regulations 111 and 112). Exactly similar provision is made in the case of institutions provided by a society or association, who are to appoint a committee to manage the institution (Regulations 123, 127 and 128), but, in addition, there is a special provision that at least two members of the committee shall inspect the institution once in every fortnight (Regulation 127). In the case of these latter institutions and of institutions provided by individuals, provision is also made for the appointment of a supervisory committee (Regulations 139 and 156). In the case of institutions provided by individuals a supervisory committee *must* be appointed; in the case of other institutions not provided by "an incorporated or unincorporated body, society or association" the Board of Control have power to *insist* on its appointment, should they think that circumstances justify them. In the case of institutions provided by individuals this supervisory committee are to prepare the annual report on the condition and management of the institution and the treatment of the patients (Regulation 161). The Report in the case of other institutions is to be prepared by the ordinary committee (Rules 113 and 129).

For comparison between the Special Regulations for certified institutions and those for certified houses and approved homes, see Note immediately preceding Regulation 162.

For the Regulations for inspection of certified institutions and official visitation of patients therein by the Commissioners and others, see Regulations 180-183.]

108. The Committee for the care of the mentally defective shall

manage the Institution, subject to such direction as they may receive from the Local Authority.

[**Note.**—See section 28 of the Act.]

109. The Committee shall keep the Institution in proper repair and condition and see that no part of it is used for purposes other than those for which it is approved.

110. The Committee shall be responsible for seeing that the patients received in the Institution are properly fed, clothed, trained, and employed, and that the provisions of the Act and of the Regulations made thereunder, and the conditions of the certificate are observed.

[**Note.**—These obligations are undertaken in the application for a certificate—Regulation 46.]

111. The Committee shall regularly and frequently visit and inspect the Institution. At least two members shall together, once in every two months, inspect every part of the Institution and see every patient therein, so as to give everyone, as far as possible, full opportunity of complaint.

112. The Committee shall at their bi-monthly visit also examine the order and certificate or certificates for the admission and for the continued detention of every patient made or given since the last visitation, as well as the general books kept in the Institution, and enter in the visitors' book any remarks they think proper in regard to the condition and management of the Institution and the patients therein, and sign the book upon every visit.

[**Note.**—For the books to be kept see generally Regulations 88-90.]

113. The Committee shall in every year lay before the Local Authority, at such time as the Local Authority may appoint, a report in writing of the state and condition of the Institution, as to its sufficiency to provide the accommodation required by the Local Authority, as to its management, and the conduct of the officers and servants, and the care of the patients therein, and shall send a copy of the Report to the Board.

[**Note.**—The local authority themselves are required to render an annual statement to the Board of Control (Regulation 28)].

114. The Committee shall previously to the month of June in every year, examine the accounts of the Institution, made up to the 31st of March in each year, and report the same to the next meeting of the Local Authority.

[**Note.**—It is the duty of the local authority to transmit a statement of this nature with others to the Board of Control (Regulation 28)].

115. The Committee shall within six months after the certification of the Institution prepare and submit to the Board rules for the government of the Institution, and such rules, when approved by the Board, with such modifications and additions as the Board may deem advisable, shall be printed and observed. No alterations shall be made in the Rules without the approval of the Board. These rules shall be known as "Institution Rules." Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

116.—(1) The Committee shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. The Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

- (a) In the event of the Superintendent not being a qualified medical practitioner the Committee shall appoint a non-resident medical officer, who shall visit the Institution at least once in every week and, in addition, as often as the Committee may, from time to time, by resolution direct, and make such reports as are required of him.
- (b) In the event of a resident medical officer being appointed he shall, if the Board so direct, be the superintendent of the Institution.
- (c) The superintendent shall have paramount authority in the Institution, subject to that of the Committee, and shall have control over all the officers (excepting the non-resident medical officer), attendants, and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the Committee.
- (d) The Superintendent shall not be dismissed without the consent of the Board.

(2) The Committee shall appoint such other officers and servants as to the Board may seem necessary.

117. The Committee shall fix the salaries, wages, and remuneration of every person appointed, but subject to any directions that may be given by the Local Authority.

118. The Committee shall issue written Instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

119. The Committee shall submit to the Board the arrangements which they propose for the holding of religious services and for securing so far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion and such arrangements as are approved by the Board shall be observed.

[**Note.**—See section 17 of the Act: Provisions as to religious persuasion.]

120. The Committee shall determine the diet of the patients subject to any directions which may be given by the Board.

121. The Committee shall carry out the Regulations with respect to the issue, expenditure and accounting for the Government grant.

122. Patients wholly maintained out of private funds may be received in the Institution, and the Local Authority may, if they think fit, provide special accommodation for them.

[**Note.**—Section 241 of the Lunacy Act, 1890, empowers the local authority, for the purposes of the Lunacy Acts, to provide accommodation for private patients in the asylum for the pauper patients *or* in a separate asylum. The Commissioners in Lunacy in their 49th Annual Report dwelt upon the need of the provision, by local authorities, of special and separate accommodation at cheap rates for private patients. Query whether there will be the same need in respect of cases dealt with under the Mental Deficiency Act, seeing that the Act contains the provisions it does (sections 49 and 50) for “certified houses” and “approved homes” whereas the Lunacy Act, 1890 (section 207 (6)) put an end to the increase of asylums established for private profit. As Regulation 122 is worded there is no suggestion that the “special accommodation” for “patients wholly maintained out of private funds” should be provided by the local authority in an institution exclusively established for such class. Nor is any such suggestion made by the Board of Control in their circular letter of 2nd April, 1914, to County and County Borough Councils—see generally paragraph 17 of that letter.]

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY AN
INCORPORATED OR UNINCORPORATED BODY, SOCIETY OR
ASSOCIATION HEREINAFTER CALLED THE “MANAGERS.”
(SPECIAL REGULATIONS.)

123. The managers shall manage the Institution through a Committee appointed by them consisting of such number not less than seven as the Board may approve.

124. The Committee shall keep the Institution in proper repair and condition and shall see that no part of it is used for other purposes than those for which it has been approved.

125. The Committee shall be responsible for seeing that the patients received in the Institution are suitably and properly fed, clothed, trained and employed, and that provisions of the Act and of the Regulations made thereunder and of the certificate are observed.

[**Note.**—These obligations are undertaken in the application for the certificate—Regulation 46].

126. The Committee shall carry out the Regulations with respect to the issue, expenditure and accounting for the Government contribution.

127. The Committee shall regularly and frequently visit and inspect the Institution. They or at least two of their number nominated by them, shall make inspections of the Institution once in every fortnight, and at least two members shall together once in every two months, inspect every part of the Institution and see every patient therein, so as to give everyone, as far as possible, opportunity of complaint.

128. The Committee at their bi-monthly visit shall also examine the order and certificate or certificates for the admission and for the continued detention of every patient since the last visitation as well as the general books kept in the Institution; and shall enter in the Visitors' book any remarks they think proper in regard to the condition and management of the Institution and the patients therein, and shall sign the book upon every visit.

[Note.—For books to be kept see generally Regulations 88-90].

129. The Committee shall in every year lay before the managers, at such time as the managers may appoint, a report in writing of the state and condition of the Institution, as to its sufficiency to provide the accommodation required by the managers, as to its management, and the conduct of the officers and servants, and the care of the patients therein, and shall send a copy of the Report to the Board.

130. The Committee shall within six months after the certification of the Institution prepare and submit to the Board rules for the government of the Institution, and such rules, when approved by the Board, with such modifications and additions as the Board may deem advisable, shall be printed and observed. No alterations shall be made in the Rules without the approval of the Board. These rules shall be known as "Institution Rules." Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

131.—(1) The Committee shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. Before the appointment is made they shall submit to the Board for their approval the name and qualifications of the person whom they propose to appoint, and the Board may by order in writing direct that the Superintendent shall be a qualified medical practitioner.

(a) In the event of the Superintendent not being a qualified medical practitioner the Committee shall appoint a non-resident medical officer, who shall visit the Institution at least once in every week and, in addition, as often as the

Committee may from time to time by resolution direct, and make such reports as are required of him.

(b) In the event of a resident Medical Officer being appointed he shall, if the Board so direct, be the superintendent of the Institution.

(c) The superintendent shall have paramount authority in the Institution, subject to that of the Committee, he shall have control over all the officers (excepting the non-resident medical officer), attendants and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the Committee.

(d) The superintendent shall not be dismissed without the consent of the Board.

(2) The Committee shall also appoint such other officers and servants as to the Board may seem necessary.

132. The salaries, wages, and remuneration of every person appointed shall be fixed by the Committee but shall, if the Board see fit in any instance to direct, be subject to the approval of the Board.

133. The accounts of the Institution shall be audited once a year by an accountant or other auditor to be approved by the Board.

134. The Board may, if they think fit, prescribe the form in which the accounts of the Institution shall be kept, and the day of the year to which they are to be made up.

135. The Committee shall within one calendar month next after the accounts shall have been audited send to the Board an abstract of the accounts in such form as the Board shall from time to time prescribe.

136. The Committee shall issue written instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

137. The Committee shall submit to the Board the arrangements which they propose for the holding of religious services and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion and such arrangements as are approved by the Board shall be observed.

[**Note.**—See section 17 of the Act: Provisions as to religious persuasion.]

138. The Committee shall determine the diet of the patients subject to any directions which may be given by the Board.

139. The Board shall have power, if the circumstances are such as in their opinion to require it, to insist on the appointment of a Supervisory Committee consisting of such number (not less than seven) as the Board may approve. The managers may appoint themselves as members of the Supervisory Committee, and at least one member shall also be nominated by each of the following authorities:—

- (a) The Local Authority for the care of the mentally defective in the district in which the Institution is situated.
- (b) The local Board of Guardians.
- (c) The Court of Petty Sessions in the district in which the Institution is situated.

and by such other authorities, if any, as the Board may approve, in addition to or in lieu of the aforesaid.

[**Note.**—It is to be observed that the respective nominees under (a), (b) and (c) of Regulation 139 are not required by the Regulation to be actual members of the nominating body.]

140. The names of the Supervisory Committee shall in all cases be notified to the Board of Control, the Visitors, and every Local Authority maintaining cases in the Institution.

[**Note.**—“Visitors”: See section 40 of the Act and Regulation 181.]

141. The Supervisory Committee shall meet at the Institution at least every month or at such longer intervals as the Board may assent to in a particular case; and any two of them may together visit the Institution or any part thereof and see any patient at any time.

142. The Supervisory Committee shall have such powers as will enable them to acquaint themselves with the details of the management and conduct of the Institution, of the treatment of the patients, especially with regard to their diet and clothing, of the sufficiency of the staff in numbers and qualifications, and of the due expenditure of public money received by the managers.

143. The Supervisory Committee, or any one or more of its members, shall record in the Visitors' or Patients' book any recommendations which they feel called upon to make, and shall report forthwith to the Board any matter which they consider calls for immediate attention.

[**Note.**—On the books mentioned see Regulations 88-90 and Note thereto.]

THE MANAGEMENT OF CERTIFIED INSTITUTIONS PROVIDED BY ONE OR MORE PRIVATE INDIVIDUALS HEREINAFTER CALLED THE
“MANAGERS.

(SPECIAL REGULATIONS.)

144. The managers shall keep the Institution in proper repair and condition and shall see that no part of it is used for other purposes than those for which it has been approved.

145.—The managers shall be responsible for seeing that the patients received in the Institution are suitably and properly fed, clothed, trained, and employed, and that the provisions of the Act and of the regulations made thereunder and of the certificate are observed.

[**Note.**—These obligations are undertaken in the application for the certificate—Regulation 46.]

146. The managers shall carry out the Regulations with respect to the issue, expenditure, and accounting for the Government grant.

147.—(1) The accounts of the Institution shall be audited once a year by an accountant or other auditor to be approved by the Board.

(2) The Board may, if they think fit, prescribe the form in which the accounts of any certified Institution are to be kept, and the day of the year to which they are to be made up.

148. The managers shall within one calendar month next after the accounts shall have been audited send to the Board an abstract of the accounts in such form as the Board shall from time to time prescribe.

149. The managers shall within six months of the certification of the Institution prepare and submit to the Board Rules for the government of the Institution, and such rules with such modifications and additions as the Board may deem advisable shall, after being approved by the Board, be printed and observed. These rules shall be known as “Institution Rules.”

[**Note.**—The corresponding regulations for certified institutions provided by local authorities and societies (Regulations 115 and 130) and for certified houses and approved homes (Regulations 165 and 187) provide that: “No alterations shall be made in the Rules without the approval of the Board.” The omission of this sentence from Regulation 149 is singular and should not be taken as authorising any alteration of Rules without report to and sanction from the Board of Control.]

150. Such additions and modifications shall from time to time be made in the Institution Rules as the Board may deem expedient.

151.—(1) The managers shall appoint a superintendent who shall be in charge of, and who must be resident in, the Institution. Before the appointment is made they shall submit to the Board for their approval the name and qualifications of the person whom they propose to appoint, and the Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

(a) In the event of the superintendent not being a qualified medical practitioner the managers shall appoint a non-

resident medical officer, who shall visit the Institution at least once in every week, and, in addition, as often as the Supervisory Committee (to be appointed in pursuance of Regulation No. 156 below) may, by resolution, direct, and make such reports as are required of him.

- (b) In the event of a resident medical officer being appointed he shall if the Board so direct be the superintendent of the Institution.
 - (c) The superintendent shall have paramount authority in the Institution, subject to that of the managers and the Board, and shall have control over all the officers (excepting the non-resident medical officer), attendants, and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the managers.
 - (d) The superintendent shall not be dismissed without the consent of the Board.
- (2) The managers shall appoint such other officers and servants as to the Board may seem necessary.

152. The salaries, wages, and remuneration of every person appointed shall be fixed by the managers, but shall, if the Board see fit in any instance to direct, be subject to the approval of the Board.

153. The managers shall issue written instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

154. The managers shall submit to the Board the arrangements they propose for the holding of religious services and for securing, as far as is practicable, that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

[Note.—See section 17 of the Act: Provisions as to religious persuasion.]

155. The managers shall determine the diet of the patients subject to any directions which may be given by the Board.

156. The managers must appoint a Supervisory Committee consisting of such number (not less than seven) as the Board may approve. The managers may appoint themselves as members of the Supervisory Committee, and at least one member shall also be nominated by each of the following authorities:—

- (a) The Local Authority for the care of the mentally defective in the district in which the Institution is situated.
- (b) The local Board of Guardians.

(c) The Court of Petty Sessions in the district in which the Institution is situated.
and by such other authorities, if any, as the Board may approve, in addition to or in lieu of the aforesaid.

[**Note.**—See Note to Regulation 139.]

157. The names of the Supervisory Committee shall in all cases be notified to the Board of Control, the Visitors, and every Local Authority maintaining cases in the Institution.

[**Note.**—“ Visitors ”: See section 40 of the Act and Regulation 181.]

158. The Supervisory Committee shall meet at the Institution at least every month or at such longer intervals as the Board may assent to in a particular case and any two of them may together visit the Institution or any part thereof and see any patient at any time.

159. The Supervisory Committee shall have such powers as will enable them to acquaint themselves with the details of the management and conduct of the Institution, of the treatment of the patients, especially with regard to their diet and clothing, of the sufficiency of the staff in numbers and qualifications, and of the due expenditure of public money received by the managers.

160. The Supervisory Committee, or any one or more of its members, shall record in the Visitors' Book or Patients' Book any recommendations which they feel called upon to make, and shall report forthwith to the Board any matter which they consider calls for immediate attention.

[**Note.**—On the books mentioned in the Regulation see Regulation 88 and Note thereto.]

161. The Supervisory Committee shall prepare in or before the month of June in every year an annual report relating to the condition and management of the Institution and to the care and treatment of the patients therein, and the expenditure upon their maintenance. A copy of this report should be sent to:—

- (a) The Board of Control;
- (b) The Visitors;
- (c) Every Local Authority under the Act and every other authority who have had patients under treatment in the Institution during the year.

[**Note.**—For “ Visitors ” see section 40 of the Act; for “ Every Local Authority under the Act ” see sections 27 and 34.]

THE MANAGEMENT OF CERTIFIED HOUSES. (SPECIAL REGULATIONS.)

[**Note.**—The Regulations for the management, inspection of certified houses, and those for the management of approved

homes contain, like those for certified institutions under various forms of management, a large common element. Some difference is caused by the fact that defectives ordered to be sent to an institution cannot be received in an approved home (section 50 (2) of Act). Comparing the Regulations for the certified houses and approved homes with those for certified institutions, we find them analogous in the provision for House Rules, but in the case of certified houses and approved homes there is no direction that officers shall be furnished with written instructions, as we have seen required in the case of certified institutions (see Regulations 118, 136 and 153); and certified homes and approved houses are only given three months, as against six, in which to prepare their House Rules. The Board of Control limit their right to insist that the superintendent shall be a medical man in the case of certified houses and approved homes to such houses or homes as are intended for 100 patients. No such limitation exists in the case of certified institutions. Neither do the Regulations for certified houses and approved homes contain any provision, as in the case of certified institutions (Regulations 116 (2), 131 (2), and 151 (2)), that such officers and servants as the Board think necessary shall be appointed, nor, of course do the Regulations enable the Board of Control to interfere with the salary and remuneration of officers, though (as in the case of certified institutions) the Commissioners and Inspectors are directed to inquire at their visits "as to the number and qualifications of the staff and the conditions of their employment."]

162. The resident head of the house, who may be the owner, shall, for the purposes of these regulations, be styled the superintendent.

163. There shall be hung up in some conspicuous part of every Certified House a copy of the plan given to the Board on applying for the certificate.

164.—(1) In every Certified House for one hundred patients, or more, there shall, if the Board so direct, be resident as the superintendent and medical officer thereof a medical practitioner.

(2) Every Certified House for less than one hundred and more than fifty patients not having a resident medical practitioner shall be visited daily, or at such intervals as the Board direct, by a medical practitioner.

(3) Every Certified House for less than fifty patients not having a resident medical practitioner shall be visited twice a week, or at such intervals as the Board direct, by a medical practitioner.

(4) The Visitors of any Certified House may direct that such house, and the Board may direct that any Certified House shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

165. Within three months of the date of the certificate the superintendent shall prepare and submit to the Board rules for the government of the Certified House, and such rules, when approved by the Board, with such modifications and additions as the Board think fit, shall be printed and observed. No alterations shall be made in the rules without the approval of the Board. These rules shall be known as "House Rules."

166. Such additions and modifications shall from time to time be made in the House Rules as the Board may deem expedient.

167. No building in the occupation of the superintendent not shown on the plans sent to the Board pursuant to any rules made by them shall be deemed part of the Certified House for any purpose connected with the reception or the care and treatment of patients.

168. The superintendent or any other officer of a Certified House shall give such information as the Board or any Commissioner may require as to the mode in which the House Rules are carried out, and shall furnish to the Board, at such times and in such forms as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the Certified House, or the patients therein, as the Board may in their discretion require.

169. The superintendent of every Certified House shall prepare and keep up accurate lists of the patients for the time being on the books of the house, with the rates of payment made for the maintenance and care and treatment of such patients, and such lists shall be at all times accessible to the Commissioners, Inspectors or Visitors visiting the house.

170. The superintendent shall submit to the Board the arrangements which he proposes for the holding of religious services and for securing so far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

[Note.—See section 17 of the Act: Provisions as to religious persuasion.]

171. The superintendent of every Certified House shall show to each Commissioner, Inspector, and Visitor visiting the same every part thereof and every person who is a patient therein.

172. The superintendent of every Certified House shall lay before the visiting Commissioners, Inspectors, or Visitors, at each visit—

- (a) The several books by the Act or any rules under the Act required to be kept by the superintendent and by the medical officer;

- (b) All orders and certificates relating to patients admitted since the last visit;
- (c) The certificate then in force for the house;
- (d) All other orders, certificates, documents, books, and papers relating to any of the patients at any time received into the house which may be required to be produced.

[**Note.**—For books to be kept see Regulations 88-90.]

173. The superintendent shall produce any patient to any person who is authorised by this Act or under the Regulations to visit such patient and shall afford facilities to interview him.

[**Note.**—See Regulation 102.]

THE INSPECTION OF CERTIFIED HOUSES AND THE VISITATION OF THE PATIENTS THEREIN.

174.—(a) Every certified house may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

175.—(1) Every certified house may, at any time, by day or night, be visited by one or more of the Visitors.

(2) Every such house shall be visited—

- (a) four times a year by not less than two of the Visitors, of whom one shall be a medical practitioner; and
- (b) twice a year by one or more of the Visitors.

[**Note.**—See sections 11, 12 (2), and 40 of the Act.]

176.—(1) The visiting Commissioners, Inspectors, and Visitors shall, at every visit to a Certified House which they are by the Act or the Regulations required to make, and any one or more of the Commissioners, Inspectors or Visitors may at any other visit do all or any of the following things:—

- (a) Inspect any or every part of the building where patients are received, and every building communicating therewith or detached therefrom, and every part of the ground and appurtenances, held, used or occupied therewith;
- (b) See every patient, and give to each an opportunity of making complaint;
- (c) Inspect the order and certificates for every patient received since the last visit;
- (d) Consider the observations made in the Visitors' book and the patients' book;

- (e) Enter in the Visitors' book a minute of the condition of the house, of the patients therein, and the number of patients who have been restrained or secluded, with the reasons for such restraint or seclusion.

- (f) Inquire—

When divine service is held, and what average number of patients attend;

What occupations and recreation are provided for the patients;

How the patients are classified, trained, educated and employed;

As to the diet and clothing of the patients;

As to the moneys paid to the managers on account of any patient under their care;

As to the number and qualifications of the staff and the conditions of their employment;

As to such other matters as may in their opinion require investigation.

- (g) The Visitors or Visitor shall also inquire whether any patients have recently attained or are about to attain the age of 21.

(2) The result of the foregoing inspections and inquiries, with such observations as may be thought proper shall be entered in the Visitors' book.

[**Note.**—For reason for paragraph (g) of Regulation 176 see sections 11 (2) and 12 (2) of the Act.]

(3) Each visiting Commissioner, Inspector or Visitor may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient, and any irregularity which exists in any order or certificate, and any observations which may be thought proper.

177. The superintendent of every certified house shall lay before the visiting Commissioners or Commissioner, or the Inspector or the Visitors or Visitor, at each visit:—

- (a) A list of all the patients then in the house (distinguishing males from females);
- (b) The several books required by the Regulations to be kept by the superintendent and by the medical officer.
- (c) All orders and certificates relating to patients admitted since the last visit;
- (d) The certificate then in force for the house;
- (e) All other orders, certificates, documents, and papers relating to any of the patients at any time received into the house which may be required to be produced;
- (f) All unforwarded letters written by patients.

[**Note.**—As to unforwarded letters see Regulation 99.]

178. Every Commissioner or Inspector visiting a certified house shall carefully consider and give special attention to the state of mind of any patient, the propriety of whose detention has been questioned or gives rise to doubt or to whose mental condition their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, or the propriety of his detention requires further consideration, make and sign a minute thereof in the patients' book and shall report to the Board.

179.—(1) A medical practitioner appointed by the guardians of any union, and also the guardians of any union to the number of not more than five shall be permitted to visit at reasonable hours and examine any patient chargeable to the union confined in a certified house, unless the medical officer of the house delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the patient.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

[**Note.**—For definition of "Guardians of any Union" see section 71 (1) of the Act.]

THE INSPECTION OF CERTIFIED INSTITUTIONS AND THE VISITATION OF PATIENTS THEREIN.

180. The Commissioners and their Inspectors at their visits shall inquire—

- (a) whether the Regulations made under the Act and conditions of the certificate have been carried out, and in particular—
 - (i) as to management;
 - (ii) as to the regularity of the admission and discharge of patients;
- (b) when divine service is held, and what average number of patients attend;
- (c) whether any disciplinary system is practised;
- (d) how the patients are classified, trained, educated and employed;
- (e) what occupations and recreation are provided for the patients;
- (f) as to the diet of patients;
- (g) as to the number and qualifications of the staff and the conditions of their employment;
- (h) as to such other matters as may in their opinion require investigation.

181. The Visitors shall visit the institution as often as may be necessary for the due performance of their duties under sections 11 and 12 (2) of the Act, and shall by entries in the Visitors' and Patients' books record the duties they perform.

182. During the continuance of a contract made by a Local Authority with the managers of any certified institution for the reception of defectives in such institution, any two or more members of the local authority shall be permitted, together, at least once in every six months, to visit the institution and see and examine the patients received under the contract and shall report the result of their visit to the Local Authority.

183. The Secretary of State may, when, in the opinion of the Board, the circumstances are such as to render it advisable, direct by order in writing that an institution or institutions provided by an incorporated or unincorporated Body, Society or Association or by one or more private individuals shall be visited—

- (a) four times a year by not less than two of the Visitors, of whom one shall be a medical practitioner; and
- (b) twice a year by one or more of the Visitors.

[Note.—See section 40 of the Act.]

THE MANAGEMENT OF APPROVED HOMES.

(SPECIAL REGULATIONS.)

184. The resident head of an approved home shall, for the purposes of these Regulations, be styled the superintendent.

185. There shall be hung up in some conspicuous part of every approved home a copy of the plan given to the Board on applying for the certificate.

186.—(1) In every approved home for one hundred patients, or more, there shall, if the Board so direct, be resident as the superintendent and medical officer thereof a medical practitioner.

(2) Every approved home for less than one hundred and more than fifty patients not having a resident medical practitioner shall be visited daily or at such intervals as the Board direct by a medical practitioner.

(3) Every approved home for less than fifty patients not having a resident medical practitioner shall be visited twice a week or at such intervals as the Board direct by a medical practitioner.

(4) The Board may direct that any approved home shall be visited by a medical practitioner at any other time or times, not being oftener than once a day.

187. Within three months of the date of the certificate of

approval the superintendent shall prepare and submit to the Board rules for the government of the home, and such rules, when approved by the Board, with such modifications and additions as the Board think fit, shall be printed and observed. No alterations shall be made in the rules without the approval of the Board. These rules shall be known as "House Rules."

188. Such additions and modifications shall from time to time be made in the House Rules as the Board may deem expedient.

189. No building in the occupation of the superintendent not shown on the plans sent to the Board pursuant to any rules made by them shall be deemed part of the home for any purpose connected with the reception or the care and treatment of patients.

190. The superintendent or any other officer of an approved home shall give such information as the Board or any Commissioner may require as to the mode in which the House Rules are carried out, and shall furnish to the Board, at such times and in such forms, as they may from time to time prescribe, such annual and other returns and information of or in any way relating to the approved home, or the patients therein, as the Board may in their discretion require.

191. Previous notice, not less than one week in advance, shall be given to the Board of any proposal to take two or more defectives to reside temporarily elsewhere than at the home for the benefit of their health or otherwise, and the removal shall not take place until the consent of the Board under section 51 (1) of the Act is received.

[**Note.**—See Note to Regulation 238.]

192. The superintendent of every approved home shall prepare and keep up accurate lists of the patients for the time being on the books of the home, with the rates of payment made for the maintenance and care and treatment of such patients, and such lists shall be at all times accessible to the Commissioners or Commissioner or inspector visiting the home.

[**Note.**—As to the books to be kept see Regulations 88-90.]

193. The superintendent shall submit to the Board the arrangements which he proposes for the holding of religious services and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

[**Note.**—See section 17 of the Act: Provisions as to Religious Persuasion. While that section applies to cases sent under order to an institution—i.e., to cases that may not be received in "approved homes" (section 50 (2))—it seems not inappropriate to note it here for reference.]

THE INSPECTION OF APPROVED HOMES AND THE VISITATION
OF THE PATIENTS THEREIN.

194.—(a) Every approved home may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

195.—(1) The visiting Commissioners and Inspectors shall, at every visit to an approved Home which they are by the Act required to make, and any one or more of the Commissioners and Inspectors may at any other visit do all or any of the following things:—

(a) Inspect any or every part of the building where defectives are received and every building communicating therewith or detached therefrom, and every part of the ground and appurtenances, held, used or occupied therewith.

(b) See every patient and give to each an opportunity of making a complaint, and may see every person resident in the home;

(c) Consider the observations made in the visitors' book and the patients' book;

(d) Enter in the visitors' book a minute of the condition of the home, of the patients therein, and the number of patients who have been restrained or secluded, with the reasons for such restraint or seclusion.

(e) Inquire—

When divine service is held and what average number of patients attend;

What occupations and recreation are provided for the patients;

How the patients are classified, trained, educated and employed;

As to the diet and clothing of the patients;

As to the moneys paid to the managers on account of any patients under their care;

As to the number and qualifications of the staff and the condition of their employment;

As to such other matters as may in their opinion require investigation.

(2) The result of the foregoing inspections and inquiries, with such observations as may be thought proper, shall be entered in the visitors' book.

(3) Each visiting Commissioner and Inspector may at any visit enter in the patients' book such observations as he thinks fit as to the state of mind or body of any patient.

[Note.—On paragraph (b) of the Regulation in respect of the expression "every person," compare with Regulation 197, under which the Superintendent is required to show the Commissioner or Inspector "every patient."

196. The superintendent of every approved home shall lay before the visiting Commissioners or Commissioner or Inspector at each visit—

- (a) A list of all the patients then in the home (distinguishing aided patients from other patients, and males from females):
- (b) The several books required by the Regulations to be kept by the superintendent and by the medical officer:
- (c) The certificate of approval then in force for the home:
- (d) All documents and papers relating to any of the patients at any time received into the home which may be required to be produced:
- (e) All unforwarded letters written by patients.

[Note.—See Note to Regulation 177.]

197. The superintendent of every approved home shall show to each Commissioner and Inspector visiting the same every part thereof and every person who is a patient therein.

198. The superintendent shall produce any patient to any person who is authorized by the Act or under the Regulations to visit such patient and shall afford facilities to interview him.

199. Every Commissioner or Inspector visiting an approved home shall carefully consider and give special attention to the state of mind of any patient, the propriety of whose retention has been questioned or gives rise to doubt or to whose mental condition their attention is specially called, and shall, if the state of mind of such patient is considered doubtful, or the propriety of his retention requires further consideration, make and sign a minute thereof in the patients' book and shall report to the Board.

200.—(1) A medical practitioner appointed by the guardians of any union, and also the guardians of any union, to the number of not more than five, shall be permitted to visit at reasonable hours and examine any patient chargeable to the union resident in an approved home, unless the medical officer of the home delivers to the person or persons intending to make the visit a statement signed by him certifying that for the reasons set forth in the statement the visit would be injurious to the defective.

(2) The medical officer shall forthwith enter in the medical journal the reasons set forth in the statement, and shall sign the entry.

[**Note.**—See Note to Regulation 179.]

THE POWERS AND DUTIES OF GUARDIANS.

201. A person appointed to be a guardian under the Act shall, subject to the direction of the Board, have full power and authority in regard to a patient under his care in relation to his residence, diet, education, occupation, recreation, and other similar matters. He shall, unless the Board otherwise direct, require the patient to reside with him.

[**Note.**—The foregoing and following Regulation apply to the guardianship of every defective, whether placed under guardianship voluntarily by the parent or guardian (see section 2 (1) (a) of the Act) or in respect of whom an order placing the defective has been made as provided by Act. See section 10 (2) of the Act and Regulation 235.]

202. No corporal punishment shall under any circumstances be administered by a guardian to a patient in his charge.

[**Note.**—The prohibition of corporal punishment for cases under guardianship is the same for institutional cases—see Regulation 87. For institutional cases Regulation 85 sanctions, under certain circumstances, mechanical restraint. There is no such Regulation for cases under guardianship. Notwithstanding section 10 (2) of the Act, the deduction to be made from the absence of a Regulation in respect of mechanical restraint of the case under guardianship is that if the guardian cannot control the defective without the application of mechanical restraint the case has become unsuitable for guardianship—see Regulation 215.]

203. He shall provide, according to the means available, for the education, occupation and recreation of the patient and shall ensure that in these respects everything practicable is done for the improvement of his mental and physical condition.

204. He may change his residence and remove the patient with him to any new residence in England or Wales.

205. Seven clear days before a change of residence he shall give notice in writing thereof and of his new address to the Board and to the persons or authority responsible for the patient's maintenance and to the person on whose petition the order placing the patient under his guardianship was made, and, in the case of a patient so placed without order, to his parent or guardian.

[**Note.**—See Form R3 in the Schedule to the Regulations. For right of parent to withdraw defective from guardianship when the guardian has been appointed by the parent, see section 12 (1) of the Act.]

206. He may, with the previous consent of a Commissioner, take or send the patient under proper control to any specified place or places for any definite time for the benefit of his health or permit the patient to be absent on leave for such period as may be thought fit.

207. Before any consent by a Commissioner is given, the approval in writing of the person on whose petition the order was made, or, in the case of a patient placed under guardianship without order, the consent of the person who has so placed him shall be produced to the Commissioner unless he in his discretion dispenses therewith.

208. He shall within seven days after the reception of the patient send to the Board notice thereof in the prescribed form, together with a medical statement to be made and signed, when the patient has been received under an order by the medical officer of the Local Authority, and, when received without order, by a duly qualified medical practitioner, together with copies of the order and documents whereon the same was made, or, if the patient has been placed under guardianship without order, copies of the statement by the parent or guardian and of the certificates.

[Note.—See Form R1 in the Schedule to the Regulations.]

209. He shall within twenty-four hours after the removal, discharge, escape, or recapture of a patient send written notice thereof to the Board and to the persons or authority responsible for the payments.

[Note.—See Forms R3—6 respectively in the Schedule to the Regulations.]

210. He shall within seven days of a patient attaining the age of twenty-one years, and not less than one month before the expiration of the order of detention of any patient, send notice thereof to the Board, and shall carry out the directions which he receives from the Board with a view to the consideration of the case by the Board and the Visitors.

[Note.—There is no prescribed form for the Notice. For procedure on reconsideration of cases attaining the age of 21 see generally Regulations 244-248, and sections 11 and 12 of the Act.]

211. In case of the death of the patient he shall immediately, and in every case within 48 hours thereof, send notice thereof to the Board, the Coroner, the Registrar of Deaths of the district, the persons or authority responsible for his maintenance, and the petitioner (if any), or the parent or guardian who placed him under guardianship.

[Note.—See Form R7 in the Schedule to the Regulations. The Coroner referred to, as well as the Registrar, is the Coroner of the district in which the death took place.]

212. He shall make such reports and give such information

to the Board in reference to the patient as they may from time to time in their discretion direct or require.

213.—(1) Arrangements shall be made to the satisfaction of the Board for the provision of suitable medical attendance for a patient who has been placed under guardianship.

(2) The medical officer of the Local Authority when a patient has been placed under guardianship under an order, and a duly qualified medical practitioner when the patient has been so placed without order shall as soon as possible after the reception of a patient enter at the beginning of the medical journal which shall be kept in every house where a patient is under guardianship, a sketch of the previous history of the case and full particulars of the mental and bodily condition of the patient.

(3) Such medical officer or practitioner shall also at each visit enter in the medical journal the date of the visit and particulars of the mental and bodily condition of the patient and all other particulars indicated in the journal.

[Note.—See Form R14 in the Schedule to the Regulations.]

(4) Every entry to be made under these Regulations shall be signed by the person who makes the same.

214. A guardian who wishes to resign the guardianship of a defective shall give previous notice of his intention to the Board and to the person or authority paying for the maintenance of the defective.

[Note.—There is no form prescribed for the notice of resignation.]

215. If the patient is or becomes unsuitable for guardianship, the guardian shall give immediate notice of the circumstances to the Board and to the person or authority paying for the maintenance of the defective.

[Note.—See Regulation 235.]

216. He shall, if the defective is placed under his guardianship on the death, resignation, or removal from office of a former guardian, send to the Board within seven days of his reception notice thereof, together with a copy of the order of the Judicial Authority appointing him to be guardian.

[Note.—See section 7 of the Act and Form R1 in the Schedule to the Regulations.]

217. Any person appointed to be the guardian of a defective who resigns his guardianship without such previous notice as aforesaid, or who abandons his guardianship or fails to carry out the foregoing Regulations, shall be liable on conviction thereof to a penalty not exceeding £20.

[Note.—For statutory authority for the penalty see section 59 of the Act.]

THE VISITATION OF DEFECTIVES UNDER GUARDIANSHIP.

218.—(a) Every dwelling in which there is a patient under guardianship may at any time, by day or night, be visited by any one or more of the Commissioners or their Inspectors.

(b) The visits of the Commissioners and their Inspectors shall, unless there be reason to the contrary, be made without previous notice.

[**Note.**—The foregoing and following Regulations apply whether the defective is voluntarily placed under guardianship by the parent or guardian (see section 2 (1) (a) of the Act) or is one in respect of whom an order has been made as provided by the Act.]

219. The visiting Commissioners and their Inspectors shall, at every visit to such dwelling which they are by the Act required to make, and any one or more of the Commissioners or their Inspectors may at any other visit—

- (a) See the patient; and may also see the guardian and any person residing in the house;
- (b) Inquire into the treatment and state of health, both bodily and mental, of the patient, and as to the moneys paid on his account;
- (c) Inspect the dwelling and any part thereof, and the grounds belonging thereto;
- (d) Inspect the Medical Journal and the book kept by the Inspector of the Local Authority and sign the same;
- (e) Enquire—

What occupations and recreation are provided for the patient;

How the patient is trained, educated and employed;

As to the diet and clothing of the patient;

As to such other matters as may, in their opinion, require investigation.

[**Note.**—As to the keeping of the Medical Journal see Regulation 213 and Note thereto. As to the book to be kept by the Inspector of the Local Authority see Regulation 224.]

220. The guardian of every patient shall lay before the visiting Commissioners or their Inspectors at each visit—

- (a) The books required by the Regulations to be kept;
- (b) All documents relating to the patient;
- (c) All unforwarded letters written by the patient.

[**Note.**—On correspondence of patients see Regulations 226 and 227.]

221. The Visitors shall visit the patients under guardianship as often as may be necessary for the due performance of their duties under Sections 11 and 12 (2) of the Act, and shall sign the Medical Journal at each visit.

[**Note.**—“ The Visitors ” : See generally section 40 of the Act.]

222. Any one or more of the Visitors shall, upon the request in writing of the Board, visit any patient under guardianship, and shall have the same powers as the Commissioners on their visits.

[**Note.**—For the powers of the Commissioners see Regulations 218-220.]

223. The Local Authority shall cause every defective under guardianship who is wholly or partly maintained by the Local Authority to be visited by their officers or other persons at intervals not exceeding two months, or such shorter period as the Board may in any case prescribe.

[**Note.**—The foregoing Regulation is subject to Regulation 225. "Or other persons": The Local Authority may have their visitation done by arrangement with a society undertaking such work—see section 48 of the Act, and Regulation 16 and the Notes to that section and Regulation.]

224. The Inspectors under the Local Authority or other persons inspecting on behalf of the Local Authority shall, at each visit, enter in the book kept for the purpose a minute of the condition of the dwelling and of the patient under guardianship, and shall sign the same.

225. Where a defective wholly or partly maintained by a Local Authority is under guardianship within the area of another Local Authority, the visitation referred to in the foregoing Regulations may be carried out on behalf of the responsible authority by the Local Authority for the area in which the defective is resident.

[**Note.**—The arrangement under the foregoing Regulation would have to be a mutual one between the authorities concerned.]

CORRESPONDENCE AND VISITS OF PATIENTS UNDER GUARDIANSHIP.

I. *Correspondence.*

[**Note.**—This and the following two Regulations are of the same effect as Regulations 98 to 100, which apply to defectives in certified institutions and houses and approved homes.]

226. Every person under whose guardianship any patient is shall forward unopened all letters written by any patient and addressed to the Lord Chancellor, to a Secretary of State or to the Commissioners or any Commissioner or to the person who placed him under guardianship; or on whose petition an order for his reception was made or to any Visitors or Visitor or to the Committee for the Care of the Mentally Defective of any Local Authority where the patient is resident, and may also at his discretion forward to its address any other letters if written by a patient provided that no such letter shall be forwarded to persons other than those to whom they are addressed.

Any person under whose guardianship any patient is who makes default in complying with the obligation imposed on him by the foregoing regulation shall for each offence be liable to a penalty not exceeding £20.

227. Patients shall be allowed to write letters at reasonable intervals, but, except as is hereinbefore provided, every letter to or from a patient may be read by such guardian, and if the contents are objectionable or if it is considered undesirable that intercourse should be maintained between the patient and the person to whom the letter is addressed or from whom it is received it shall not be forwarded or delivered. But all such letters shall be retained and produced on request to any Commissioner, Inspector or Visitor. Provided that any such letters so retained may be destroyed after the lapse of one month from the last visit of a Commissioner, Inspector or Visitor.

228. No patient under guardianship shall be permitted to sign any legal document brought or sent to him without the consent of the guardian.

[**Note.**—See Regulation 103.]

II. *Visits.*

[**Note.**—Regulations 229 to 234 are of the same effect as Regulations 102 to 107, which apply to defectives in certified institutions and houses and approved homes.]

229. Visits by the nearest adult relative or the guardian who is entitled under the statute to visit a patient under guardianship and visits by relatives and other persons to a patient under guardianship shall, so far as is consistent with the convenience of the person under whose guardianship the person is residing, be encouraged and shall be permissible at such reasonable times and under such conditions as may, with the approval of the Board, be prescribed by such person.

230. The special consent of the person under whose guardianship the patient is residing shall be required in each case of visits to the patient by solicitors, officers of the law and other persons in connection with business transactions.

231. If there be reasonable ground for suspecting that any person visiting a patient is exercising a bad influence on him or encouraging him to break the rules of the person under whose guardianship the patient is residing his visit may be suspended and he may be removed from the premises.

232. In any case where, owing to the character and antecedents of the person proposing to visit a patient, such a visit would, in the opinion of the person under whose guardianship the patient is residing, be contrary to the interests of the patient a report to that effect shall forthwith be sent to the Board and

such visit shall not be allowed unless the Board shall make an order granting permission to visit.

233. Any one of the Commissioners may at any time give an order in writing under his hand for the admission of any person to visit any patient under guardianship. The order of admission may be either for a single admission, or for an admission for a limited number of times, or for admission generally at all reasonable times and with or without restriction as to the presence of an attendant or otherwise.

234. If the person under whose guardianship the patient is residing refuses, prevents or obstructs the admission to any patient of any person who produces any such order of admission he shall for every offence be liable to a penalty not exceeding £20.

TRANSFER OF PATIENT UNDER GUARDIANSHIP TO AN INSTITUTION OR CERTIFIED HOUSE OR TO ANOTHER GUARDIAN.

235. When a patient ordered to be placed under guardianship is or becomes unsuitable for guardianship, the Local Authority, in default of application by the person appointed guardian, shall, unless the Board otherwise direct, apply to a Judicial Authority for an order that the patient be sent to an Institution or Certified House.

[**Note.**—In respect of foregoing Regulation see section 7 (1) and (3) of the Act. If the patient becomes unsuitable for guardianship, it is the duty of the guardian to give notice to that effect—see Regulation 215. Regulation 235 only applies to patients *ordered* to be placed under guardianship, and therefore not to patients voluntarily placed under guardianship by the parent or guardian under section 2 (1) (a) of the Act. As regards their cases see generally section 12 of the Act.]

236. The Local Authority, in default of application by any person who appears to be interested, shall, unless the Board otherwise direct, apply to a Judicial Authority for an order

- (a) for the removal of any person appointed guardian who is or becomes unsuitable, or abandons his charge;
- (b) for the appointment of a suitable person in the place of a person appointed guardian who has been removed, has died, or has resigned or is about to resign his office.

[**Note.**—See section 7 (2) of the Act, and on the words “by any person who appears to be interested” see the Note thereto.]

237. “The Local Authority” for the purpose of these regulations shall mean the Local Authority (if any) paying or contributing to the expenses of the patient’s guardianship, or, if there be none such, the Local Authority within whose area the patient is detained under guardianship.

ABSENCE OF PATIENTS FROM CERTIFIED INSTITUTIONS AND HOUSES.

238. The Superintendent of a Certified Institution with the consent of a Commissioner or two members of the Committee, and the Superintendent of a Certified House with the consent of a Commissioner or of two of the Visitors may grant leave of absence to any patient detained in the Institution or House.

[**Note.**—See Regulation 242. In the case of approved homes Regulation 191 requires notice to the Board of Control if two or more defectives are to be taken to reside temporarily elsewhere than at the home, for the benefit of their health or otherwise, and the removal is not to take place until the consent of the Board under section 51 (1) of the Act is received. (See Note to that section.) In the case of approved homes there is no provision for leave of absence, such as Regulation 238 provides in the case of certified institutions and houses. The inmates of approved homes are not retained under order (section 50), but, though placed there voluntarily, they cannot be withdrawn or discharged without notice (section 12). It is, therefore, submitted that any defective in an approved home should not be granted leave of absence without being placed under care and control even if the case does not come within the phraseology of Regulation 191.]

239. The persons granting or consenting to such leave shall before doing so satisfy themselves as to the suitability of the place to which the patient will be taken and as to the means of care and control which will be available, and in the case of a patient not wholly or partly maintained by a Local Authority consent shall not be given without the concurrence of the parent or guardian or of the person by whom the last payment on account of the patient was made, unless the consenting authority, on cause being shown, dispense with the same.

240. Such leave of absence shall be given by written licence under the hand of the Superintendent. The licence shall set out the period for which, and the conditions on which, it is granted, and it may at any time be revoked or, with the like consent, renewed.

[**Note.**—There is no prescribed Form of Licence.]

241. On the expiry or revocation of the licence the patient may be brought back to the Institution or House by the Superintendent or any officer or other person authorised by him in writing.

242. The Superintendent of a Certified Institution or House may of his own authority permit any patient to be absent therefrom for a period not exceeding 48 hours if satisfied as to the suitability of the place to which the patient will be taken and as to the means of care and control which will be available.

243. Any person who knowingly secretes a patient on leave of absence or on licence, or a patient at large whose licence has

expired or been revoked, or induces or knowingly assists any such patient to escape or break any conditions of his licence, or who obstructs an officer authorised to take him back to the Institution shall be liable to a penalty not exceeding £20.

[Note.—See sections 53 and 59 of the Act.]

PROCEDURE ON RECONSIDERATION OF CASES OF PATIENTS
ATTAINING THE AGE OF 21.

244. The Visitors shall inform themselves of the date at which any patient detained while under the age of 21 years in an Institution or Certified House or under guardianship within the county or borough for which they are appointed will attain that age, and shall arrange for the reconsideration of the patient's case by not less than two of their number.

[Note.—“The Visitors”: See section 40 of the Act. Notice that a defective is about to become of age is to be given to the Board of Control and Visitors by the Superintendent of a certified institution or house (Regulation 96). Similar notice is to be given by the guardian if the defective is under guardianship (Regulation 210). No notice is called for in the case of a defective in an approved home. Sections 11 (2) (proviso) read with section 12 (2), however, requires that the case of every defective “sent to an institution or placed under guardianship” shall be reconsidered by Visitors when the defective attains the age of 21 years. Section 71 defines institution as meaning State or certified institutions, and section 49 (2) brings a certified house under the definition.]

245. The Visitors who reconsider any such case shall, whenever practicable, give to the parent or guardian of the patient the opportunity, if he so desires, of being heard personally or by some one on his behalf, or of making representations in writing with reference to the case; and shall also give to the petitioner, or, where the patient is detained under the order of a court or Secretary of State, to the Secretary of State, 14 days' notice of their intention to reconsider the case.

246. They shall for the purpose of the reconsideration visit the patient at the Institution, Certified House, or dwelling in which he is residing, unless in the interest of the patient they deem it advisable to summon him to attend before them, or otherwise arrange to see him elsewhere.

247. The decision of the Visitors on the reconsideration of the case shall be communicated to the superintendent or guardian, who shall give notice to the Board, the petitioner, and, where the patient is detained under an order of a court or Secretary of State, to the Secretary of State. If the Visitors decide not to order the patient's discharge, notice of the decision shall be

given to the defective and his parent or guardian with an intimation that an appeal may be made to the Board within 14 days of the receipt of such notice.

248. If a patient is absent on leave when he attains the age of 21 years, he may be brought back for the purpose of the reconsideration of his case, or arrangements may be made for its reconsideration by the Visitors appointed for the county or borough within which he is temporarily residing.

PROTECTION OF DEFECTIVES IN SINGLE CARE.

249. If a person who has been placed under the care of any person as being a defective is found, on the visit of a Commissioner, to be kept in conditions which are improper and dangerous to his physical, mental or moral welfare, the Commissioner may direct in writing that the person having charge of the defective shall, as from the date named in the direction, cease to keep the defective in his care and control: and any person who retains a defective in his care and control contrary to the terms of such a direction shall be guilty of a breach of this Regulation, and be liable on summary conviction to a fine not exceeding £50:

Provided that no such direction shall be given until the person in charge of the defective has had a reasonable opportunity of removing the conditions which are improper and dangerous.

[Note.—See section 51 of the Act; also see 5 of Supplementary Regulations of the 30th April, 1914, as to “giving of Notice of the Reception of a Defective into Private Care” *post*. As to the penalty see section 59 of the Act.]

Dated the 2nd day of April, 1914.

(Signed) *R. McKenna,*

One of His Majesty's Principal
Secretaries of State.

SCHEDULE

[FORM P1.]

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR
CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED
BY A RELATIVE OR FRIEND.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

To S.T. a judicial authority⁽²⁾ under the Mental
Deficiency Act, 1913.

The petition of C.D. , of , in the County⁽¹⁾
of , sheweth as follows:—

1. The petitioner is over 21 years of age.
2. The petitioner is ⁽³⁾ to the said A.B.

[or 2. The petitioner is a friend but not a relative of the said A.B.
The reasons why this petition is not presented by a relative are as
follows:—

The petitioner's connection with the said A.B. is that:—

and he [or she] presents the petition in the following circumstances:—
K⁽⁴⁾

3. The petitioner last saw the said A.B. at
on the day of ⁽⁵⁾
4. The said A.B. is a defective within the meaning of
the said Act, being ⁽⁶⁾ and is subject to be dealt with
under the said Act.

5. The petitioner undertakes to visit, personally or by someone
specially appointed by him [or her], once at least in every six months,
the said A.B. while detained [or kept under guardian-
ship] under the Order made on this petition.

6. A Statement of Particulars concerning the said A.B.
accompanies this petition.

1 Or county borough.

2 i.e., judge of county courts, a police or stipendiary magistrate, or a justice specially
appointed under the Lunacy Act, 1890.

3 If a relative state the relationship.*

* Relative, for the purposes of this Act means—husband or wife, or a lineal descen-
dant, or lineal descendant of an ancestor, not more remote than great-grandfather or
great-grandmother.

4 Erase the bracketed part if the petitioner is a relative.

5 The petitioner must have seen the alleged defective within 14 days before presenting
the petition.

6 State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

7. [The reason why the usual medical attendant of the said A.B. has not signed one of the medical certificates accompanying this petition is:—](⁷) .

The petitioner therefore prays that an Order may be made for sending the said A.B. to (⁸) [or for placing the said A.B. under guardianship of (⁸)].

Dated

Signed

Date of presentation

7 Erase this paragraph if one of the medical certificates is signed by the usual medical attendant

8 The name of the Institution Certified House, or guardian proposed may be inserted at any time before an order is made.

[FORM P2.]

PETITION FOR AN ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP, PRESENTED BY AN OFFICER OF THE LOCAL AUTHORITY.

In the matter of A.B. , of , in the County(¹) of , an alleged defective.

To S.T. a judicial authority(²) under the Mental Deficiency Act, 1913.

The petition of E.F. , of , in the County(¹) of , sheweth as follows:—

1. The petitioner is over 21 years of age and is an Officer of the Local Authority of the County(¹) of , authorized to present petitions under Section 5 of the said Act.

2. The petitioner last saw the said A.B. at on the day of (³).

3. The said A.B. is a defective within the meaning of the said Act, being (⁴) and is subject to be dealt with under the said Act.

4. A statement of particulars concerning the said A.B. accompanies this petition.

5. [The reason why neither of the certificates accompanying this petition has been signed by the usual medical attendant of the said A.B. is .](⁵)

The petitioner therefore prays that an Order may be made for

1 Or county borough.

2 i.e., a judge of county courts a police or stipendiary magistrate, or a justice specially appointed under the Lunacy Act, 1890.

3 The petitioner must have seen the alleged defective within 14 days before presenting the petition.

4 State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

5 Erase this paragraph if one of the medical certificates is signed by the usual medical attendant.

sending the said A.B. to ⁽⁶⁾ [or for placing
the said A.B. under the guardianship of ⁽⁶⁾].

The petitioner further prays that an order may be made requiring the said A.B., or M.N. being a person liable to maintain him, to contribute.

Dated

Signed

Date of presentation

⁶ The name of the Institution, Certified House, or guardian proposed may be inserted at any time before an order is made.

[FORM P3.]

STATEMENT OF PARTICULARS TO ACCOMPANY PETITION.

The following are the particulars concerning A.B.
referred to in the annexed petition:—

Names in full of defective

Sex and age and date of birth if known.

Married, single, or widowed

Age when mental deficiency first observed.

In case of a female married or widowed, maiden name and name
under any previous marriage.

Rank, profession, or previous occupation (if any)

Religious persuasion

Residence

Supposed cause of mental deficiency

If previously detained under the Lunacy Acts, Idiots Act, or Mental
Deficiency Act, or placed in an Approved Home, or under guar-
dianship, or under care as a defective, or in a special school
or class for mental defectives, when and where

Whether subject to epilepsy

Whether suicidal

Whether of violent or dangerous propensities, and in what way these
are shown.

Whether any near relative has been insane or mentally defective

Names in full and postal addresses of one or more relatives of the
defective

Name in full and postal address (if not already given) of the person
to whom notice of death is to be sent

Name and postal address of the usual medical attendant of the
defective

Dated

Signed

[FORM P4.]

MEDICAL CERTIFICATE.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

I, the undersigned, K.L. , do hereby certify as follows:

1. I am a person registered under the Medical Acts and I am in the actual practice of the medical profession [and approved by the Local Authority for the County ⁽¹⁾ of or by the Board of Control, for the purpose of giving medical certificates under the above Act] [and the usual medical attendant of the said A.B.]

2. On the day of ,⁽²⁾ at , in the County⁽¹⁾ of , separately from any other practitioner, I personally examined the said A.B. and satisfied myself that he was .⁽³⁾

3. I formed this conclusion on the following grounds, viz. :—

(a) Facts observed by myself—

- (i.) at the time of examination;
- (ii.) previously to examination.⁽⁴⁾

(b) Facts communicated by others.

4. The said A.B. appeared to me to be [or not to be] in a fit condition of bodily health to be removed.

Dated

Signed

(⁵)

1 Or county borough.

2 The examination must have taken place not more than seven clear days before the date of the presentation of the petition.

3 State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

4 Give date when observed.

5 Insert postal address.

[FORM P5.]

CERTIFICATE AS TO THE IMPRACTICABILITY OF A MEDICAL EXAMINATION.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

I, the undersigned, O.P. , of , in the County ⁽¹⁾ of , hereby certify that a medical examination of the above-named A.B. is impracticable.

Dated

Signed

1 Or county borough.

[FORM P6.]

STATUTORY DECLARATION TO ACCOMPANY PETITION.

In the matter of A.B. , of , in the County⁽¹⁾
of , an alleged defective.

We, the undersigned, C.D., , of , in the
County⁽¹⁾ of , and I.J. , of ,
in the County⁽¹⁾ of , solemnly and sincerely declare as
follows:—

1. I, the said C.D. , am the person who presents the
accompanying petition.

2. A.B. named in the accompanying petition, is a
defective within the meaning of the Mental Deficiency Act, 1913,
being .⁽²⁾

3. The said A.B. is subject to be dealt with under the
said Act by reason of the following circumstances:—⁽³⁾

4. A petition under the said Act [or a petition for a reception order
under the Lunacy Acts, 1890-1911] was presented on the day
of with the following result:—⁽⁴⁾

5. A medical examination of the said A.B. is
impracticable by reason of the following circumstances:—⁽⁵⁾

And we make this solemn declaration, conscientiously believing the
same to be true, and by virtue of the provisions of the Statutory
Declarations Act, 1835.

Declared by the said
at , on the day of ,

Before me

Signed

1 Or county borough.

2 State whether an idiot, an imbecile, a feeble minded person, or a moral imbecile.

3 Insert here such of the circumstances stated on the back of this form as are
applicable to this case.

4 If the previous petition was dismissed a copy of the statement of reasons for the
dismissal must be obtained from the Board and appended hereto.

5 Erase this paragraph if a medical examination has been made.

*Circumstances which render a Defective liable to be dealt with,
upon Petition, under the Mental Deficiency Act, 1913.*

He is found	{	(a) neglected ; (b) abandoned ; (c) without visible means of support ; (d) cruelly treated ;	
He has been	{	(e) found guilty of a criminal offence, viz. :— (f) ordered (g) found liable to be ordered	} to be sent to a certi- fied Industrial School ;
He is		(h) undergoing detention in an Institution for Lunatics ;	

- He is (i) an habitual drunkard within the meaning of the Inebriates Acts, 1879-1900;
- He is. (j) over the age of seven, and notice has been given by the Local Education Authority of to the Local Authority of that—
- She (k) has recently given birth to an illegitimate child, and was at the time of such birth in receipt of poor relief;
- She (l) is pregnant of an illegitimate child and is in receipt of poor relief.

[FORM P7.]

ORDER SENDING A DEFECTIVE TO AN INSTITUTION OR CERTIFIED HOUSE OR PLACING HIM UNDER GUARDIANSHIP.

I, the undersigned, S.T. , being a Justice for , specially appointed under the Lunacy Act, 1890,⁽¹⁾ having considered the documents hereto annexed, namely:—

The petition of C.D. in the matter of A.B. :

The medical certificates of K.L. and M.N. :

[or the certificate of O.P. that a medical examination of the said A.B. is impracticable:]

The statutory declaration made by the said C.D. and by I.J. :

[The consent in writing of Q.R. the ⁽²⁾ of the said A.B. ⁽³⁾:]

[The undertaking of the said C.D. to visit the said A.B. personally or by someone specially appointed by the said C.D. once at least in every six months while the said A.B. is detained [or kept under guardianship] under this Order⁽⁴⁾:]

Having personally seen the said A.B. [and having caused him to be medically examined by U.V. , of ,]⁽⁵⁾.

Hereby find—

That the said A.B. is a defective within the meaning of the Mental Deficiency Act, 1913, being ⁽⁶⁾:

1 Or the judge of the county court of , or the Stipendiary Magistrate for , or a Metropolitan Police Magistrate.

2 Father, mother, guardian, or person who undertakes or performs the duty of a parent or guardian.

3 One of these paragraphs to be filled up if the petition is not presented by the parent or guardian.

4 Erase this paragraph if the petition is presented by the officer of the local authority.

5 Erase words in brackets if the petition is accompanied by medical certificates.

6 State whether an idiot, an imbecile, a feeble minded person or a moral imbecile.

Is subject to be dealt with under the same Act by reason of the following circumstances:—

[That the consent of Q.R. the (2) of the said A.B. has been unreasonably withheld:

or that no parent or guardian of, or person who undertakes or performs the duty of a parent or guardian towards, the said A.B. can be found]:(3)

And I hereby order the said A.B. who is a (7) to be sent to(6)
[or And I appoint M.N. of to be the guardian of the said A.B.]

Dated .

Signed .

Note.—Where the Council of a County or County Borough is to be responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council; and if the institution to which such defective is ordered to be sent is not provided by the Council, the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

2 and 3 See references on previous page.

7 State religious persuasion, if any.

8 Insert name of the Institution or Certified House, or guardian.

[FORM P8.]

STATEMENT OF PARTICULARS CONCERNING DEFECTIVE PLACED BY PARENT OR GUARDIAN IN A CERTIFIED INSTITUTION OR HOUSE.

The following are the particulars concerning A.B.
of , (1) placed by me in (2)
[or under the guardianship of (3)]:—
Names in full of defective
Sex, age and date of birth, if known.
Married, single, or widowed
Age when mental deficiency first observed.
In case of a female, married or widowed, maiden name and name under any previous marriage.

1 State whether an idiot, an imbecile, a feeble minded person under the age of twenty-one, or a moral imbecile under the age of twenty-one.

2 Insert name of Certified Institution or House.

3 Insert name of guardian.

Rank, profession, or previous occupation (if any)

Religious persuasion

Residence

Supposed cause of mental deficiency

If previously detained under the Lunacy Acts, Idiots Act, or Mental Deficiency Act, or placed in an Approved Home, or under guardianship, or under care as a defective, or in a special school or class for mental defectives, when and where

Whether subject to epilepsy

Whether suicidal

Whether dangerous to others and in what way

Whether any near relative has been insane, or mentally defective

Names in full and postal addresses of one or more relatives of the defective

Name in full and postal address (if not already given) of the person to whom notice of death is to be sent

Name and postal address of usual medical attendant of the defective

Dated

Signed _____, of _____, (4) _____ (5)
of the said A.B.

4 Insert postal address.

5 If a feeble minded person, or a moral imbecile, the statement must be signed by the father or mother. If an idiot or imbecile the statement may be signed by father, mother, or guardian, or the person who undertakes or performs towards the defective the duty of parent or guardian.

[FORM P9.]

CERTIFICATE BY A JUDICIAL AUTHORITY IN THE CASE OF A FEEBLE-MINDED PERSON OR A MORAL IMBECILE UNDER THE AGE OF 21 PLACED BY HIS PARENT IN AN INSTITUTION OR CERTIFIED HOUSE.

To be appended to each Medical Certificate if the Defective is not an Idiot or Imbecile.

I, the undersigned _____, being a Justice for specially appointed under the Lunacy Act, 1890,⁽¹⁾ do hereby certify that, having enquired into the case of A.B. _____, of _____, in the County⁽²⁾ of _____, I am satisfied that the said A.B. _____ is a _____⁽³⁾ within the meaning of the Mental Deficiency Act, 1913.

Dated

Signed

1 Or the judge of the county court of _____, or the Stipendiary Magistrate for _____, or a Metropolitan Police Magistrate.

2 Or county borough.

3 State whether a feeble minded person or a moral imbecile.

FORM C1.

APPLICATION FOR A CERTIFICATE FOR A CERTIFIED INSTITUTION.

Mental Deficiency Act, 1913.

To the Board of Control

WE, being the Managers of the Premises named in the following particulars, and intended for the reception, control, care, and treatment of Defectives, hereby apply that a Certificate may be granted to us for the said Premises as a Certified Institution under the Mental Deficiency Act, 1913.

Particulars.

1. The name and locality of the proposed Institution.
2. The names of the Managers.
3. The number of patients it is proposed to receive :—

Male	Total	Female
	Of whom	private.
4. The class or classes intended to be received :—
 - Idiots ;
 - Imbeciles ;
 - Feeble-minded ;
 - Moral Imbeciles.
5. Limits of age.
6. Limitations to members of a religious persuasion or residents in a particular locality, if any.
7. Name of the Superintendent and particulars of the proposed staff.

Date

Signed

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

FORM C2.

CERTIFICATE FOR A CERTIFIED INSTITUTION.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ of
 in the Parish of _____ in the _____ of
 have delivered to us the prescribed particulars, together with a plan
 and description of the premises called _____ situate at
 in the _____ of _____, and we, having
 considered the same and being satisfied of the fitness of the premises

and of the persons proposing to maintain them, do hereby certify the said premises as an Institution for defectives. And we authorise the said [and such persons as may be Managers from time to time during the currency of the Certificate] to use the said premises for the reception of patients, of whom not more than shall be males and not more than shall be females: and of whom not more than shall be private patients: for years from this date.

Male Female

Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this day of 191
Secretary.

FORM C3.

APPLICATION FOR A CERTIFICATE FOR A CERTIFIED HOUSE.

The Mental Deficiency Act, 1913.

To the Board of Control.

I, [or WE,] being the owner of the House named in the following particulars, and being desirous of receiving Defectives therein for private profit, hereby apply that a Certificate may be granted to me, [or us,] for the said House as a Certified House under the Mental Deficiency Act, 1913.

Particulars.

1. The name and locality of the proposed House.
2. The name of the Owner.
3. The number of patients it is proposed to receive:—
Male Female
Total
4. The class or classes of defectives intended to be received:—
Idiots;
Imbeciles;
Feeble-minded;
Moral Imbeciles.
5. Limits of age.
6. Limitations to members of a religious persuasion or residents in a particular locality, if any.
7. The name of the Superintendent and particulars of the proposed staff.
Date

Signed

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

FORM C4.

CERTIFICATE FOR A CERTIFIED HOUSE.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ of
 in the Parish of _____ in the _____ of
 has [or have] delivered to us the prescribed particulars, together with
 a plan and description of a House and Premises called _____
 situate at _____ in the _____ of _____,
 proposed to be certified for the reception of Defectives as a Certified
 House, and we, having considered the same and being satisfied of
 the fitness of the Premises and of the Applicant and of the intention
 of _____ the Superintendent [or Owner] to reside therein, do
 hereby certify _____ the said House and Premises as a Certified
 House for the reception of _____ patients, of whom not more
 than _____ shall be males and not more than _____ shall be
 females for _____ calendar months from this date.

Male	Female
------	--------

Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this _____ day of _____ 191 .

Witness

Secretary.

£ s. d.

Amount paid

FORM C5.

APPLICATION FOR A RENEWED CERTIFICATE FOR AN INSTITUTION ALREADY
CERTIFIED.

To the Board of Control.

WE, being the Managers of the Certified Institution called _____,
 hereby apply that a Certificate may be granted to us in
 renewal of that now subsisting.*

Date

Signed

* If any variation in the terms of the Certificate is desired add the words "with the following variations" and give particulars of the variations applied for.

FORM C6.

RENEWED CERTIFICATE FOR AN INSTITUTION ALREADY CERTIFIED.

KNOW ALL MEN, that _____ of
 in the Parish of _____ in the _____ of
 has [or have] applied to us for a renewal of the Certificate in respect
 of the Premises called _____ situate at _____ in
 the _____ of _____, certified on the _____ day of
 _____ as an Institution for Defectives, and we, having con-
 sidered the same, do hereby certify the said premises as an Institu-
 tion for Defectives and we authorize the said _____ [and such
 persons as may be Managers from time to time during the currency
 of the Certificate] to use the said Premises for the reception of
 patients of whom not more than _____ shall be males and not more
 than _____ shall be females and of whom not more than
 shall be private patients for _____ years from this date.

Male Female

Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this _____ day of _____ 191 .

Witness

Secretary.

FORM C7.

APPLICATION FOR A RENEWED CERTIFICATE FOR A HOUSE ALREADY
CERTIFIED.

To the Board of Control.

I [or WE], being the Owner [or Owners] of a Certified House called
 _____, hereby apply that a Certificate may be granted to me
 [or us] in renewal of that now subsisting.*

Date

Signature.

* If any variation in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

FORM C8.

RENEWED CERTIFICATE FOR A HOUSE ALREADY CERTIFIED.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that _____ of
 in the Parish of _____ in the _____ of
 has delivered to us a List of the number of Patients now in a House
 and Premises called _____ situate at _____.

in the of certified on the day of
 last for the reception of Defectives, and we, having
 considered the same, do hereby certify the said House
 and Premises as a Certified House for the reception of
 patients of whom not more than shall be males and not
 more than shall be females for calendar months
 from this date.

Male Female

Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this day of 191 .

Witness

Secretary.

£ s. d.

Amount paid

FORM C9.

APPLICATION FOR APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER SECTION 37.

Mental Deficiency Act, 1913.

To the Board of Control.

WE, the Council for the County [or County Borough] of ,
 which comprises the whole or part of the Poor-Law Union of
 , apply for the approval of the Premises mentioned in
 the following particulars.

Particulars.

1. The name and locality of the proposed Institution.
 2. The Board or Boards of Guardians in the position of managers.
 3. The number of patients it is proposed to receive.
 Male Female
 Total
 4. The class or classes of defectives intended to be received:—
 Idiots;
 Imbeciles;
 Feeble-minded;
 Moral Imbeciles.
 5. Limits of age.
 6. The particular locality (if any) from which they are to be sent.
 7. The name of the Superintendent and particulars of the proposed staff.
- Date .

(L.S.)

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

FORM C10.

APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER SECTION 37.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that
 The Local Authority for the _____ of
 comprising the whole or part of the Poor-Law Union of _____
 have applied to us for the approval of certain buildings and premises
 known as _____ and provided by the Board of Guardians
 of the Union aforesaid [in conjunction with the Board of Guardians
 of the _____ Union] for the reception of Defectives, and have
 delivered to us the prescribed particulars, together with a plan and
 description thereof, and we, having considered the same and being
 satisfied of the special fitness of the buildings and premises for the
 detention, care, and training of Defectives, and having had notified
 to us the consent of the Local Government Board, do hereby approve
 the said buildings and premises for the reception of _____ patients
 of whom not more than _____ shall be males and not more than
 _____ shall be females for _____ years from this date.

Male

Female

Total

The class or classes of defectives authorized to be received :—

Sealed with our Common Seal this _____ day of _____ 19

Witness

Secretary.

FORM C11.

APPLICATION FOR RENEWED APPROVAL OF PREMISES PROVIDED BY
GUARDIANS UNDER SECTION 37.

To the Board of Control.

WE, the Council for the County [or County Borough] of _____,
 which comprises the whole or part of the Poor-Law Union of _____,
 apply that an approval may be granted in renewal of that now sub-
 sisting for*

Date _____

(L.S.)

* If any variations in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

FORM C12.

RENEWED APPROVAL OF PREMISES PROVIDED BY GUARDIANS UNDER
SECTION 37.*Mental Deficiency Act, 1913.*

KNOW ALL MEN, that
the Local Authority for the _____, comprising the whole or
part of the Poor-Law Union of _____, have applied
to us for a renewal of the approval in respect of the Premises called
situate at _____ approved on the _____ day of
_____ for the reception of Defectives, and we, having considered
the same, do hereby approve the said Buildings and Premises for
the reception of _____ patients of whom not more than
shall be males and not more than _____ shall be females for
_____ years from this date.

Male Female

Total

The class or classes of defectives authorised to be received:—

Sealed with our Common Seal this _____ day of _____ 19
Witness

Secretary.

FORM A1.

APPLICATION FOR AN APPROVAL FOR AN APPROVED HOME.

To the Board of Control.

We [*or I*], being the managers [*or owner*] of the premises named
in the following particulars and intended for the reception, control,
care, and treatment of defectives, hereby apply that an approval may
be granted to us [*or me*] for the same premises as an Approved Home
under the Mental Deficiency Act, 1913:—

Particulars.

1. The name of the proposed home.
2. Whether (a) supported wholly or partly by voluntary contribu-
tions or by applying the excess of payments of some patients
for or towards the support of other patients, or (b) conducted
for private profit.
- * 3. The name of the managers or owner.
4. The number of patients it is proposed to receive:—

	Males.	Females.
Non-aided 		
*Aided		

* An "Aided" patient is one wholly or partially maintained out of public funds.

5. The name of the Superintendent and particulars of the proposed staff.

Date

Signature

This form when filled up must be accompanied by the plans and other particulars specified in the Regulations.

FORM A2.

APPROVAL FOR AN APPROVED HOME.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that we, the Board of Control, do hereby certify that of in the Parish of in the County of has [or have] delivered to us the prescribed particulars, together with a plan and description of the premises called situate at in the County of the whole or part of which is proposed to be approved for the reception of Defectives as an Approved Home, and we, having considered and being satisfied of the fitness of the same and of the Applicant [or Applicants] and of the intention of , the superintendent, to reside therein, do hereby authorize the said to use that part of the said coloured on the plan hereto annexed or the whole of the said in the manner indicated as an Approved Home for the reception of Male and Female Defectives for calendar months or years from this date.

	Males.	Females.
Non-aided		
Aided		

Sealed with our Common Seal this day of 191 .

Witness

Secretary.

	£	s.	d.
Non-aided patients			
Aided			
Total	£		

FORM A3.

APPLICATION FOR A RENEWED APPROVAL FOR A HOME ALREADY
APPROVED.

To the Board of Control.

We [*or I*], being the managers or owner of the Approved Home called _____, hereby apply that an approval may be granted to us [*or me*] in renewal of that now subsisting.*

Date

Signature

FORM A4.

RENEWED APPROVAL FOR AN APPROVED HOME.

Mental Deficiency Act, 1913.

KNOW ALL MEN, that we, the Board of Control, do hereby certify that _____ of _____ in the Parish of _____ in the County of _____ has [*or have*] delivered to us a List of the number of patients now in a House and Premises called _____ situate at _____ in the County of _____ approved on the _____ day of _____ last, for the reception of Defectives, and we, having considered the same, do hereby authorize the said _____, the Superintendent undertaking to reside therein, to use the said House and Premises as an Approved Home for the reception of _____ Male and _____ Female Defectives for _____ calendar months or _____ years from this date.

Males.

Females.

Non-aided

Aided

Sealed with our Common Seal this _____ day of _____ 191 .
Witness

Secretary.

£ s. d.

Non-aided patients

Aided

Total £

* If any variation in the terms of the approval is desired add the words "with the following variations" and give particulars of the variations applied for.

Special Report by Visitors.

To the Board of Control.

[FORM D2.]

Special Report and Certificate.

^a For use of Board of Control only.

condition he [or she] is
and I hereby certify that he [or she] is still a proper person to be
detained in his [or her] own interest in an institution [or in a certi-
fied house, or under guardianship].

Dated the day of .

Signed .

Medical Officer
[or A Medical Practitioner
registered under the Medical Acts].

To the Board of Control.

[FORM D3.]

[NAME OF INSTITUTION OR CERTIFIED HOUSE OR DWELLING OF GUARDIAN.]

*Order by Board of Control continuing Order or Authority
for Detention.*

No.

Name of Patient

Date of Reception

Date of Order on which detained

Date at which Order or Authority for detention will expire if not
continued

We, the Board of Control, having considered the reports and cer-
tificate with regard to the above-named patient, particulars of which
are set out below, and the means of care and supervision which
would be available for him [or her] if he [or she] were discharged,
and being satisfied that the continuance of the above-mentioned
Order [or authority for detention] is required in his [or her] interests
Do hereby Order the same to be continued for one year [or five years]
from the day of .

Sealed with our Common Seal, this day of .
Witness.

(L.S.)

Secretary to the Board of Control.

REPORTS AND CERTIFICATE REFERRED TO IN THE ABOVE ORDER.

Special reported dated of .
Visitors of Institutions for Defectives for the County [or
Borough] of .

Special report and certificate dated of .
Medical Practitioner [the Medical Officer of the above-named
Institution].

[Report dated of Medical Practitioner
who examined the above-named patient at the request of .]

FORM R1.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF ADMISSION.

Date of reception order, the day of .

I hereby give you notice that was admitted into this certified institution [or certified house, or approved home, or under guardianship] as a private [or aided or criminal] patient on the day of , and I hereby transmit a copy of the order and other documents on which he was received.

Subjoined is a statement with respect to the mental and bodily condition of the patient.

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

Dated the day of .
To the Board of Control.

Statement.

I have this day [some day not less than two clear days nor more than seven clear days after the admission of the patient] seen and examined the patient mentioned in the above notice, and hereby certify that with respect to mental state he [describing it] and with respect to bodily health and condition he [describing it].

Dated the day of .

(Signed)

Medical Officer.

FORM R2.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF TRANSFER FROM PRIVATE TO AIDED CLASS OR VICE VERSA.

I hereby give you notice that admitted into this certified institution [or certified house, or approved home, or under guardianship] as a private (or aided) patient on the day of , was on the day of transferred to the aided [or private] class.

Dated the day of .

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

To the Board of Control.

FORM R3.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF REMOVAL.

Date of reception order, the day of .

I hereby give you notice that , a private [or aided, or criminal] patient received into this certified institution [or certified house, or approved home, or under guardianship] on the day of , was, on the day of , removed to relieved [or not improved] by the authority of .

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

Dated the day of .
To the Board of Control.

FORM R4.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF DISCHARGE.

Date of reception order, the day of .

I hereby give you notice that , a private [or aided, or criminal] patient received into this certified institution [or certified house, or approved home, or under guardianship] on the day of , was discharged therefrom [relieved or not improved] on the day of , by the authority of .

(Signed)

Superintendent, Clerk, or the person
having charge of the said patient.

Dated the day of .
To the Board of Control.

FORM R5.

[Name of Certified Institution, Certified House, Approved Home, or Dwelling where a patient is under guardianship.]

NOTICE OF ESCAPE.

I hereby give you notice that , a private [or aided, or criminal] patient received into this certified institution [or certified house, or approved home, or under guardianship] on the day of , escaped therefrom on the day of .

The state of mind of the patient at the time of his escape was as follows [*describe it*].

The circumstances and manner of the escape were as follows [*state them*].

(Signed)

Superintendent, Clerk, *or* the person
having charge of the said patient.

Dated the day of .
To the Board of Control.

FORM R6.

[Name of Certified Institution, Certified House, Approved Home, or
Dwelling where a patient is under guardianship.]

NOTICE OF RECAPTURE.

I hereby give notice that , a private [*or aided, or criminal*]
patient who was received into this certified institution [*or certified*
house, *or* approved home, *or* under guardianship] on the day
of , and escaped therefrom on the day of ,
was on the day of recaptured under the following
circumstances [*state them*].

(Signed)

Superintendent, Clerk, *or* the person
having charge of the said patient.

Dated the day of .
To the Board of Control.

FORM R7.

[Name of Certified Institution, Certified House, Approved Home or
Dwelling where a patient is under guardianship.]

NOTICE OF DEATH.

Date of reception order, the day of .
I hereby give you notice that , a [private, aided *or*
criminal] patient received into this Certified Institution [*or* Certified
House *or* Approved Home *or* under guardianship] on the day
of , died therein on the day of .

(Signed)

Medical Officer *or*
Medical Attendant of the patient.

Dated the day of .
To the Board of Control.

STATEMENT RESPECTING THE ABOVE-NAMED PATIENT.

Name

Sex and age

Married, single, or widowed

Profession or occupation

Usual residence (postal address) before admission. [If the patient has been transferred from another Institution or Workhouse, the place of residence before admission to the first Institution should be given.]

CAUSE OF DEATH.	Duration of Disease from onset.			
	Years.	Calendar Months.	Days.	Hours.
<p>+ i.e., the disease which initiated the train of events leading to death, and <i>not</i> a mere secondary, contributory, or immediate cause, or a terminal condition or mode of death.</p> <p>Primary† (1) —————</p>				
<p>‡ A terminal condition or mode of death should not be entered as a secondary (or contributory) cause.</p> <p>Secondary‡ (2) ————— (Contributory.)</p>				

1. Whether or not ascertained by post-mortem examination. }
2. Time and any unusual circumstances attending the death. }
3. A description of any injuries known to exist at time of death or found subsequently on body of deceased, or a statement that there were none. }
4. Names and description of persons present at the death. }
5. Whether or not mechanical restraint was applied to deceased within seven days previously to death, with its character and duration if so applied. }

(Signed)

Medical Officer or

Medical Attendant of patient.

[Note.—Among other persons to whom notice of death is to be given is the Coroner of the district in which the death takes place (Regulation 95 (d), and Regulation 211). It will be observed that in the foregoing Form of Notice it has to be stated whether or not the cause of death has been “ascertained by post-mortem examination.” Naturally there is nothing in the Regulations that gives the right to anyone to make a post-mortem examination, and it is here submitted that in the absence

of an order by the Coroner a post-mortem examination may not rightly be made without the consent of nearest adult relative; and further, that where the death has not been from natural causes no post-mortem examination should be made before the Coroner's directions are ascertained.]

FORM R8.

NAMES of all aided* patients in the Certified Institution, Certified House or Approved Home at _____ on the 1st day of January or July .

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Names.	Date of Admission.	Payments.	By whom Paid.

This is a correct list.

(Signed)
Superintendent.

Dated the _____ day of _____ .

* An "aided" patient is one wholly or partly maintained out of public funds.

FORM R9.

NAMES of all private† patients in the Institution, Certified House or Approved Home at _____ , on the 1st day of January or July .

Note.—Male and female patients must be returned in separate lists. The names must be in alphabetical order of the initial letters, and those of each initial in order of date of admission.

Names of Private Patients.	Date of Admission.	Payments.

This is a correct list.

(Signed)
Superintendent.

Dated the _____ day of _____ .

† A "private" patient is one wholly maintained out of private funds.

FORM R10.

REGISTER OF ADMISSIONS.

[illegible]

FORM R12.

REGISTER OF MECHANICAL RESTRAINT.

Date.	Names of Patients.		Means of Restraint Employed.	Duration in Hours.	Certificate of Medical Officer stating Grounds upon which the Restraint was employed.
	Male.	Female.			
					I certify that restraint was employed in this case on the following grounds:— (Signed) Medical Officer.
					I certify that restraint was employed in this case on the following grounds:— (Signed) Medical Officer.
					I certify that restraint was employed in this case on the following grounds:— (Signed) Medical Officer.

FORM R13.

MEDICAL JOURNAL TO BE KEPT AT CERTIFIED INSTITUTIONS, CERTIFIED HOUSES, AND APPROVED HOMES.

Date.	Number of Patients.		Patients who are or since the last Entry have been in Seclusion, when, and for what Period, and Reasons.		Patients under Medical or Surgical Treatment, and for what reason.		Deaths. All Injuries to Patients since the last Entry. How caused and in whose presence.
	Males.	Females.	Males.	Females.	Males.	Females.	

FORM R14.

MEDICAL JOURNAL FOR PATIENTS UNDER GUARDIANSHIP AND FOR SINGLE PATIENTS.

Date.	Mental Condition. Any and what change since last visit.	Bodily Health and Condition.	Seclusion since last visit; when and for how long.	Visits of Friends date of visit; name of Friend	State of House and Furniture, Bed and Bedding. Supply and condition of wearing apparel.	Is the Dietary proper? if not, state in what respect	Employment, exercise, and recreation.

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

CHAPTER 32.

An Act to make better provision for the Elementary Education of Defective and Epileptic Children in England and Wales.

[9th August, 1899.]

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

POWER TO SCHOOL AUTHORITY TO DETERMINE WHAT CHILDREN ARE DEFECTIVE OR EPILEPTIC.

1.—(1) A school authority, as defined by the Elementary Education (Blind and Deaf Children) Act, 1893 [56 & 57 Vict. c. 42], may, with the approval of the Education Department, make such arrangements as they think fit for ascertaining—

- (a) what children in their district, not being imbecile, and not being merely dull or backward, are defective, that is to say, what children by reason of mental or physical defect are incapable of receiving proper benefit from the instruction in the ordinary public elementary schools, but are not incapable by reason of such defect of receiving benefit from instruction in such special classes or schools as are in this Act mentioned; and
- (b) what children in their district are epileptic children, that is to say, what children, not being idiots or imbeciles, are unfit by reason of severe epilepsy to attend the ordinary public elementary schools.

(2) The school authority, in making their arrangements under this section, shall provide facilities for enabling any parent, who is of opinion that his child ought to be dealt with under this Act, to present such child to the school authority to be examined, although he may not have been required so to do by that authority; and any school authority failing to provide such facilities shall be deemed to have acted in contravention of this Act.

(3) For the purpose of ascertaining whether a child is defective or epileptic within the meaning of this section, a certificate to that effect by a duly qualified practitioner approved by the Education Department shall be required in each case. The certificate shall

be in such form as may be prescribed by the Education Department.

[**Note.**—For amendment of this sub-section see section 6 of the 1914 Act, *post.*]

(4) For the purpose of the exercise of the powers conferred by this section, it shall be the duty of the parent of any child who may be required by the school authority to be examined to cause the child to attend such examination, and any parent who fails to comply with such requirement shall be liable on summary conviction to a fine not exceeding five pounds.

POWER TO PROVIDE FOR EDUCATION OF DEFECTIVE AND EPILEPTIC CHILDREN.

2.—(1) Where a school authority have ascertained that there are in their district defective children, they may make provision for the education of such children by all or any of the following means:—

- (a) by classes in public elementary schools certified by the Education Department as special classes; or
- (b) by boarding-out, subject to the regulations of the Education Department, any such child in a house conveniently near to a certified special class or school; or
- (c) by establishing schools, certified by the Education Department, for defective children.

[**Note.**For amendment of this sub-section see section 1 (1) of the 1914 Act, *post.*]

(2) Where a school authority have ascertained that there are in their district epileptic children, they may make provision for the education of such children by establishing schools, certified by the Education Department, for epileptic children.

(3) The power conferred by this section shall include power to establish or acquire and to maintain certified schools, and to contribute, on such terms and to such extent as may be approved by the Education Department, towards the establishment, enlargement, or alteration, and towards the maintenance of certified schools.

(4) A school authority may in respect of children resident in or whose permanent home is in their district and attending certified special classes or schools in the district of another school authority, contribute to that other authority the proportionate cost of the provision and maintenance of such special classes or schools.

(5) The school authority, acting under this section, shall make provision for the examination from time to time of any child dealt with under this section, in order to ascertain whether such child has attained such a mental and physical condition as to be fit to attend the ordinary classes of public elementary schools; and the school authority shall make provision for such examina-

tion in the case of any child whose parent claims such examination of his child, provided that the parent shall not make such claim within less than six months after his child has been examined; and any school authority failing to make such provision as this sub-section requires shall be deemed to have acted in contravention of this Act.

(6) *The Education Department shall not certify any establishment established after the commencement of this Act for boarding and lodging more than fifteen defective or epileptic children in one building or comprising more than four such buildings.*

[**Note.**—This sub-section is repealed by section 1 (2) of the 1914 Act, *post.*]

PROVISION OF GUIDES OR CONVEYANCES.

3. A school authority may provide guides or conveyances for children who, in the opinion of the school authority, are by reason of any physical or mental defect unable to attend school without guides or conveyances.

OBLIGATIONS OF PARENT AS TO DEFECTIVE AND EPILEPTIC CHILDREN, 39 & 40 VICT. c. 79.

4.—(1) The duty of a parent under section four of the Elementary Education Act, 1876, to provide elementary instruction for his child shall, in the case of a defective or epileptic child over seven years of age in any place where a certified special class or school is within reach of the child's residence, include the duty to cause the child to attend such a class or school, and a parent shall not be excused from this duty by reason only that a guide or conveyance for the child is necessary.

(2) In the case of an epileptic child whose age exceeds seven years, the school authority may, if they think fit, apply to a court of summary jurisdiction for an order requiring the child to be sent to a certified school for epileptics, and if any parent fails to comply with the order, he shall be deemed to have failed to perform the duty prescribed by section four of the Elementary Education Act, 1876, and may be proceeded against accordingly.

CONDITIONS AND EFFECT OF GRANT OF CERTIFICATE TO SCHOOL FOR DEFECTIVE OR EPILEPTIC CHILDREN.

5. The provisions of section seven of the Elementary Education (Blind and Deaf Children) Act, 1893, respecting the conditions and effect of the grant of certificates to schools for blind or deaf children shall apply, with the necessary modifications to schools for defective or epileptic children established or proposed to be established under this Act, except that no requirement need be made as to the proportion of the expenses to be defrayed out of private sources.

POWERS AND EXPENSES OF SCHOOL AUTHORITY.

6. The provisions of section five of the Elementary Education (Blind and Deaf Children) Act, 1893 [56 & 57 Vict. c. 42] (relating to the powers and expenses of a school authority under that Act) shall apply, with the necessary modifications, to school authorities acting under this Act.

Provided that a parish in which there is a school board shall be exempt from contributing to the expenses incurred by any district council acting as a school authority under this Act, and where a school authority are an urban district council their expenses as such authority shall be paid out of the fund to be raised in the area for which they are a school authority in the same manner as the fund out of which their general expenses are payable is raised in the urban district.

GRANTS FROM PUBLIC MONEY TOWARDS EDUCATION OF DEFECTIVE AND EPILEPTIC CHILDREN.

7. Nothing in any Act of Parliament shall prevent the Education Department from giving aid from the parliamentary grant to a school in respect of education given to defective or epileptic children to such amount and on such conditions as may be directed by or in pursuance of the minutes of the Education Department in force for the time being.

CONTRIBUTION BY PARENT.

8.—(1) The parent of a defective or epileptic child shall be liable to contribute towards the expenses of the child incurred by a school authority under this Act in like manner and to the like extent as the parent of a blind or deaf child is liable to contribute under section nine of the Elementary Education (Blind and Deaf Children) Act, 1893, and the provisions of that section shall apply accordingly.

(2) The parent of a defective or epileptic child shall not, by reason of any payment made under this Act in respect of the child be deprived of any franchise, right, or privilege, or be subject to any disability or disqualification.

(3) Payments under this Act shall not be made on condition of a child attending any certified school other than such as may be reasonably selected by the parent, nor refused because the child attends or does not attend any particular certified school.

CONTRIBUTION BY GUARDIANS OF THE POOR.

9. The board of guardians of any poor-law union may contribute such of the expenses of providing, enlarging, or maintaining any certified special class or school under this Act as are certified by the Education Department to have been incurred wholly or partly in respect of scholars taught at the class or school who are either resident in a workhouse or in an institution to which they have been sent by the guardians from a workhouse or boarded-out by the guardians.

LIMITATION ON LIABILITY OF SCHOOL AUTHORITY.

10. Nothing in this Act shall be construed as imposing a duty on a school authority to receive in a special class or school established by them any child—

- (a) who is resident in, or whose permanent home in their opinion is in, the district of another school authority; or
- (b) who is resident in a workhouse, or in any institution to which he has been sent by the guardians, from a workhouse, or boarded-out by the guardians,

unless that other school authority or, as the case may be, the guardians are willing to contribute towards the expenses of the education and maintenance of the child such sum as may be agreed on between the authorities concerned.

PERIOD OF EDUCATION FOR DEFECTIVE AND EPILEPTIC CHILDREN.

11. For the purposes of the Elementary Education Acts, 1870 to 1893, and of this Act, a defective or epileptic boy or girl shall be deemed to be a child until the age of sixteen years, and the period of compulsory education shall, in the case of such a child, extend to sixteen years, and the attendance of such a child at school may be enforced as if it were required by bye-laws made under the Elementary Education Acts, 1870 to 1893, and any such child shall not, in accordance with such bye-laws, be entitled to total or partial exemption from the obligation to attend school.

RELIGIOUS INSTRUCTION 56 & 57 VICT. c. 42.

12. The provisions regulating religious instruction in certified schools for defective and epileptic children shall be the same as those enacted by section eight of the Elementary Education (Blind and Deaf Children) Act, 1893.

REPORT TO PARLIAMENT.

13. Every school authority shall make to the Education Department such returns as the Department may require; and the Department shall annually lay before both Houses of Parliament a report of their proceedings under this Act during the preceding year, and in that report shall give lists of the schools and classes to which they have granted or refused certificates under this Act during the year, with their reasons for each such refusal.

INTERPRETATION OF TERMS.

14. In this Act—

The expression “ school ” includes any institution in which defective or epileptic children are boarded or lodged as well as taught, and any establishment for boarding or lodging children taught in a certified special class or school:

Other expressions have, unless the contrary intention appears, the same meaning as in the Elementary Education (Blind and Deaf Children) Act, 1893.

SHORT TITLE.

15. This Act may be cited as the Elementary Education (Defective and Epileptic Children) Act, 1899, and may be cited with the Elementary Education Acts, 1870 to 1893.

The Elementary Education (Defective and Epileptic Children) Act, 1914.

[4 & 5 Geo. 5, ch. 45.]

An Act to amend the Law relating to the Education of Defective and Epileptic Children in England and Wales.

[10th August, 1914.]

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:—

DUTY TO PROVIDE FOR EDUCATION OF MENTALLY DEFECTIVE CHILDREN.

1.—(1) It shall be the duty of the local education authority for the purposes of the Elementary Education (Defective and Epileptic Children) Act, 1899 [62 & 63 Vict. c. 32] (herein called the principal Act), to make suitable provision, either alone or in conjunction with other local education authorities, for the education of children belonging to their area whose age exceeds seven years and who are ascertained to be mentally defective within the meaning of the principal Act, and accordingly after the words "they may" in sub-section (1) of section two of the principal Act there shall be inserted the words "and in the case of mentally defective children whose age exceeds seven years shall":

[**Note.**—For "mentally defective within the meaning of the principal Act," see section 1 (1) (a) of the 1899 Act, *ante*.]

Provided that the duty of a local education authority under this Act shall not include—

- (i.) A duty to make provision for boarding and lodging a mentally defective child unless the Board of Education are satisfied, after considering the report of a duly qualified medical practitioner approved by the Board under section one of the principal Act, and after consultation with the local education authority, that suitable provision for the child's education cannot be made in any other way, and unless the grants payable out of moneys provided by Parliament in respect of a mentally defective child, so boarded and lodged, amount to not less than one-half of the cost of conveying such child to and from any school so provided, and of educating, boarding, and lodging and medically attending and treating

that child (including, in the case of a school provided by a local education authority, 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 school); or

[**Note.**—See section 7 of the 1899 Act, *ante*.]

- (ii.) A duty to establish a certified school for boarding and lodging mentally defective children, unless the Board of Education are satisfied, after considering the reports of such medical practitioners, and after such consultation as aforesaid, that there are not less than forty-five such children belonging to the area for whose education suitable provision cannot be made in any other way.

(2) Sub-section (6) of section two of the principal Act and the Elementary Education Amendment Act, 1903 [3 Edw. VII. c. 13], are hereby repealed.

(3) In case of doubt as to whether a child is or is not mentally defective within the meaning of the principal Act, the matter shall be determined by the Board of Education.

DISCONTINUANCE OF CERTIFIED SCHOOL.

2. In the event of a local education authority proving to the satisfaction of the Board of Education that the average attendance of mentally defective children at a certified class or school provided by such authority has, during the previous three years, been less than fifteen, it shall be lawful for such authority to discontinue the maintenance thereof, and thereupon the authority shall make such alternative provision for the mentally defective children belonging to their area as the Board of Education, after consultation with such authority, may approve.

CONSULTATION OF PARENTS AND CO-OPERATION WITH OTHER AUTHORITIES AND PERSONS.

3.—(1) A local education authority, before deciding what provision shall be made for the education of a mentally defective child, shall endeavour to ascertain the wishes of the parents of the child and shall, so far as possible, give effect to their wishes.

(2) A local education authority, in the exercise and performance of their powers and duties under the principal Act and this Act, shall have regard to the existing supply of certified schools and classes, and shall, so far as possible, co-operate with other authorities or persons providing or having power to provide certified schools and classes.

DELEGATION OF AUTHORITY TO THE COUNCIL OF A COUNTY.

4. The council of a non-county borough or urban district having powers and duties under the principal Act and this Act may, at any time after the passing of this Act, by agreement with the council of the county in which the borough or urban district

is situate, and with the approval of the Board of Education, relinquish in favour of that council any of those powers or duties, and in that case the powers or duties of the authority so relinquished shall cease, and the area of the authority shall, as respects those powers or duties, be part of the area of the county council.

ENFORCEMENT OF OBLIGATIONS OF PARENTS OF MENTALLY DEFECTIVE AND EPILEPTIC CHILDREN.

5.—(1) If a local education authority are satisfied, after consultation with the parent of a mentally defective or epileptic child over seven years of age, that the parent is not making suitable provision for the child's education, they may require the parent of the child to send the child to a certified class or school suitable for the child, and, if he fails without reasonable excuse to do so, may by complaint apply to a court of summary jurisdiction for an order requiring the child to be sent to a certified class or school suitable for the child and willing to receive him, being either such as the parent may select, or if he does not select a suitable class or school, then such class or school as the court thinks expedient, and such an order shall be a sufficient authority for the conveyance of the child to the class or school named in the order:

Provided that no order shall be made requiring the child to be sent to a certified class or school which is not within reach of the child's residence or to a boarding school without the consent in writing of the parent, unless it is proved to the satisfaction of the court that such consent is unreasonably withheld, or that the parent cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the bonâ fide intention of benefiting the child:

Provided further that if the court shall refuse to make an order the court, unless for good cause it shall otherwise order, shall award costs to the parent, and the costs so awarded shall, unless some reason to the contrary appears, include such sum as compensation for the expense, trouble, and loss of time incurred in or incidental to his attendance at the court as to the court may seem just and reasonable.

(2) The provisions of this section shall be in substitution for, and not in addition to, the power of a court of summary jurisdiction, on an attendance order not being complied with, to order the child to be sent to an industrial school under section twelve of the Elementary Education Act, 1876 [39 & 40 Vict. c. 79], as applied by the principal Act.

(3) Nothing in this section shall be construed as affecting the power of a parent to withdraw a child from school on proof to the satisfaction of the local education authority that he will make suitable provision for the child's education in some other way.

CERTIFICATION OF CHILDREN.

6. Section one of the principal Act shall be construed and have effect as if the following words were added at the end of sub-section (3) of that section:—

“ Such duly qualified medical practitioner shall, if so directed by the local education authority, or, if he is so requested by the parent of the child, before giving a certificate under this section, consult the head teacher of the school, if any, which the child has been attending, or such other person as the local education authority may appoint for the purpose, and a copy of any report made by the head teacher or such other person shall be forwarded to the local education authority.”

RETURN OF CERTIFICATE.

7. When a child is discharged from a special school or class on the ground that he is no longer mentally defective the local education authority shall return to the parent of the child any certificate certifying that the child was mentally defective, and such certificate shall not be received in evidence in any legal proceedings without the consent of the child or its parent.

DETERMINATION OF RESIDENCE.

8.—(1) For the purposes of the principal Act and this Act a child shall be deemed to belong to the area in which the residence or permanent home of the child is for the time being situate:

Provided that, in the case of a child in a school or boarded-out in pursuance of the principal Act or this Act, the local education authority who are making provision for his education shall continue liable to make such provision pending the determination of any question which may be referred to the Board of Education under this section.

(2) If any question arises as to the area to which a child is to be deemed to belong, that question shall be determined by the Board of Education, and the Board on determining the question may direct such financial adjustments between the local education authorities concerned as they may consider just.

[Note.—See section 10 of the 1899 Act, *ante*.]

SHORT TITLE AND COMMENCEMENT.

9.—(1) This Act may be cited as the Elementary Education (Defective and Epileptic Children) Act, 1914, and shall be construed with the principal Act, and that Act and this Act may be cited together as the Elementary Education (Defective and Epileptic Children) Acts, 1899 to 1914; and the Education Acts, 1870 to 1911, the Education (Choice of Employment) Act, 1910, and this Act may be cited together as the Education Acts, 1870 to 1914.

(2) This Act shall come into operation on the first day of January, nineteen hundred and fifteen.

PROVISIONAL REGULATIONS (SUPPLEMENTARY)

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE
UNDER THE MENTAL DEFICIENCY ACT, 1913. SUPPLEMEN-
TARY TO THE PROVISIONAL REGULATIONS DATED 2ND APRIL,
1914.)

In pursuance of the powers conferred on me by the Mental Deficiency Act, 1913, I hereby make the following Regulations, and I certify in pursuance of section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into operation forthwith as Provisional Regulations:—

1. These Regulations may be cited as the Mental Deficiency Act Provisional (Supplementary) Regulations, 1914.

CONTINUATION OF DETENTION ORDERS.

2. The special reports required by section 11 of the Act on the expiration of an order of detention or guardianship shall be in the forms D1 and D2 in the Schedule to the Mental Deficiency Act Provisional Regulations, 1914, or in forms to the like effect, and an order of the Board continuing such order shall be in the form D3 in the said Schedule or a form to the like effect.

PROCEDURE IN CONNECTION WITH CONTRIBUTION ORDERS.

3. Orders for contribution towards the maintenance of a person in an Institution or under Guardianship and applications for such orders and for the revocation or variation of such orders may be made in the forms O1 to O3 in the Schedule hereto or in forms to the like effect, and when the application is made to a magistrate or specially appointed justice the Summary Jurisdiction Acts shall apply as in the case of proceedings on complaint.

PROCEDURE FOR DEALING WITH DEFECTIVES CHARGED WITH OFFENCES.

4. The forms G1 to G6 in the Schedule hereto or forms to the like effect may be used for the purposes of section 8 of the Act, and may be used when the circumstances so require as variations of the corresponding forms in the Schedules to the Summary Jurisdiction Act Rules, 1886, and the Summary Jurisdiction (Children Act) Rules, 1909.

NOTICE OF THE RECEPTION OF A DEFECTIVE INTO PRIVATE CARE.

5. 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,

the notice of reception to be sent to the Local Authority and to the Board of Control shall be in the form N in the Schedule hereto.

Dated the 30th day of April, 1914.

R. McKenna,

One of His Majesty's Principal
Secretaries of State.

Schedule.

FORM O1.

Application for a Contribution Order.

In the Matter of A.B., of in the County (Borough)
of , a defective.

To S.T., a Judicial Authority under the Mental Deficiency Act.

The application of C.D., of , in the County
of sheweth

1. That the said A.B. was on the day of ordered
by (M.N., a Judicial Authority under the said Act) (The Court of
(Assize) (Quarter Sessions) (Petty Sessions) holden at)
(the Secretary of State) to be (detained in the Institution at)
(placed under the Guardianship of).

2. That the said C.D. is (the person on whose petition the said
Order was made) (a Manager of the said Institution) (the Guardian
of the said A.B.) (an officer duly authorized in that behalf of the
Council of the County (Borough) of).

3. The said C.D. prays that an Order may be made requiring (the
said A.B.) (X.Y., a person liable to maintain the said A.B.) to
contribute such sum (towards the expenses of his maintenance in the
institution and other 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) (towards the expenses of his
guardianship and any charges incidental thereto) as having regard
to the ability of (the said A.B.) (the said X.Y.) seems reasonable.

Signed by the said C.D. this day of 19 .

Before me, S.T.

FORM O2.

Order to Contribute.

In the Matter of A.B., a defective.

I, the undersigned S.T., being a Judicial Authority under the
Mental Deficiency Act, having considered the application of C.D.

(insert status of C.D.) that an order shall be made requiring (the said A.B.) (X.Y., a person liable to maintain the said A.B.) to contribute such sum (towards the expenses of his maintenance in the institution at , 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) (towards the expenses of his guardianship and any charges incidental thereto) as having regard to the ability of (the said A.B.) (the said X.Y.) seems reasonable, do hereby order that the said () shall pay unto (the Managers of the said Institution) (the Guardian of the said A.B.) (the said Local Authority) the sum of (weekly) (monthly) so long as the said A.B. shall remain (in the said institution) (under the guardianship of) (and the sums shown on the margin hereof towards the charges incidental thereto).

Costs of Conveyance.

Funeral expenses in event of death in institution.

Other incidental charges.

This day of , 19 .

S.T.,

(County Court Judge, or as the case may be).

FORM O3.

Application for Variation or Order.

In the Matter of A.B., a defective.

To S.T., a Judicial Authority under the Mental Deficiency Act.

The application of C.D., of , in the County (Borough) of , sheweth

1. That the said A.B. was on the day of 19 ordered by (M.N., a Judicial Authority under the said Act) (The Court of (Assize) (Quarter Sessions) (Petty Sessions) holden at) (The Secretary of State) to be (detained in the institution at) (placed under the Guardianship of).

Costs of Conveyance.

Funeral expenses in event of death in institution.

Other incidental charges.

2. That on the day of , 19 , an Order was made by S.T., a Judicial Authority under the said Act requiring (the said A.B.) (X.Y., a person liable to maintain the said A.B.) to contribute the sum of (weekly) (monthly) so long as the said A.B. should remain (in the institution) (under the guardianship of) (and the sums shown on the margin hereof towards the charges incidental thereto).

3. That it is expedient that the said order be varied.

4. That the said C.D. is (the petitioner on whose petition the order of detention or guardianship was made) (a Manager of the said Institution) (the Guardian of the said A.B.) (an officer duly authorized in that behalf of the Council of the County (Borough) of () (the person on whom the said order to contribute was made).

5. That the said C.D. prays that the said order be varied and that the said (A.B.) (X.Y.) be required to pay such other sum (towards the expenses of his maintenance in the institution and other 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) (towards the expenses of his guardianship and any charges incidental thereto) as having regard to the ability of the defective or person liable to maintain him seems reasonable.

Signed by the said C.D. this day of 19 .
Before me, S.T.

FORM G1.

Detention Order in case of Offence triable summarily.

In the [County of Petty Sessional Division of].
Before the Court of Summary Jurisdiction sitting at ,
the day of , One Thousand Nine Hundred
and .

A.B., hereinafter called the defendant, is this day charged for that he, on the day of , One Thousand Nine Hundred and , at , within the aforesaid, did contrary to the Statute, &c.,

And the Court finds that the charge is proved :

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of the Mental Deficiency Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person) (a moral imbecile) hereby orders that the defendant (whose place of residence is at _____, in the County (Borough) of _____, and whose religious persuasion appears to be _____) be (sent to the { Certified Institution } at) (placed under the { Certified House } Guardianship of _____).

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by virtue of the Mental Deficiency Act become responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council, and if the institution to which such defective is ordered to be sent is not provided by the Council the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

FORM G2.

Detention Order in case of Indictable Offence.

In the [County of Petty Sessional Division of].
Before the Court of Summary Jurisdiction sitting at ,
the day of , One Thousand Nine Hundred
and .

A.B., hereinafter called the defendant, is this day charged for that

he, on the day of , One Thousand Nine Hundred
and , at , within the aforesaid, did
contrary to the Statute, &c.,

And the defendant having (consented to be dealt with summarily)
(pleaded guilty to the said charge) the Court finds that the charge
is proved ;

And the Court, being satisfied on medical evidence that the
defendant is a defective within the meaning of the Mental Deficiency
Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person)
(a moral imbecile) hereby orders that the defendant (whose place of
residence is at , in the County (Borough) of ,
and whose religious persuasion appears to be)

be (sent to the { Certified House } at) (placed under the
 { Certified Institution }
Guardianship of).

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)
Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by
virtue of the Mental Deficiency Act become responsible for the
expenses of a defective ordered to be sent to a certified institution
or placed under guardianship, the order must recite that the Council
has been given the opportunity of being heard, and must find that
the defective resides within the area of the Council, and if the
institution to which such defective is ordered to be sent is not pro-
vided by the Council the order must either find that there is no
room in an institution suitable for him provided by the Council, or
must be expressed to be made with the consent of the Council.

FORM G3.

Detention Order in case of Child liable to be sent to an Industrial
School.

In the [County of Petty Sessional Division of].
Before the Court of Summary Jurisdiction sitting at ,
the day of , One Thousand Nine Hundred
and .

Whereas (here insert that one of the recitals in Schedule B of the
Summary Jurisdiction (Children Act) Rules, 1909, appropriate to the
case),

The Court finds that the said child is liable to be sent to an
Industrial School.

And the Court, being satisfied on medical evidence that the
said child is a defective within the meaning of the Mental Deficiency
Act, 1913, being (an idiot) (an imbecile) (a feeble-minded person)
(a moral imbecile) hereby orders that the said child (whose place of

residence is at _____, in the County (Borough) of _____
 and whose religious persuasion appears to be _____ }
 be (sent to the { Certified Institution } at) (placed under the
 { Certified House }
 Guardianship of _____).

J.P. (L.S.)
 Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)
 Justice of the Peace for the (County) aforesaid.

NOTE.—Where the Council of a County or County Borough will by virtue of the Mental Deficiency Act become responsible for the expenses of a defective ordered to be sent to a certified institution or placed under guardianship, the order must recite that the Council has been given the opportunity of being heard, and must find that the defective resides within the area of the Council, and if the institution to which such defective is ordered to be sent is not provided by the Council the order must either find that there is no room in an institution suitable for him provided by the Council, or must be expressed to be made with the consent of the Council.

FORM G4.

Detention Order pending Presentation of Petition in case of Offence triable summarily.

In the [County of _____ Petty Sessional Division of _____].
 Before the Court of Summary Jurisdiction sitting at
 the _____ day of _____, One Thousand Nine Hundred
 and _____.

A.B., hereinafter called the defendant, is this day charged for that he, on the _____ day of _____, One Thousand Nine Hundred and _____, at _____, within the _____ aforesaid, did _____ contrary to the Statute, &c.,

And the Court (finds that the charge is proved) (convicts the defendant of the said offence);

And the Court, being satisfied on medical evidence that the defendant is a defective within the meaning of the Mental Deficiency Act, 1913 (without proceeding to a conviction) (postpones passing sentence, and) directs that a petition be presented to a judicial authority under the said Act with a view to obtaining an order that the defendant be sent to an institution or placed under guardianship;

And the Court orders the defendant to be detained in the institution for Defectives at _____ or the Place of Safety at _____ for such time not exceeding _____ as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)
 Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)
 Justice of the Peace for the (County) aforesaid.

FORM G5.

Detention Order pending Presentation of Petition in case of
Indictable Offence.

In the [*County of* *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at
the day of , One Thousand Nine Hundred
and .

A.B., hereinafter called the defendant, is this day charged for that
he, on the day of , One Thousand Nine Hundred
and , at , within the aforesaid, did

contrary to the Statute, &c.,

And the defendant having (consented to be dealt with summarily)
(pleaded guilty to the said charge) the Court (finds that the charge
is proved) (convicts the defendant of the said offence);

And the Court, being satisfied on medical evidence that the defen-
dant is a defective within the meaning of the Mental Deficiency Act,
1913 (without proceeding to a conviction) (postpones passing sentence,
and) directs that a petition be presented to a judicial authority under
the said Act with a view to obtaining an order that the defendant
be sent to an institution or placed under guardianship;

And the Court orders the defendant to be detained in the institu-
tion for Defectives at or the Place of Safety at
for such time not exceeding as is required
for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

FORM G6.

Detention Order pending Presentation of Petition in case of Child
liable to be sent to an Industrial School.

In the [*County of* *Petty Sessional Division of*].
Before the Court of Summary Jurisdiction sitting at
the day of , One Thousand Nine Hundred
and .

Whereas (here insert that one of the recitals in the Summary
Jurisdiction (Children Act) Rules, 1909, appropriate to the case),

The Court finds that the said child is liable to be sent to an
Industrial School;

And the Court, being satisfied on medical evidence that the said
child is a defective within the meaning of the Mental Deficiency
Act, 1913, postpones making an order for committal to an Industrial
School, and directs that a petition be presented to a Judicial Autho-

city under the said Act with a view to obtaining an order that the said child be sent to an Institution or placed under guardianship;

And the Court orders the said child to be detained in the Institution for Defectives at _____ or the Place of Safety at _____ for such time not exceeding _____, as is required for the presentation of the petition and the adjudication thereof.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

J.P. (L.S.)

Justice of the Peace for the (County) aforesaid.

FORM N

Notice of Reception.

To be forwarded to the Board of Control and to the Local Authority within 48 hours after the patient's reception.

I hereby give you notice that _____, formerly residing at _____, was received into my care and control as a defective in this house on _____ day of _____, 19 ____.

The following particulars relate to the said defective:—

- i. age:
- ii. sex:
- iii. Name and address of parent or guardian, or relative or other person at whose request the defective was received:
- iv. Apparent (a) nature and degree of mental defect:
- v. bodily condition:

Signed

(The person having the care of the said defective at (b) _____.

Dated the _____ day of _____, 19 ____.

the terms
of the
Mental
Deficiency Act
shall be used.

time or
order of
with
postal
order.

Certified Institutions formerly registered under Idiots Act, 1886. Draft Regulations.

REGULATIONS, DATED _____, 1914, MADE BY THE SECRETARY OF
STATE UNDER THE MENTAL DEFICIENCY ACT, 1913, AS TO
THE MANAGEMENT OF CERTIFIED INSTITUTIONS WHICH AT
THE COMMENCEMENT OF THE ACT WERE REGISTERED UNDER
THE IDIOTS ACT, 1886.

In pursuance of the powers conferred on me by the Mental Deficiency Act, 1913, I hereby make the following Regulations:—

The Management of Certified Institutions which at the commencement of the Act were registered under the Idiots Act, 1886.

The Institution shall be managed by the existing Committee or Board of Management hereinafter called the Committee unless and until the Board may approve of other arrangements. The names of the Committee shall be published in the Annual Report of each Institution.

The Committee shall keep the Institution in proper repair and condition and shall see that no part of it is used for other purposes than those for which it has been approved.

The Committee shall be responsible for seeing that the patients received in the Institution are suitably and properly fed, clothed, trained and employed, and that the provisions of the Act and of the Regulations made thereunder are observed.

The Committee shall carry out the Regulations with respect to the issue, expenditure and accounting for the Government contribution.

The Committee shall meet monthly or oftener if necessary and shall regularly and frequently visit and inspect the Institution.

The Committee shall examine the general books kept in the Institution, and shall enter in the visitors' book any remarks they think proper in regard to the condition and management of the Institution and the patients therein, and shall sign the book upon every visit.

The Committee shall in every year lay before their Members or subscribers a report in writing of the state and condition of the Institution, as to its sufficiency to provide the accommodation required by the managers, as to its management, and the conduct of the officers and servants, and the care of the patients therein, and shall send a copy of the Report to the Board.

The Committee shall on or before the 1st October, 1914, prepare and submit to the Board rules for the government of the Institution, and such rules, when approved by the Board, with such modifications and additions as the Board may deem advisable, shall be printed and observed. No alterations shall be made in the Rules without the approval of the Board. These rules shall be known as "Institution Rules." Such additions and modifications shall from time to

time be made in the Institution Rules as the Board may deem expedient.

The Committee shall appoint a superintendent who shall be in charge of, and who must be resident in, or in the immediate vicinity of, the Institution. Before the appointment is made they shall submit to the Board for their approval the name and qualifications of the person whom they propose to appoint, and the Board may by order in writing direct that the superintendent shall be a qualified medical practitioner.

- (a) In the event of the superintendent not being a qualified medical practitioner the Committee shall appoint a non-resident medical officer, who shall visit the Institution at least once in every week and, in addition, as often as the Committee may from time to time by resolution direct, and make such reports as are required of him.
- (b) In the event of a resident medical officer being appointed he shall, if the Board so direct, be the superintendent of the Institution.
- (c) The superintendent shall have paramount authority in the Institution, subject to that of the Committee, he shall have control over all the officers (excepting the non-resident medical officer), attendants and servants, including the power of suspension, and shall superintend and direct their duties as prescribed by the Committee.
- (d) The superintendent shall not be dismissed without the consent of the Board.

The Committee shall also appoint such other officers and servants as to the Board may seem necessary; the salaries, wages, and remuneration of every person appointed shall be fixed by the Committee but shall, if the Board see fit in any instance to direct, be subject to the approval of the Board.

The accounts of the Institution shall be audited once a year by an accountant or other auditor to be approved by the Board.

The Board may, if they think fit, prescribe the form in which the accounts of the Institution shall be kept, and the day of the year to which they are to be made up.

The Committee shall within one calendar month next after the accounts shall have been audited send to the Board an abstract of the accounts in such form as the Board shall from time to time prescribe.

The Committee shall issue written instructions (not inconsistent with the Institution Rules) setting forth the description of officers and servants and their respective duties.

The Committee shall submit to the Board the arrangements which they propose for the holding of religious services and for securing as far as is practicable that religious services shall be held for, and religious instruction given to, the patients according to their religious persuasion, and such arrangements as are approved by the Board shall be observed.

The Committee shall determine the diet of the patients subject to any directions which may be given by the Board.

If the Committee at any time notify to the Board that they wish to surrender, with respect to the whole or any part of the Institution, the status of a Certified Institution, it shall be lawful for the Board, if they think fit, to accept such surrender; and from the date of such acceptance, as announced in the London Gazette, the Institution or such parts of it as are specified in the announcement, shall cease to be a Certified Institution.

If the Institution is not properly conducted it shall be lawful for the Board by order under its Seal to determine the status of the Institution as a Certified Institution; and from the date, as announced in the London Gazette, at which such an order comes into operation, the Institution shall cease to be a Certified Institution.

Before any alteration or addition is made in or to the Institution or its appurtenances, the Committee shall give notice thereof in writing to the Board. Such notice shall be accompanied by a full description of the proposed alteration or addition with plans drawn to a scale of 16 feet to 1 inch. No such alteration or addition shall be carried out without the approval of the Board.

One of His Majesty's Principal
Secretaries of State.

Whitehall,

, 1914.

Lunacy Commissioners and Officers. Transfer of Powers and Duties. Order in Council.

ORDER IN COUNCIL UNDER SECTION 65 OF THE MENTAL DEFICIENCY ACT, 1913 (3 & 4 GEO. 5, c. 28), AS TO THE TRANSFER OF POWERS AND DUTIES OF THE COMMISSIONERS IN LUNACY AND THEIR OFFICERS TO THE COMMISSIONERS AND OFFICERS OF THE BOARD OF CONTROL.

At the Court at Buckingham Palace, the 9th day of March, 1914.
PRESENT.

The King's Most Excellent Majesty in Council.

Whereas by section 22 of the Mental Deficiency Act, 1913, a Board of Control (in the said Act referred to as "the Board") has been constituted;

And whereas by section 65 of the said Act it is enacted that "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:

"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":

Now, therefore, His Majesty, by and with the advice of His Privy Council, and by virtue of the authority committed to Him by the Mental Deficiency Act, 1913, and of all other powers enabling Him in that behalf, is pleased to order, and it is hereby ordered, as follows:—

As from the commencement of the Mental Deficiency Act, 1913, hereinafter called "the Act":

1. Save as hereinafter provided, anything which under the Lunacy Acts, 1890 to 1911, is required or authorised to be done by, to, or in respect of any one, or more than one, or any specified number of

Commissioners in Lunacy shall be done by, to, or in respect of any one Commissioner or any number of the Commissioners under the Act; and anything which is required or authorised to be done by, to, or in respect of any Officer of the Commissioners in Lunacy shall be done by, to, or in respect of a corresponding Officer of the Board; and the Secretary or any Assistant Secretary to the Board shall be deemed to be an Officer corresponding to the Secretary to the Commissioners in Lunacy.

Provided as follows :—

- (1) Where by the Lunacy Acts, 1890 to 1911, any such thing is in the alternative required or authorised to be done by, to, or in respect of the Commissioners in Lunacy nothing in this Order contained shall be construed to prevent its being done by, to, or in respect of, the Board.
 - (2) Where, by the Lunacy Acts, 1890 to 1911, anything is required or authorised to be done by, two or not less than two, or by two or more, of the Commissioners in Lunacy, one of whom is required to be a medical practitioner or medical Commissioner in Lunacy and one to be a barrister or legal Commissioner in Lunacy, the Commissioners under the Act doing any such thing shall be or shall include one medical and one legal Commissioner.
2. In the case of the temporary illness or disability of a legal or medical Commissioner under the Act, 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 as long as the illness or disability continues; and such substitute while he so acts shall be deemed to be a legal or medical Commissioner (as the case may be) under the Act for the purposes of this Order.
3. If a medical or legal Commissioner under the Act, after resigning his office, is appointed an unpaid Commissioner, he may upon the request of the Board perform any duty under the Lunacy Acts, 1890 to 1911, which he might have performed before his resignation, and shall be deemed in respect of any duty he is so requested to perform to be a medical or legal Commissioner (as the case may be) under the Act for the purposes of this Order.

ALMERIC FITZROY.

Rules under Section 29 of the Summary Jurisdiction Act, 1879, and Section 44 (5) of the Mental Deficiency Act, 1913.

THE SUMMARY JURISDICTION (MENTAL DEFICIENCY ACT), PROVISIONAL RULES, 1914, DATED MARCH 20TH, 1914.

I hereby certify in pursuance of section 2 of the Rules Publication Act, 1893, that on account of urgency the following Rules should come into immediate operation, and in pursuance of the powers conferred on me by section 29 of the Summary Jurisdiction Act, 1879, and section 44 (5) of the Mental Deficiency Act, 1913, I hereby make the following Rules to come into operation forthwith as Provisional Rules:—

PROCEDURE TO DETERMINE PLACE OF RESIDENCE.

Rule 1.—Whenever a Court of Summary Jurisdiction has to determine the place of residence of a defective, it shall have the same powers as in the case of a complaint upon which an order can be made under the Summary Jurisdiction Acts, and the Summary Jurisdiction Acts shall apply to such proceedings accordingly.

APPLICATION FOR TRANSFER OF LIABILITY.

Rule 2.—The Petty-Sessional Court to which a Council aggrieved by a decision as to the place of residence of any person, may apply for a transfer of the liability for the cost of the conveyance, reception and maintenance of such person shall, where the decision was given by a Judicial Authority or a Court of Summary Jurisdiction, be a Petty-Sessional Court acting in and for the place in which the decision was given, and in the case of an order made by the Secretary of State, shall be a Petty-Sessional Court having jurisdiction within the area of the aggrieved Council.

NOTICE TO COUNCIL BEFORE AN ORDER FOR DETERMINING PLACE OF RESIDENCE OR TRANSFER OF LIABILITY.

Rule 3.—No order determining the place of residence of a defective or for the transfer of liability shall be made unless a summons has been served at least five days before the hearing thereof upon the Council which by virtue of the Order will be responsible for the cost of the conveyance, reception and maintenance of the defective.

. FORMS.

Rule 4.—The forms in Schedule A, or forms to the like effect, may be used with such variations as circumstances may require for the purposes of the Mental Deficiency Act, 1913.

TITLE.

Rule 5.—These Rules may be cited as the Summary Jurisdiction (Mental Deficiency Act) Provisional Rules, 1914.

Dated the 20th day of March, 1914.

(Sd.) HALDANE,

Lord Chancellor.

FORMS.

SCHEDULE A.

I.

Mental Deficiency Act, 1913, section 44 (1).

APPLICATION FOR ORDER DETERMINING PLACE OF RESIDENCE.
COMPLAINT.

In the County of Petty-Sessional Division of
the day of One thousand nine hundred and .

The complaint of A.B. (here set forth status of A.B.) who states that on the day of One thousand nine hundred and an order was made at the (Assizes) (Quarter Sessions) holden for () (ordering C.D., a defective, to be sent to the Certified Institution at) (appointing E.F. to be the Guardian of C.D., a defective) and specifying the County (Borough) of as the place of residence of the said C.D., and who claims that the County (Borough) of should be determined to be the place of residence of the said C.D.

Made before me

Justice of the Peace for the (County) of
(L.S.) this day of , 19

II.

Mental Deficiency Act, 1913, section 44 (1).

ORDER ON APPLICATION FOR DETERMINATION OF PLACE OF
RESIDENCE.

In the County of Petty-Sessional Division of
Before the Court of Summary Jurisdiction sitting at

On the complaint of A.B. (here set out status of A.B.) it is adjudged that C.D., a defective, who at the (Assizes) (Quarter Sessions) holden at on the day of One thousand nine hundred and , was (ordered to be sent to the Certified Institution at) (placed under the Guardianship of E.F.) resided in the (County) (County Borough) of

Dated the day of 19 .

(L.S.) Justice of the Peace for the (County) of

III.

Mental Deficiency Act, 1913, section 44 (3).

APPLICATION FOR AN ORDER TRANSFERRING LIABILITY.

In the County of Petty-Sessional Division of

The complaint of A.B. (an officer of) (authorised by) and on behalf of the Council of the (County) (Borough) of who states that on the day of One thousand nine hundred and , an Order was made by directing that C.D., a defective, should be (sent to a Certified Institution) (placed under Guardianship) and specifying the (County) (Borough) of as the place in which the said C.D. resided, and who claims that the liability of the Council of the County (Borough) of should be transferred to the County (Borough) of .

Made before me

Justice of the Peace for the (County) of
(L.S.) this day of , 19

IV.

Mental Deficiency Act, 1913, section 44 (3).

ORDER ON AN APPLICATION FOR TRANSFER OF LIABILITY.

In the County of Petty-Sessional Division of
Before the Petty-Sessional Court sitting at

On the complaint of A.B. (here set out status of A.B.) it is adjudged that C.D., a defective, who on the day of One thousand nine hundred and was ordered to be (sent to an Institution) (placed under Guardianship), the County (Borough) of being specified in the Order as the place where the said C.D. resided, was resident in the County (Borough) of and that the liability of the said Council of the County (Borough) of is accordingly transferred to the said Council of the County (Borough) of .

Dated the day of 19 .

(L.S.) Justice of the Peace for the (County) of

(L.S.) Justice of the Peace for the (County) of

Provisional Regulations under Section 30, proviso (ii.), of the Mental Deficiency Act, 1913.

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE
WITH THE CONCURRENCE OF THE LOCAL GOVERNMENT
BOARD UNDER SECTION 30, PROVISO (ii.), OF THE ACT.

I hereby certify in pursuance of section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and in pursuance of the powers conferred on me by section 30, proviso ii., of the Mental Deficiency Act, 1913, I hereby make the following Regulations to come into operation forthwith as Provisional Regulations:—

I. When a Poor-Law Authority has reasonable cause to believe that a person receiving relief under the Acts relating to the relief of the poor is a defective subject to be dealt with under section 2 (i.) (b) of the Mental Deficiency Act, 1913, and that any of the following circumstances exist and that they constitute a special reason why the alleged defective should be dealt with under the said Act the Authority may report the case to the Local Government Board.

The circumstances which may be deemed to constitute a special reason may be

(i.) that the alleged defective is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Guardians:

(ii.) that the alleged defective is a woman in receipt of Poor-Law relief at the time of giving birth to an illegitimate child or when pregnant of such child, or is a prostitute, or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage or favour her seduction or prostitution:

(iii.) that in his own interest the alleged defective requires care, protection and control which would not be available if he ceased to be provided for under the Poor-Law and that he is likely to take his discharge from the Institution:

(iv.) that the alleged defective is a moral imbecile or has diseases, infirmities or habits which make his retention in the Workhouse undesirable and his detention in an institution for defectives desirable.

II. The Report referred to in the foregoing paragraph may be made in the Form in the Schedule annexed, or a Form to the like effect.

III. If the Board of Control is satisfied that the Local Authority is able and willing to provide supervision, guardianship, or accommodation in accordance with section 30 of the Act for any alleged defective so reported to the Local Government Board, it may, if it thinks fit, issue a certificate that such defective shall be excepted from the provision of the said section which directs that local authorities under the Act shall not have any duties with respect to defectives who for the time being are provided for by Poor-Law authorities.

IV. Such reports and certificates as are above referred to may be made and issued more than once in respect of the same defective, if occasion requires.

Dated the 20th day of March, 1914.

(Sd.) R. McKenna,

One of His Majesty's Principal Secretaries of State.
The Local Government Board concur in the foregoing Provisional Regulations.

20th March, 1914.

(Sd.) HERBERT SAMUEL, President.

Mental Deficiency Act, 1913, Section 30, Proviso (ii.).

SCHEDULE.

Form of Report.

Union of—————in the County [Borough] of—————

1. The Guardians of the above-named Union hereby report to the Local Government Board that A.B., who is in receipt of (outdoor) relief [in the —————(1) at —————] is in their opinion a defective subject to be dealt with under section 2 (i.) (b) of the Mental Deficiency Act, 1913, being a person who is(2)—

- (a) found neglected,
- (b) found abandoned,
- (c) found without visible means of support,
- (d) found cruelly treated,
- (e) an habitual drunkard within the meaning of the Inebriates Acts, 1879-1900,
- (f) a woman who has recently given birth to an illegitimate child, and was at the time of such birth in receipt of relief,
- (g) pregnant of an illegitimate child and in receipt of relief,

and that the following circumstances exist, and that they constitute a special reason why the said A.B. should be dealt with under the said Act, viz. :—(3)

(i.) that A.B., the alleged defective, is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Guardians:

(ii.) that A.B., the alleged defective, is a woman in receipt of Poor-Law relief at the time of giving birth to an illegitimate child or when pregnant of such child, or is a prostitute or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage, or favour her seduction or prostitution:

(iii.) that A.B., the alleged defective, in his own interest requires care, protection, and control which would not be available if he ceased to be provided for under the Poor-Law and that he is likely to take his discharge from the Institution:

(1) Name the institution.

(2) (3) Strike out the headings which are not applicable.

(iv.) that A.B., the alleged defective, is a moral imbecile or has diseases, infirmities, or habits which make his retention in the Workhouse undesirable and his detention in an institution for defectives desirable:

2. The Guardians further report that the said A.B. was (has not to their knowledge previously been) reported to the Local Government Board (on the ——— day of ———, 19——) with a view to his being dealt with under the said Act.

Dated the ——— day of ———, 19——.

Clerk to the Guardians.

[**Note.**—In the *Poor-Law Officers' Journal* of the 20th November, 1914, under head of "Departmental Decisions," the following is given:—

The Ormskirk Guardians reported to the Local Government Board the case of a mental defective chargeable to the Ormskirk Union on their "reasonable cause to believe" that the defective was subject to be dealt with under section 2 (1) (b) of the Act. The chargeability in the case had been a continuing one from before the Act came into operation. The reply the Clerk to the Guardians received was as follows:—

Local Government Board, Whitehall, S.W.,
31st October, 1914.

Sir,—I am directed by the Local Government Board to advert to your letter of the 20th instant, relative to the case of [A.B.] a defective person now chargeable to the Guardians of the Ormskirk Union and in respect of whom a report has been forwarded under the provisional regulations made in pursuance of section 30, proviso (ii.), of the Mental Deficiency Act, 1913. The Board direct me to explain that these regulations only apply to the case of defectives who are subject to be dealt with under section 2 (1) (3) of the Act, and they concur with the Board of Control in the view that the conditions prescribed by this section are applicable only where such conditions have arisen since the date upon which the Act came into operation, and that the procedure contemplated by the regulations is operative only in regard to those defectives who are found since the operation of the Act neglected, abandoned, etc., and in respect of whom the necessary steps under the Act are taken within a reasonable time after the finding takes place. The Board observe that the case referred to in your letter is that of a defective who had become chargeable to the Guardians prior to the date upon which the Act came into operation, and it therefore appears that it cannot be held to be within the terms of section 2 (1) (3) of the Act.—I am, Sir, your obedient Servant,

NOEL T. KERSHAW, Assistant Secretary.

The Clerk to the Ormskirk Union.]

Provisional Regulations under Section 30, proviso (iii.) of the Mental Deficiency Act, 1913.

PROVISIONAL REGULATIONS MADE BY THE SECRETARY OF STATE WITH
THE CONCURRENCE OF THE LORD CHANCELLOR, PURSUANT TO SECTION
30, PROVISO (iii.), OF THE ABOVE ACT.

I hereby certify in pursuance of section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and in pursuance of the powers conferred on me by section 30, proviso iii., of the Mental Deficiency Act, 1913, I hereby make the following Regulations to come into operation forthwith as Provisional Regulations:—

I.

The powers conferred and the obligations imposed on local authorities by section 30 of the Mental Deficiency Act shall apply to defectives of the following classes, notwithstanding the fact that they are for the time being, or might be, provided for by local authorities under the Lunacy Acts, 1890 to 1911:—

- (a) Defectives in an institution for lunatics or continuing on the books of an asylum pursuant to section 26 (2) of the Lunacy Act, 1890, in respect of whom the Board of Control certify to the local authority that, having regard to the needs of the defectives in the matter of care, training and employment, it is expedient that they should be dealt with under the Mental Deficiency Act:
- (b) Defectives remaining or detained in a workhouse or in an asylum provided under the Metropolitan Poor Act, 1867, under the authority of a certificate of the Medical Officer or of an Order under the hand of a Justice, pursuant to section 24 of the Lunacy Act, 1890, in respect of whom the Board of Control has issued such a certificate as is mentioned above:
- (c) Defectives discharged not recovered from an institution for lunatics and detained in a workhouse pursuant to section 25 of the Lunacy Act, 1890, in respect of whom the Board of Control has issued such a certificate as is mentioned above:
- (d) Defectives who are not for the time being provided for by local authorities under the Lunacy Acts, 1890 to 1911, but who might be so provided for, if the Board of Control, on the application of the local authority under the Mental Deficiency Act, consents to their being dealt with under that Act.

If any defective certified under paragraph (a) of No. 1 of these Regulations is sent to an institution for defectives or placed under guardianship, he shall, from the date of the order, cease to be a patient on the books of the asylum.

III.

A certificate given by the Board of Control under these Regulations shall be addressed to the local authority of the district where the defective resided before his removal to the institution for lunatics, workhouse or asylum provided under the Metropolitan Poor Act, 1867.

IV.

Nothing in these Regulations shall relieve local authorities under the Lunacy Acts from the obligations imposed on them by section 238 and section 247 of the Lunacy Act, 1890.

V.

Nothing in these Regulations shall be deemed to remove or modify the powers conferred and the obligations imposed on Constables, Relieving Officers, Overseers, Medical Officers, Officers of Unions, Justices of the Peace, Medical Practitioners, Commissioners in Lunacy or other persons by sections 13, 14, 15, 16, 17, 19, 20, 21, 22 and 23 of the Lunacy Act, 1890.

VI.

These Regulations may be cited as the Mental Deficiency Act (Lunatics) Provisional Rules, 1914.

Dated the 20th day of March, 1914.

(Sd.) R. McKENNA,
One of His Majesty's Principal
Secretaries of State.

I concur in the foregoing Provisional Regulations.

(Sd.) HALDANE,
Lord Chancellor.

Dated the 20th day of March, 1914.

Home Office Circular Letter to County and County Borough Councils.

Home Office, Whitehall, S.W.,

22nd December, 1913.

Sir,—I am directed by the Secretary of State to transmit to you herewith a copy of the Mental Deficiency Act, 1913, which comes into operation on the 1st April next, and I am to request that you will call the attention of your Council to the important powers and duties which they will be called upon to exercise as Local Authority under the Act.

The object of the Act is to make better provision for the protection and control of a large number of mentally defective persons who are not and cannot be satisfactorily dealt with under the powers heretofore available. Definitions of the several classes of mentally defective persons which were framed carefully by Parliament on the basis of suggestions made by the Royal College of Physicians will be found in section 1: but it is to be observed that persons who are defectives cannot be dealt with under the Act except at the instance of a parent or guardian, unless they come within one of the categories set out in section 2 (1) (b). The methods of dealing with such persons under the Act are twofold—first, the voluntary action of their parents or guardians (section 3), and, alternatively, the action of local authorities, of Courts of Criminal Jurisdiction, or of the Secretary of State (sections 5, 8, 9).

The general scheme of the Act is based on the three principles: (i.) that local authorities should be empowered to assist financially and otherwise the efforts of parents or guardians to secure proper care and control for defectives for whom the latter are responsible; (ii.) that local authorities should be under an obligation, subject to their receiving due financial assistance from the State, to provide the necessary care and control (a) for defectives who are neglected or ill-used or who have fallen into crime, drunkenness, etc., (b) for defective children who are ineducable or who, having been educated at special schools, are on leaving these schools, unfit to be left without care and control; and (iii.) that the State should itself take permanent charge of defectives who have violent or dangerous propensities and consequently require closer restrictions than should prevail under the supervision and in the institutions of local authorities.

The Central Authority.

The Act sets up as Central Authority "the Board of Control," now consisting of the existing paid Commissioners in Lunacy and

five additional Commissioners (three paid, two unpaid), appointed on the recommendation of the Secretary of State for the Home Department, under whose general directions the Board will act.

By section 25 it is provided that the Board shall exercise general supervision and control over defectives, over the administration by local authorities of their powers and duties under the Act, and over the institutional treatment and the guardianship which they provide for defectives. The Board will themselves establish and maintain State institutions for defectives of violent or dangerous propensities, and they will administer the grants to be made under the Act out of money provided by Parliament. By section 41 the Secretary of State has conferred upon him extensive powers of making regulations with respect to the certification, approval, management, and visitation of institutions and homes, and the treatment of patients detained therein or kept under guardianship. These regulations will, it is hoped, be ready early next year. The Board will by Mr. McKenna's directions issue circulars to local authorities bringing these regulations to their knowledge and explaining them as well as other points relating to their functions under the Act. Full information will also be given as to the mode of distribution of the Government grants by the Board and the conditions under which they can be earned.

In accordance with section 65 of the Act all the powers and duties of the Commissioners in Lunacy under the Lunacy Acts will on the 1st of April next be transferred to the Board of Control. The Board will accordingly become from that date the central authority under those Acts also; and, subject to the provisions of an Order in Council which will be made to come into operation on that date, everything which is required or authorised to be done to, by, or in respect of Commissioners in Lunacy or any officer of theirs will in future be done to, by, or in respect of Commissioners of the Board of Control or the corresponding officer of the Board.

The duties of the Local Authority under the Lunacy Acts with respect to the provision of asylums and other matters will thenceforth be carried out in consultation with and under the supervision of the Board of Control, who will be the medium of communication between the authorities and the Secretary of State.

The Local Authority.

The Local Authority under the Act is the Council of the County or of the County Borough (section 27); and it is laid down (section 28) that every Local Authority shall constitute a committee for the purposes of the Act to which shall stand referred all matters relating to the exercise of the powers of local authorities under the Act except the power of raising a rate or borrowing money, and to which may be delegated all the powers of the Local Authority with the same exception. This Committee may be constituted at the discretion of the Council in any of the ways mentioned in section 28, and it is open to the Council to apply under section 66 for an Order of the Secretary of State authorising the appointment of the Committee, when established, to be also the Visiting Committee or Asylums Committee under the Lunacy Acts.

It will often be expedient that two or more local authorities should join for the purposes of the execution of all or some of their

duties under the Act, and by section 29 provision is made to enable this to be done by the constitution in such circumstances of a Joint Committee or Joint Board.

Duties of Local Authorities.

The general duties of local authorities are summarized in section 30. They must

(a) ascertain what persons within their area are defectives subject to be dealt with under this Act otherwise than under paragraph (a) of sub-section 1 of section 2 of the Act;

(b) provide suitable supervision for such persons, or if such supervision affords insufficient protection, take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship;

(c) provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under the Act, and for their maintenance therein, and for the conveyance of such persons to and from such institutions;

(d) make provision for the guardianship of such persons when placed under guardianship by orders under the Act;

(g) appoint or employ sufficient officers and other persons to assist them in the performance of their duties;

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

But their obligation to perform the duties mentioned in paragraphs (b), (c), (d), and (g) above quoted arises only where the contribution out of money provided by Parliament towards the cost on income account of performing such duties amounts to one-half of the net amount as approved by the Board of such cost [section 30, proviso (i.)].

The obligation of local authorities is still further limited by the following important provisos [section 30 (ii.), (iii.)]:—that they shall not have any duties with respect to defectives who for the time being are being provided for by Poor-Law Authorities under the Acts relating to the relief of the poor, nor with respect to defectives who for the time being are, or who might be, provided for by Local Authorities under Lunacy Acts. There will be certain exceptions to these two provisos determined by regulations to be made by the Secretary of State and the other Government Departments concerned: these regulations are now under consideration and will be communicated later to local authorities by the Board of Control.

Finally, local authorities are not placed under any obligation to deal with defective children between seven and sixteen years of age except those whose names and addresses have been notified to them by the local education authority. Such notifications will be made in accordance with regulations to be issued presently by the Board of Education, and upon receipt of these regulations, and of those referred to in the last paragraph, local authorities will become fully aware of the whole scope of their obligations under the Act.

In the meanwhile, it is unnecessary to add to the clear enumeration in section 30 of the duties incumbent on local authorities. It may be convenient, however, to point out that the duty imposed upon them [section 30 (a)], to ascertain the number of persons in

their area who are defectives subject to be dealt with under the Act otherwise than by the voluntary act of their parents or guardians does not confer upon local authorities or their officers the right to make domiciliary visitations without the consent of the occupiers or to carry out inquiries in other ways which might reasonably be regarded as inquisitorial and objectionable. Section 15 (2) enacts that "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." This procedure should be used when it is suspected on reasonable grounds that there is actual neglect or illusage of a defective to whom access cannot otherwise be obtained but apart from the powers given by this sub-section the Act does not authorise the forcible entry of premises or the forcible removal of a defective for the purpose of the local authority's investigations.

The supervision which the local authority is enjoined [section 30 (b)], to exercise over defectives will be carried out by its own officers acting either alone or in co-operation with the local voluntary societies which are hereinafter referred to. It is to be hoped that the watchful supervision of the local authority will be effectual not only to discover and provide an immediate remedy for cases in which defectives are cruelly treated, or left without the protection which their helpless condition demands, but also to furnish such advice, warnings, and assistance to the relatives of defectives as will in many instances enable their requirements to be met in their own homes without resort to the more costly methods of guardianship and detention in institutions.

The County Council will observe that the duty imposed upon them by Section 30 (c) and (d) to provide guardianship or institutional accommodation for defectives covers all cases dealt with under "Order" (Section 4), whether the Order be that of a judicial authority or of a court of criminal jurisdiction or of the Secretary of State. It will be the duty of the Local Authority, subject to their receiving the Treasury contribution, to provide the necessary accommodation for the detention or guardianship of all defectives so committed, except those of violent and dangerous propensities, who may be admitted or transferred on the authority of the Secretary of State to a State institution.

The cost of the maintenance of defectives under "Order," which will have to be met jointly by the Local Authority and the Treasury will be substantially reduced if adequate effect is given to the provisions of sections 13 and 14 of the Act, under which reasonable contributions may be ordered to be paid by the defective or any person liable to maintain him towards the expenses of his mainten-

ance in an institution or under guardianship, and any charges incidental thereto. The report of the Royal Commission on the Feeble Minded recognised the fairness and the expediency of such Orders for contribution, and it will be the duty of Local Authorities to take the necessary steps to obtain Orders in all cases where the circumstances of the defective or his relatives are such as to justify them.

Permissive Powers of Local Authorities.

Local authorities are given by section 30 (e) substantial powers of assisting and protecting even those defectives who are not included in the classes in respect of whom their intervention is obligatory. They may "if they think fit, 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." The assistance given in these cases is discretionary with the local authority, and will not be aided by contributions from the Treasury; moreover, the expense which may be incurred by the Local Authority in rendering it must not in any one year exceed an amount equal to that which would be produced by a rate of one-halfpenny in the pound: see section 33 (1). There is undoubtedly a wide field within which these permissive powers can be exercised by a Local Authority to the great benefit of defectives within their area and the relief of persons responsible for their care. There are everywhere to be found defectives living in their own homes who are not, it is true, neglected or ill-treated or allowed to fall into crime, but who impose a heavy burden on their parents or relatives, whose presence among them is detrimental to the rest of the family, and who cannot at home receive the training and treatment which is essential in order to make the most of their faculties and to stave off degeneration. In many such cases the relatives could afford to pay a small, in some instances a substantial, contribution to the cost of the maintenance of the defective in a suitable institution; and Local Authorities would be carrying out a useful work in assisting the relatives to secure this advantage by pecuniary grants or the provision of accommodation at low charges.

Modes of Providing Accommodation.

Subject to the approval of the Secretary of State, Local Authorities are empowered by section 38 of the Act to establish and maintain, either alone or in combination with other Local Authorities, certified institutions for the reception of defectives, or they may contract with the Managers of any certified institution for the reception therein of the defectives for whom they are required or authorised to make provision. Similar contracts may, under section 37, be entered into with Boards of Guardians who have provided premises specially fitted for the detention, care, and training of defectives, and have had them approved by the Board of Control for the purpose of such detention. The section requires that the application for the approval of the Board shall be made by the Local Authority under the Mental Deficiency Act; and it should be understood that it will be useless to seek the authority of the Board for the use of ordinary workhouse accommodation for the detention of

defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein.

The conditions under which institutions will be certified or approved and the regulations for the management of such Institutions will be communicated to you shortly by the Board of Control.

Ascertainment of Responsible Local Authorities.

The responsibility of providing accommodation in institutions or guardianship, as the case may be, for a defective ordered to be sent to an institution or to be placed under guardianship is fixed by sections 43 and 44 of the Act on the Council of the County or County Borough in which the defective resided; but the Local Authority concerned has to be given an opportunity of making representations before any such order is made. Any Council aggrieved by a decision as to the place of residence of any person may appeal to a petty sessional court; but it is not anticipated that difficulty will often arise in ascertaining which Council is responsible. It is understood that few cases of dispute have arisen under the analogous provisions of section 74 of the Children Act.

Societies for the Assistance of Defectives.

It is provided by section 48 that where a Society has undertaken the duty of assisting or supervising defectives whilst not in institutions grants of money may be made by the Treasury in aid of the expenditure of the Society in connection with such persons. Such Societies already exist in certain localities, working mostly for the benefit of juvenile defectives; and they are likely to increase in number as the Act comes into effective operation. The Secretary of State believes that voluntary Associations with these objects may, when their active members are discreet and public-spirited persons, prove to be valuable helpers of the Local Authorities in the execution of certain portions of their delicate duties. Where Local Authorities are satisfied that they can properly avail themselves for certain purposes of the assistance which voluntary Societies may offer within their area, the adoption of such a policy may be expected to bring about some economy, and to tend towards the smooth working and general acceptance of the Act.

The Secretary of State feels assured that he can rely on the energetic co-operation of the Local Authorities with the Board of Control in giving effect to the valuable provisions which the Mental Deficiency Act contains for the protection and care of the numerous persons who are congenitally so deficient in understanding and self-control that they cannot be neglected without detriment to the community and much suffering to themselves.

I am, Sir, Your obedient Servant,

EDWARD TROUP.

The Clerk to the
County Council of.....

Home Office Circular to Justices on the Provisions of the Mental Deficiency Act, 1913.

Home Office,

2nd April, 1914.

Sir,—I am directed by the Secretary of State of request that you will call the attention of the Justices of your Bench to the provisions of the Mental Deficiency Act, 1913, which came into operation on April 1st, 1914, and under which important powers are conferred on the Courts in dealing with mentally defective persons brought before them.

Definition of Defectives

Definitions of the various classes of persons who are mentally defective within the meaning of the Act, carefully framed by Parliament on the basis of suggestions made by the Royal College of Physicians, are contained in section 1, which enacts as follows:—

“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.”

Power to deal with Defectives.

Defectives coming within these definitions can be *dealt with under the Act* by being sent to an Institution or placed under Guardianship, but only in the circumstances which are set out in detail

in section 2. The provision in that section which chiefly concerns Courts of Summary Jurisdiction is that which provides that a person who is a defective may be *dealt with under the Act* "if in addition to being a defective he is a person who is *found guilty of any criminal offence*, or who is* ordered or found liable to be ordered to be sent to an Industrial School."

A defective subject to be dealt with under the Act "may be so dealt with under the Order of a Court" if he be "found guilty of a criminal offence punishable in the case of an adult with imprisonment or penal servitude," or (in the case of a child brought before a Court under section 58 of the Children Act, 1908) if he be "found 4 (b).)

liable to be ordered to be sent to an Industrial School." (Section

The powers which Courts have heretofore possessed of dealing with the various sorts of mental defectives who are brought before them have proved altogether inadequate; and the power now given of placing such persons under guardianship or in detention in Institutions as provided by the Mental Deficiency Act will, the Secretary of State feels sure, prove to be a valuable resource for the Courts and a benefit to defective offenders, who are in many instances but little deterred by punishment, and who require close supervision and control to save them from frequent relapse into crime and further mental degeneration.

Procedure.

The procedure to be followed with mentally defective persons who are found guilty by a Court of competent jurisdiction is set out in section 8 of the Act.

The Court, if satisfied on medical evidence that the person charged is a defective within the meaning of the Act, may either

- (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 the 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) *itself make any order which a Judicial Authority might have made.*

A Judicial Authority, and therefore the Court, may (section 6 (3)) make any of the following orders:—

- (1) It may order a defective who is a person of dangerous or violent propensities to be sent to a State Institution, provided under section 35 of the Act, if the Managers—i.e., the Board of Control—are willing to receive him;
- (2) It may order a defective to be sent to a Certified Institution, the Managers of which are willing to receive him;

* Children are liable to be sent to industrial schools when charged with the offences or found in the circumstances set out in the Children Act, 1908, section 58.

- (3) It may order a defective to be sent to a Certified House (section 49 (2)), the owner of which is willing to receive him; or
- (4) It may order a defective to be placed under guardianship.

A defective sent to a State Institution will be maintained at the cost of the State; one sent to a Certified Institution, or placed under guardianship, will be maintained partly at the cost of the State, and partly by the Local Authority; subject in either case to contributions from the defective or the person liable to maintain him. Neither the State nor the Local Authority under the Act has power to contribute towards the expenses of defectives in Certified Houses, and defectives may not, therefore, be sent to such Houses unless the whole cost of their conveyance and maintenance can be provided from other sources.

If the charge is one which the Court has power to deal with summarily, the Court, if it finds that the charge is proved, may deal with the case under the Mental Deficiency Act without proceeding to a conviction. (Section 8 (1).)

The Court may in dealing with a defective either act on the medical evidence given at the trial or call for further evidence. (Section 8 (2).)

It is the duty of the Police when any person charged with an offence appears to them to be a defective to communicate with the Local Authority, to bring before the Court such evidence of his mental condition as may be available, and to give notice to the person charged and to his parent or guardian, if known. (Section 8 (5).)

When the Court does not itself deal with the case but directs a petition to be presented, the Court may order the defective to be maintained in an Institution for defectives or in a place of safety, pending the presentation of the petition and the adjudication thereof. (Section 8 (3).) A definition of the term "a place of safety" is given in section 71. When a defective is remanded or committed for trial, the Court may direct him to be detained in an Institution or to be placed under the guardianship of a proper person, who will have to enter into a recognisance for his appearance. (Section 8 (4).) The expenses of the maintenance of a defective who is so detained before the adjudication or trial will be borne jointly by the Local Authority and the State. The powers conferred on the Court by these sub-sections are in addition to, and not in substitution of, the power of remand already available.

Guardianship and Institution Treatment.

Where the Court is of opinion that the offender is a defective with respect to whom an order should be made under the Act, it remains to be decided whether the circumstances of the offence, and of the defective's mental and moral condition, are such as to indicate that he can be provided with adequate care and control only in an Institution, or whether, on the other hand, an order that he be placed under guardianship may be practicable and sufficient. The adoption of the latter course, whenever circumstances admit of it, will have the advantage of diminishing the charge for maintenance, and will, it is anticipated, provide in many instances the protection

which is called for in the defective's interest with less severe restrictions on his liberty than committal to an Institution involves.

In pursuance of Regulations which have been made by the Secretary of State, the Officer of the Local Authority will, it is hoped, always be in a position to supply the Court with information as to suitable persons who are competent and willing to undertake the duties of guardianship.

Some time will have to elapse before State Institutions are built and fully equipped, but every effort will be made to have an Institution of this character available for use at the earliest opportunity. There will probably be but few cases in which committal by Justices to a State Institution would be justified in the first instance, and defectives will usually be sent to Certified Institutions. It will be remembered that the Act contains wide powers (section 41 (f)) enabling transfers to be made, at any time, of persons to Institutions more suitable to their individual needs. It is hoped that every Local Authority will shortly provide a Certified Institution, either alone or in conjunction with other Local Authorities, or under contract with the managers of Institutions provided under section 36 of the Act. Such Certified Institutions will be conducted under the supervision of the Board of Control and in accordance with Regulations made by the Secretary of State.

A defective liable to be sent to a Certified Institution may in the discretion of the Court be sent instead to a Certified House, if the Court is satisfied that proper provision has been made for the cost of his conveyance to the Certified House and his maintenance therein, and any charges incidental thereto.

The Court, in determining the Institution to which a defective is to be sent must endeavour to choose an Institution conducted in accordance with his religious persuasion. (Section 17.)

Lists of Certified Institutions will be supplied by the Board of Control, so as to be available for the information of the Courts.

Section 11 of the Act contains the provisions of the Act with respect to the duration of orders of detention or of guardianship. It is enacted that the case of every defective in respect of whom an order has been made shall be reconsidered at stated intervals by the Board of Control and the Visitors under the Act, so as to secure that no defective shall be kept under public control longer than is necessary in his interests.

Cost of Maintenance.

Where an order for detention or guardianship is made, the Council of the County or County Borough *in which the defective resided* comes under an obligation to provide for the conveyance of the defective to and his reception and maintenance in an Institution, or under guardianship, and before the order is made that Council must be allowed an opportunity of being heard. (Section 43 (2).) Further, 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.

Section 44 provides that, where an order is made in respect of a person found guilty of an offence, that person shall 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. It is further provided that, where the order is made by a Court of Assize or Quarter Session, and any question arises as to the residence of the defective, 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. It is only in the rare case of there being a real doubt as to where a person resides that the question will have to be resolved as to where the defective 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. (Section 44 (4).)

Provision is made in section 13 of the Act for the making by a Judicial Authority of an order requiring a defective, or any person liable to maintain him, to contribute towards the expenses of his maintenance. The Judicial Authorities for the purpose of the Mental Deficiency Act are the same as the Judicial Authorities for the purposes of the Lunacy Acts. (Section 19.)

Part IV. (General) of the Act contains important amendments of the Criminal Law for the protection of defectives against immoral acts, ill-treatment, and improper detention, and for the due enforcement of the Act and the Regulations thereunder.

Copies of the Act, of the provisional Regulations made by the Secretary of State, and of the provisional Rules made by the Lord Chancellor pursuant to section 44 of the Act are enclosed herewith.

I am, Sir, your obedient Servant,

EDWARD TROUP.

Mental Deficiency Act, 1913.

BOARD OF CONTROL'S CIRCULAR TO COUNTY AND COUNTY BOROUGH COUNCILS.

The Board of Control.

66, Victoria Street, London, S.W.,
2nd April, 1914.

SIR,—

1.—In the Circular Letter which was issued by the Secretary of State in December last calling the attention of the Councils of Counties and County Boroughs to their powers and duties under the Mental Deficiency Act, 1913, it was intimated that the Board of Control would at an early date furnish the Local Authorities with information as to the Regulations made under the Act, as to the scheme of distribution of the Treasury Grant and other matters of administration.

2.—The Board has now received the approval of the Secretary of State and the other Authorities concerned to the Schemes and Regulations referred to below, and I have the honour to request that you will lay them before the County Council of for their guidance in the execution of their duties.

FINANCIAL.

3.—The Lords Commissioners of His Majesty's Treasury have assented to provision being made in the Estimates for the present financial year beginning on the 1st April under which when the money has been voted by Parliament the Board will have at their disposal a sum of £75,000 for the purpose of assisting Local Authorities in meeting the expenses incurred by them in carrying out their obligations under the Act.

Inasmuch as the payments of the Government Grant will be made on claims submitted quarterly by the Local Authorities and as not more than three quarterly payments can be made during the financial year 1914-15, this represents a contribution at the rate of £100,000 per annum.

In addition to this contribution, the Board will distribute to Local Authorities such sums as may be necessary to meet a proportion which will not be less than one-half of the approved cost on income account incurred by them in the maintenance of defectives sent to Certified Institutions or placed under Guardianship by the Secretary of State under section 9 of the Act or by or at the instance of a Criminal Court under section 8 of the Act. These defectives are in this Circular referred to as criminal defectives.

4.—The duties imposed on Local Authorities under Section 30 of the Act which involve expenditure towards which contributions will be made by the Board include—

- (i.) The payment of salaries, allowances and expenses of medical and other officers appointed to assist the Local Authorities in

ascertaining the number of defectives within their area with whom they have to deal, in exercising supervision over them, in taking steps when necessary to have them placed under control and generally in carrying out their duties under the Act: section 30 (g);

- (ii.) The ascertainment of the number of defectives within their area who are subject to be dealt with under section 2 (1) (b) of the Act: section 30 (a);
- (iii.) The maintenance of supervision over defectives and the taking of steps to secure when necessary that they are sent to Institutions or placed under Guardianship: section 30 (b);
- (iv.) The provision of accommodation for defectives when ordered to be sent to Certified Institutions, the conveyance of defectives thereto and removal therefrom and their maintenance therein: section 30 (c);
- (v.) The provision of guardianship for defectives, when ordered to be placed under guardianship: section 30 (d).

5.—The Board will have no funds out of which they could make direct grants towards expenditure incurred by Local Authorities in purchasing sites or erecting buildings, nor can they give financial assistance to Local Authorities in carrying out their permissive powers under the Act: section 30 (e) (f).

6.—The contribution of the Board will take the form of the payment of one-half of the net amount, as approved by them, of the cost on income account of performing the above-mentioned duties. The cost on income account will, as respects an Institution provided by a Local Authority, whether alone or in combination with other Local Authorities, 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: section 71 (2). The Government therefore will bear their due share of the cost of sites and buildings.

The Act provides that in all cases when such a contribution as above-mentioned is made by the Board the Local Authorities will come under the statutory duty imposed by section 30 to give effect to the Act with respect to such cases.

7.—The obligations of the Local Authorities extend not only to defectives dealt with by order made on a petition to a Judicial Authority, but also to criminal defectives dealt with by a Court under section 8 of the Act, or by the Secretary of State under section 9.

8.—The amount of the contribution in "criminal" cases will in general be the same as in others. The following special arrangements have been approved by the Treasury:—

A defective ordered by the Secretary of State in pursuance of section 9 of the Act to be transferred from a prison or other establishment to a Certified Institution for defectives or to guardianship may be under a sentence of imprisonment or other order authorising his detention for a fixed and definite period. In such a case the Board will, if the defective has been removed from a prison, a Borstal Institution, a place of detention, a criminal lunatic asylum or a State Inebriate Reformatory, provide the funds necessary to meet the entire cost of his maintenance during the outstanding portion of the sentence, after which, if further detention be necessary, the cost

will be divided equally between the State and the Local Authorities. If the defective before removal was undergoing Penal Servitude, the Government will meet the whole cost of his maintenance during the period which will elapse before the date upon which he would in the ordinary course be released on licence. If, however, the defective is removed from a Certified Inebriate Reformatory or from a Certified Reformatory or Industrial School where Local Authorities have heretofore been liable to contribute towards the cost of maintenance, the cost of conveyance to and detention in the Certified Institution or under guardianship will be borne in equal shares by the Board and the Local Authorities.

Where a Court before which a defective is found guilty on a criminal charge thinks fit in lieu of passing sentence to make an Order under section 8 sending the defective to an Institution or placing him under guardianship, or directs that a petition shall be presented in respect of him to a Judicial Authority and an order for detention or guardianship is subsequently made by the Judicial Authority, the Board will meet the entire cost of the defective's conveyance and of his maintenance for the first three months, after which the charges will be shared equally by the Government and the Local Authorities.

Where a defective child brought before a Court under section 58 of the Children Act is found liable to be sent to an industrial school but the Court in lieu of making an order of committal to a school makes an order sending him to an Institution or placing him under guardianship or procures the making of such an order by a Judicial Authority the cost of the child's maintenance will from the beginning be borne equally by the Local Authority and the State.

9.—The grant of £75,000 will be allotted by the Board to the various Local Authorities, in the first instance in proportion to the population of their areas. The only trustworthy evidence as to the local incidence of mental defect is that elicited by the special investigations carried out by the Royal Commission on the Feeble Minded. The report of that Commission states that in general the incidence of mental defect is alike both in town and country throughout England and Wales.

10.—On this basis the grant to be assigned initially to the County Council of.....will amount to £.....for the year 1914-15. This sum represents the maximum amount (subject to revision hereafter as provided in paragraph 12 below) which the Board will repay during the financial year 1914-15; and when added to a similar sum to be provided by the Council will make a total amount of £.....which is the limit of the expenditure in carrying out their obligatory duties under the Act to which the Council is committed for the nine months ended December the 31st, 1914, except so far as relates to "criminal" defectives. The Council may in its discretion incur further expenditure for the benefit of defectives in the exercise of its permissive powers, and such voluntary expenditure whether incurred in the care and protection of defectives generally or confined to defectives coming within section 2 (1) (b) of the Act is subject only to the enactment in section 33 (1) that it shall not in any one year exceed the produce of a rate of $\frac{1}{2}$ d. in the £ on the property assessed for the purposes of such a rate.

11.—No doubt some Local Authorities will be in a better position than others to prepare and to bring into operation at an early date schemes providing for the defectives with whom they are under an obligation to deal and so to earn their share in the Government Grant.

12.—All Local Authorities are being called upon to submit to the Board at an early date their proposals for giving effect to the Act within their area, and I am to request that you will move your Council to take this matter into their early consideration and to cause the accompanying form to be filled in with the required particulars as to their scheme and its estimated cost, and to return it to the Board of Control not later than the end of April. I am further to request that you will inform the Council that the schedule of distribution of the £75,000 Grant will be revised in July, 1914, after a consideration at that date of the proposals submitted by Local Authorities and a survey of the actual operation and of the prospects of development of the various schemes; and that a further revision may take place later in the financial year.

13.—As already stated a sum will also be at the disposal of the Board estimated to be sufficient to meet a proportion not less than one-half of the expenses incurred by Local Authorities in meeting their obligations with respect to "criminal" defectives. This sum evidently cannot be allocated to the various Local Authorities in advance, but must be distributed among them as and when each Authority becomes responsible for the maintenance of a defective dealt with by a Criminal Court or by the Secretary of State.

Local Authorities will not be put to any expense in respect of the actual maintenance in State Institutions of defectives of dangerous or violent propensities; for these the Board will provide accommodation.

14.—It is the duty of the Local Authority responsible for the maintenance of a defective to take all necessary steps to procure that a reasonable contribution towards the cost of maintenance and the expenses incidental thereto be made by the defective or by persons liable to maintain him or willing to contribute, and the estimate of their contemplated expenditure forwarded by your Council should show in the place provided in the form the sums expected to be received in this way, and to be available in reduction of the charges against local funds and the Exchequer.

15.—All claims for contributions to Local Authorities out of the funds of the Board in respect of payments made by Local Authorities must be rendered quarterly as soon as is practicable after the 30th June, 30th September and 31st December, 1914, and the 31st of March, 1915, on forms which will be supplied to you by the Board. These claims will be met by the Board as soon as the necessary examination of the accounts is completed.

16.—The amount of the cost to Local Authorities of the maintenance of defectives in Institutions or under guardianship will vary to some extent in different localities according as the Authorities are able to provide accommodation themselves without heavy expenditure or to make advantageous contracts with the Managers of Certified Institutions. The Board cannot at this stage fix maximum weekly sums beyond which they will not be prepared to approve expenditure on maintenance for the purpose of the Government Grant

But they would urge upon Local Authorities the importance of the strictest economy in every form of provision which they make for defectives who have to be supported out of public monies.

METHODS OF DEALING WITH DEFECTIVES.

17. It is hoped that in many cases where defectives are now neglected or improperly maintained in their own homes, systematic and kindly supervision will bring about a sufficient amelioration of their condition to render further steps unnecessary. If this is impracticable, it should then be considered whether guardianship in the home of some relative or other suitable person will not provide the care and control that is necessary. Guardianship will, no doubt, be impracticable in some cases unless the whole cost of the defectives' maintenance be provided, but in some instances it will be possible to provide it at no cost to the public or at the cost of a small contribution towards necessary expenditure on food and clothing.

The more costly expedient of detention in Institutions should be resorted to only when the other possible courses are obviously inadequate or prove to be attended by danger to the defective.

The Local Authority may provide Institutional accommodation in any of the three ways set out in section 38 of the Act. It may itself build or otherwise provide an Institution either alone or in combination with any other Local Authority, or may contribute towards the cost of the establishment of such an Institution by others, or it may contract for the reception of its cases in an Institution already established and certified.

It may provide accommodation for different classes or types of defectives in one or in separate Institutions, and may make provision for defectives who are in a position to pay the whole cost of their maintenance.

It is obvious that in many cases economy and other advantages will arise if Local Authorities avail themselves of the various modes of providing accommodation which are permitted by the Act. Even if the total number of the persons for whom a Local Authority is bound to provide be small, it may be taken as certain that it will include a number of different types of defectives requiring wholly different conditions of treatment and detention; for example, idiots and low grade imbeciles requiring little more than shelter and nursing, children and young persons of a higher grade who will be benefited by training, able-bodied adults of both sexes who are capable of useful employment and other classes, whom it would be difficult to provide for economically and adequately in a single establishment of moderate size.

18. The Local Authority is, in general, bound to take steps for the care and protection of all defectives, including children under seven years of age, who come within the categories enumerated in section 2 (1) (b) of the Act. Their duties are, however, limited in respect to defectives coming within these categories who for the time being are provided for by Poor-Law Authorities under the Acts relating to the relief of the poor, or who for the time being are or who might be provided for by Local Authorities under the Lunacy

Acts. The only defectives who are being so provided for in respect of whom the Local Authority will have duties are those defectives who come within one or other of the categories set out in section 2 (1) (b) and who also come within the Regulations of which copies are enclosed herewith made under section 30 (ii) and (iii) by the Secretary of State with the concurrence of the Local Government Board and of the Lord Chancellor respectively.

19. The Local Authorities have permissive powers of much wider extent than their statutory obligation to supervise and provide for certain defectives; they may in their discretion assist other defectives in their area by providing or assisting to provide maintenance in an Institution or Approved Home or under guardianship, section 30 (e).

The permissive powers given by the Act extend to all defectives whatsoever with the exception of lunatics not included within the Regulations made by the Secretary of State with the concurrence of the Lord Chancellor. The Councils are therefore the authority primarily responsible for defectives in their district needing care and protection, and it is the duty of the Board of Control to call upon them to exercise fully the functions imposed upon them for the benefit of defectives up to the limits which are now or may in future be laid down by the amount of the financial provision made by Parliament for their assistance.

20. The Act preserves to a large extent the powers of Poor-Law Authorities to provide under the Acts relating to the relief of the poor for defectives who are destitute persons; but, save as provided in section 37, it does not contemplate these Authorities making provision for persons not in need of poor relief, and the action of Poor-Law Authorities cannot discharge the Councils from their responsibility.

The powers given to a Local Authority under section 30 (e) of the Act would enable a Local Authority which thought such a course desirable to undertake the care of any defective who appealed or whose friends appealed to them for assistance, and even of defectives chargeable to Poor-Law Authorities upon the application of and under agreement with the Guardians and upon reasonable terms of payment by the latter.

By these means Local Authorities may find it practicable when their co-operation is sought by the Poor-Law Authorities to devise comprehensive schemes for the benefit of the whole of the defectives within their area.

It is, therefore, desirable that proposals of Guardians of Unions or of combinations of Unions for purposes including provision for defectives chargeable under the Poor-Laws should be taken into consideration by the Local Authorities under the Mental Deficiency Act when they are preparing schemes for giving effect to the Act within their area.

In preparing such schemes it is open to the Local Authorities, when the circumstances admit of it, to apply to the Board under section 37 of the Act for their approval of premises provided by Boards of Guardians, singly or in combination, with a view to their being used for the reception of defectives under agreement with the Local Authorities. County and County Borough Councils have

already been warned in the Circular Letter from the Home Office that it will be useless to seek the authority of the Board for the use of ordinary workhouse accommodation for the detention of defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein. Where a Poor-Law Authority or combination of Authorities is contemplating the provision of an Institution with a view to its being available for the use of a Council under section 37, it is expedient that the Council should, when applied to by the Guardians, give careful consideration to the expediency of such step and to the suitability of the proposed premises for any particular class or classes of defectives for whom they have to provide.

GENERAL DUTIES OF LOCAL AUTHORITIES.

21. The Regulations which have been made with regard to the duties of Local Authorities do not in general seem to the Board to need supplementing by any comments of their own. There are some points, however, in which it is desirable that Local Authorities should be informed of the views of the Central Authorities.

i. ASCERTAINMENT OF NUMBERS.—The duty of Local Authorities in this matter is limited to procuring and recording in the prescribed way all necessary information with respect to defectives within their area who are subject to be dealt with under section 2 (1) (b) of the Act: it would not include an investigation by domiciliary visitation or otherwise into the whole number of defectives irrespectively of whether they need or are entitled to the intervention of the Local Authority.

The sources of information most commonly available to the officers of Local Authorities will be:—

Police and Poor-Law Authorities;

Hospitals, dispensaries and sanatoria, and medical practitioners;

Common lodging-houses, shelters, refuges and charitable institutions;

Local societies working for the benefit of defectives, for the prevention of cruelty to children, and so forth;

Ministers of religion, probation officers and district nurses and visitors;

Labour Exchanges, friendly societies and working-class organisations; and

Insurance Committees.

It would not in general be right to authorize an application to a Magistrate for a warrant under section 15 (2) of the Act to enter a house for the purpose of searching for a defective believed to be neglected or cruelly treated unless they are satisfied that immediate action is necessary or that further efforts to obtain voluntary admission would be fruitless.

ii. APPOINTMENT OF OFFICERS.—It may be convenient and expedient for a Local Authority to avail itself of the services of officers

who are already employed by a Public Authority as, for instance, Medical Officers of Health, Relieving Officers, School Attendance Officers, and so forth. It is not necessary to obtain the preliminary approval of the Board of Control for such appointments; but notice should be given to the Local Government Board and to the Board of Education respectively in all cases in which a Local Authority proposes to give new duties to an officer engaged in the administration of the Poor-Law, the Laws relating to Public Health or the Education Acts.

iii. THE COMMITTEE FOR THE CARE OF THE MENTALLY DEFECTIVE.—The Regulations with respect to the provision and management of Institutions are drafted on the view that these matters will ordinarily be delegated by the Local Authority to its Committee. It is obvious that subject to a general direction as to the mode in which accommodation is to be provided and as to the expenditure to be incurred, the Committee constituted in the manner provided by the Act may with advantage be furnished with full powers of control and management, including such matters as the appointment and regulation of the staff of Institutions, the selection of persons suitable for guardianship, the mode of dealing with individual defectives, and so forth.

iv. LOCAL SOCIETIES SUPERVISING AND ASSISTING DEFECTIVES.—The Board entirely concur in the view which has been expressed to you by the Secretary of State as to the probable value of the services of such societies when acting in subordination to the Statutory Authorities and in aid and supplement of their work. A Memorandum is enclosed herewith setting out the conditions under which such societies may receive financial assistance from the Exchequer.

I am, Sir, your obedient Servant.

W. P. BYRNE, Chairman.

The Clerk of the

.....Council.

Mental Deficiency Act, 1913.

FORM OF SCHEME.

[Referred to in paragraph 12 of the Board of Control's Circular Letter, dated 2nd April, 1914.]

SCHEME showing the steps proposed to be taken by the Local Authority of the _____ of _____ to carry out their duties and powers under the Mental Deficiency Act, 1913, during year ending the 31st March, 1915.

A. OBLIGATORY DUTIES [Section 30 (a), (b), (c), (d) and (g)].

1. Ascertaining the numbers of, supervising and dealing with Defectives:—

(a) Salaries (or Allowances) of Officers.

[State (i.) the numbers and designations of the officers proposed to be appointed or employed and the remuneration proposed to be paid to them; (ii.) the nature of their duties; (iii.) whether the duties are estimated to occupy the whole (or if not, what part) of their time; (iv.) where part-time officers are employed, on what other duties they are ordinarily engaged; and (v.) whether the services of any Societies will be utilised in carrying out any of these duties, and whether and if so what remuneration will be paid to such Societies or their officers.]

(b) Travelling expenses of Officers.

[State (i) the class on railway which it is proposed to allow the officers to travel; and (ii) the rate, or rates of subsistence allowance (if any) and the conditions under which such subsistence allowance will be given.]

2. Provision of Accommodation for, and Maintenance of, Defectives when sent under Orders to Certified Institutions.

[State (i.) the estimated* number of defectives who will be dealt with under this head during the year to which the Scheme relates; (ii.) the arrangements proposed to be made for their accommodation; and (iii.) if not maintained in an Institution provided by the Local Authority, the weekly rate proposed to be paid for accommodation and maintenance.]

* This estimate should not include "criminal" defectives dealt with under S. 8 or S. 9 of the Act.

A. OBLIGATORY DUTIES—(continued).**3. Provision of Guardianship for Defectives when placed under Guardianship by Orders.**

[State (i.) the estimated number of defectives who will be dealt with under this head during the year to which the Scheme relates; (ii.) the arrangements proposed to be made for their Guardianship; and (iii.) the weekly rates proposed to be paid for the Guardianship of the various classes of Defectives.]

B. PERMISSIVE POWERS.

[State (i.) the arrangements (if any) which it is proposed to make during the year to which the Scheme relates to carry out any of the powers of the Local Authority other than the obligatory duties mentioned in Section 30 (a) (b) (c) (d) and (g) of the Act; and (ii.) particulars of the expenditure estimated to be incurred during the year in carrying out such arrangements.]

MENTAL DEFICIENCY:—EXCHEQUER CONTRI- BUTION.

Detailed estimate of payments to be made by the Local Authority under the foregoing Scheme during the year ended the 31st March, 1915, in respect of Defectives [excluding "criminal" defectives dealt with under Section 8 or Section 9] dealt with, or subject to be dealt with, otherwise than under Section 2 (1) (a) of the Act.

(1) Ascertaining the number of, supervising and dealing with such Defectives [S. 30 (a), (b) and (g)]—	£
(a) Salaries (or Allowances) of Officers or other like payments	
(b) Travelling expenses of Officers	
(c) Costs and Charges in Legal Proceedings (including charges for medical certificates when not given by the Local Authority's Medical Officer)	
(d) Detention of Defectives in places of safety	
(e) Expenses of Conveyance, Removal, etc.	
(f) Other Expenses (to be specified):—	
(2) Provision of Accommodation for and Maintenance of such Defectives when sent under Orders to Certified Institutions [SS. 30 (c) and 38 (1)]—	
(a)* (i.) Maintenance in Institution provided by Local Authority alone or in combination with other Local Authorities	
(ii.) Maintenance in Institution where Local Authority contributes towards Capital cost ...	
(iii.) " " under Contract.....	
(b) Expenses of Conveyance, Removal, etc.	
(c) Other Expenses (to be specified):—	
(3) Provision for Guardianship of such Defectives when placed under Guardianship by Orders [S. 30 (d)]—	
(a) Maintenance	
(b) Expenses of Conveyance, Removal, etc.	
(c) Other Expenses (to be specified):—	
Total estimated payments during the year ended 31st March, 1915	
DEDUCT:—	
(4) Receipts on account of such Defectives—	
(a) Sums estimated to be received in pursuance of (i.) voluntary agreements; and (ii.) Orders made under S. 13	
(b) Other Receipts (to be specified):—	
Net estimated payments, being the net expenditure on Income Account in respect of which Exchequer Contribution will be payable.....	

* The cost of maintenance in an Institution provided by a Local Authority, or Local Authorities in combination, will cover 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.

Mental Deficiency Act, 1913.

Local Government Board's Circular Letter to Boards of Guardians and Joint Committees of Guardians.

Local Government Board, Whitehall, S.W.,

31st March, 1914.

Sir,—I am directed by the Local Government Board to transmit to you herewith copies of Regulations which have been made by the Secretary of State with the concurrence of the Local Government Board in pursuance of section 30 (proviso ii.) of the Mental Deficiency Act, 1913, which comes into operation on the 1st proximo.

Local Authorities under the Act.

The Local Authorities for the purposes of the Act are the Councils of Counties and County Boroughs, and by section 28 of the Act it is provided that these authorities shall constitute a statutory Committee which shall consist "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 appointed some shall be women, and of the whole committee the majority shall be members of the council."

The Board understand that in a number of cases the County and County Borough Councils have already proposed to co-opt on their statutory committees members of Boards of Guardians in their area.

Powers and duties of Local Authorities.

The general powers and duties of the Local Authorities are prescribed by section 30 of the Act. Certain of these duties are obligatory, but the obligation only arises where the contribution out of money provided by Parliament towards the cost on income account of performing such duties amounts to one-half of the net amount (as approved by the Board of Control) of such cost.

The Local Authorities have, in addition, certain permissive powers which may be exercised for the purpose of protecting and assisting even those defectives in respect of whom their intervention is not obligatory, such permissive powers being, however, limited by the proviso that their expenditure on this account shall not exceed in

any one year an amount equal to that which would be produced by a rate of $\frac{1}{2}$ d. in the pound.

Position of Poor-Law Authorities.

The obligation of the Local Authorities is still further limited by provisoes (ii.), (iii.), and (iv.) to section 30 of the Act. By proviso (ii.) to that section it is enacted that—

“(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.”

It will, therefore, continue to be the duty of the Poor-Law Authority to provide for mental defectives, as defined by the Act, who are chargeable to the Poor-Law, in addition to those classes of mental defectives who do not come under the new Act, such as persons suffering from senile dementia; and the Local Authorities will have no duties or responsibilities in regard to defectives who for the time being are being provided for by the Poor-Law Authorities except to the extent prescribed by the Regulations.

At the same time it may be expected that the Act will bring about a gradual reduction in the number of mental defectives for whom the Poor-Law Authorities will be responsible. This reduction will be effected partly by the transfer of cases under the Regulations, partly by the voluntary discharge from Poor-Law institutions of defectives who will subsequently obtain admission into the institutions of the Local Authorities, and partly by the Local Authority intercepting cases, especially cases of defective children, which would formerly have reached the Poor-Law.

The effect of the Regulations, briefly stated, is that if a Poor-Law Authority has reason to believe that relief is being afforded to a mental defective subject to be dealt with under the Act, who should for special reasons be provided for by the Local Authority, a report on the case may be made by the Poor-Law Authority to the Local Government Board. The Local Government Board may, if they concur in the report, transmit it to the Board of Control, and the Board of Control, if satisfied that the Local Authority are able and willing to take the person under their control, may issue a certificate which will have the effect of taking the case out of the category of cases which for the time being are being provided for by the Poor-Law Authority and placing it in the category of cases in respect of whom the Local Authority have a duty to perform.

The circumstances which may be deemed to constitute a special

reason for the transfer under these regulations of Poor-Law cases to the care of the Local Authorities are:—

(i.) that the alleged defective is under 21 years of age and is in need of proper control and training which cannot be provided in an institution belonging to the Poor-Law Authority.

(ii.) that the alleged defective is a woman in receipt of Poor-Law relief at the time of giving birth to an illegitimate child or when pregnant of such child, or is a prostitute, or lodges or resides with prostitutes or otherwise lives in circumstances calculated to cause, encourage or favour her seduction or prostitution.

(iii.) that in his own interest the alleged defective requires care, protection and control which would not be available if he ceased to be provided for under the Poor-Law and that he is likely to take his discharge from the Poor-Law institution.

(iv.) that the alleged defective is a moral imbecile or has diseases, infirmities or habits which make his retention in a Poor-Law institution undesirable and his detention in an institution for defectives desirable.

It will be observed that the initiative in the matter of the transfer of these cases from one Authority to the other rests with the Poor-Law Authority. The Guardians should not hesitate to take the steps indicated when the circumstances show them to be expedient.

Regulations made by the Secretary of State with the concurrence of the Lord Chancellor, under proviso (iii.) to section 30 of the Act, provide that defectives remaining or detained in a Poor-Law institution under sections 24 or 25 of the Lunacy Act, 1890, may, notwithstanding that they are for the time being, or might be, provided for by Local Authorities under the Lunacy Acts, be dealt with under the Mental Deficiency Act if the Board of Control issue a certificate to the Local Authority that it is expedient that they should be dealt with under that Act. The Local Government Board understand that it is contemplated that the actual procedure in these cases will be similar to that adopted under the regulations made under proviso (ii.) to section 30.

While the Mental Deficiency Act and the Regulations made thereunder thus preserve in the main the powers and duties of the Poor-Law Authorities to provide under the Acts relating to the relief of the poor for defectives who for the time being are being dealt with under those Acts, the Act does not contemplate that the Poor-Law Authorities should extend their operations to persons not in receipt of poor relief, and those Authorities can in no way release the County and County Borough Councils from their responsibilities under the Act, or take their place.

Co-operation between Poor-Law Authorities and Local Authorities.

While the Poor-Law Authorities and the Local Authorities under the Act will each have their respective spheres of operation, it is obvious that they will have close relations with one another, and it is important that they should work together in friendly co-operation with the object of preventing friction or the duplication of work.

One of the duties of the Local Authorities is to compile a register of defectives subject to be dealt with under the Act, and the Board feel sure that they can rely upon the Guardians to assist the Local Authorities by providing them with information as to the number, names and addresses of the defectives who are chargeable to the Union. The Local Government Board understand that the Board of Control propose to ask for the inclusion in the Quarterly Returns of Lunatics of information as to the defectives under the care of the Guardians.

The Board may add that they propose to ask the Guardians to include in their Half-yearly Returns of Pauperism, commencing with the Return for the 1st July, 1914, statistics as to the number of defectives in receipt of relief.

It seems likely that in some instances Local Authorities may desire to appoint as Officers to assist them in the performance of their duties under the Act persons who are already holding appointments under the Guardians, such as District Medical Officers and Relieving Officers. The Board would be willing to consider proposals from the Guardians to enable their Officers to undertake these duties.

Provision for defectives remaining under the care of Poor-Law Authorities.

The Local Government Board recognise the desire of many Boards of Guardians to make proper provision for the mental defectives who are and will remain under their care, and they think it will be useful to the Guardians to set out the different ways in which this can be effected.

It is only in comparatively rare cases that a Union contains a sufficient number of defectives to enable the Guardians acting alone to make proper and economical provision for the suitable training and care of this class. In arranging for the classification of inmates under Article 10 of the Poor-Law Institutions Order, 1913, this is a consideration which should be borne in mind.

A considerable number of Boards of Guardians have recently applied to the Local Government Board for the issue of Orders under section 8 of the Poor-Law Act, 1879, establishing Joint Committees for groups of Unions for the purpose of making proper provision for certain classes of chargeable poor, and in particular for feeble-minded persons and sane epileptics, and the Board have issued seven Orders for this purpose affecting 67 Unions. Provided that the number of persons of the classes in question, who are chargeable and likely to remain chargeable, is sufficient and that the Unions concerned form a convenient area, the Local Government Board and the Board of Control concur in the expediency of forming such Joint Committees.

With a view to avoiding duplication of work and unnecessary expenditure it is desirable that where it is proposed to form a combination the Poor-Law Authorities concerned should confer with the Local Authorities under the Act before any definite scheme is propounded and that the Joint Committees already constituted should consult with representatives of the Statutory Committee of the County or County Borough Council.

Agreements between Poor-Law Authorities and Local Authorities.

In preparing their schemes for the administration of the Act within their area it will be open to the Local Authorities to apply to the Board of Control under section 37 of the Act, for their approval of premises provided by Boards of Guardians, singly or in combination, with a view to their being used for the reception of defectives under agreement with the Local Authorities. County and County Borough Councils have already been advised in a Circular Letter from the Home Office that it will be useless to seek the authority of the Board of Control for the use of ordinary Workhouse accommodation for the detention of defectives, and that applications will be favourably entertained only when the premises in question have been specially provided and properly equipped so as to meet satisfactorily all the requirements of the class or classes of defectives proposed to be received therein.

The powers given to a Local Authority by section 30 (e) of the Act, under which that Authority may maintain or contribute towards the expenses of maintenance of defectives not included in the classes in respect of which their intervention is obligatory, would enable a Local Authority which thought such a course desirable to undertake the care of defectives chargeable to the Poor-Law under agreement with the Guardians and upon reasonable terms of payment.

By this means it may be found practicable for the Poor-Law Authorities to avail themselves of the institutions provided by the Local Authorities in their area. In any case the Board are confident that they may rely on the co-operation of the Guardians to secure that the provision made for the defectives who remain under their care will not fall below the standard required for the defectives who are dealt with under the Act, and at the same time to avoid any expenditure which the development of a carefully devised and comprehensive scheme might render unnecessary.

I am, Sir, your obedient Servant,

H. C. MONRO,

Secretary.

The Clerk to the Guardians,

or

The Clerk to the Joint Poor-Law Committee.

**Memorandum relating to Regulations under
Section 2 (2) of the Mental Deficiency
Act, 1913, and Model Arrangements.**

CIRCULAR TO EDUCATION AUTHORITIES.

Board of Education,

Whitehall, London, S.W.,

30th March, 1914.

MEMORANDUM RELATING TO REGULATIONS UNDER SECTION 2 (2) OF
THE MENTAL DEFICIENCY ACT, 1913,* AND MODEL ARRANGEMENTS
UNDER SECTION 1 (1) OF THE ELEMENTARY EDUCATION (DEFECTIVE
AND EPILEPTIC CHILDREN) ACT, 1899, AND SECTION 31 (1) OF THE
MENTAL DEFICIENCY ACT, 1913.

SIR,

1. I am directed to enclose for the information of the Local Education Authority copies of the *Provisional Regulations* made by the Board of Education under section 2 (2) of the Mental Deficiency Act, 1913, and of the *Model Arrangements* which have been framed by the Board for the guidance of Local Education Authorities in carrying out the duties imposed upon them by section 31 (1) of that Act. The Regulations and Arrangements have been drawn up by the Board in consultation with the Board of Control constituted as the Central Authority under the Act, who are in general agreement with the provisions of both documents and of this circular.

2. Section 31 (1) of the Mental Deficiency Act lays upon Local Education Authorities the duty of making arrangements, subject to the approval of the Board of Education, for ascertaining what children within their area are defective within the meaning of the Act, and which of such children are incapable by reason of mental defect of profiting by instruction in Special Schools, and for notifying to the Local Authority under the Act, referred to hereafter as the Local Control Authority, all children who fall within certain specified classes as defined by section 2 (2) of the Act. The duty of notifying certain defective children to the Local Control Authority is also imposed by section 2 (2) of the Act, which requires that such notification shall be in accordance with Regulations made by the Board of Education. Consequently the Regulations refer to notifica-

* The relevant portions of this Act are quoted on pages 241-2 of this Circular.

tion only, while the Model Arrangements refer both to ascertainment and to notification. Moreover, under section 68 of the Act the Regulations have effect as if enacted in the Act, and are consequently binding upon all Local Education Authorities, while the Model Arrangements are intended for the guidance of Authorities, though it will be clear that nothing in that part of the Arrangements which refers to the notification of children to the Local Control Authority must be inconsistent with the Regulations made by the Board under section 2 (2) of the Act.

3. As regards Articles 2 and 3 of the Regulations and section 6 and 10 of the Model Arrangements, I am to explain that the Board of Education are of opinion that, speaking generally, children who are rightly classified as idiots or imbeciles are ineducable, while children rightly classified as feeble-minded are educable to a greater or less degree. They recognise that there may be occasional cases of low grade feeble-minded children who, though not idiots or imbeciles, are practically incapable of profiting by instruction in a Special School, and that such cases may properly be notified to the Local Control Authority; but they consider that such children should first be given an adequate trial under suitable educational conditions in a Special School, preferably a Residential School, in order that it may be ascertained by actual experience whether they are in fact incapable of profiting by instruction in such a School.

The procedure contemplated in these cases, and also in those referred to in the second paragraph of Article 4 and in Article 8 of the Regulations, is that a copy of the report of the Certifying Officer should be sent to the Board, and that the case should not be notified to the Local Control Authority until a reply is received from the Board. The Board will consider the report of the Certifying Officer, and unless its contents give some *prima facie* reason for thinking that the classification of the child is erroneous they will as soon as possible inform the Local Education Authority that they have no observations to offer in regard to the proposed notification of the case to the Local Control Authority. Where, however, it appears to the Board to be possible that the child has been incorrectly classified they may ask for further information and, if they think proper, require the matter to be formally submitted to them for determination.

It will be observed that the obligation on the Authority to forward the report to the Board before notifying the name to the Local Control Authority arises only in certain exceptional cases, and the Board anticipate that the number of such cases will be found in practice to be comparatively small. For example, the great majority of children who are notified to the Local Control Authority under Article 2 of the Regulations will be children who have been reported to be idiots or imbeciles, and it is only in exceptional cases that it will be proposed to notify under that Article children who have not been so reported. The Board have no desire to interfere unduly with the discretion of Local Education Authorities in this matter, but with a view to securing a reasonable standard of uniformity among Authorities they have thought it expedient to obtain information as to all cases falling within certain exceptional classes before they are notified to the Local Control Authority.

4. With regard to Article 4 of the Regulations and section 7 of the Model Arrangements, the Board consider it important that, as a general rule, no educable feeble-minded child should be notified to the Local Control Authority as incapable of being instructed in a Special School without detriment to the interests of the other children, unless it has been clearly shown by actual observation in a Special School for an adequate length of time that the presence of the child is a source of serious moral danger to the other children. The Board would not, for example, regard as falling within this class children who, by reason of the severe character of their mental defect, interfere to some extent with the educational progress of the other children, as they take the view that any difficulties arising from the presence of such children in the School should be met by improved classification and increased individual attention. Nor would the Board, unless the circumstances were exceptional, regard as falling within this class educable feeble-minded children who are objectionable on account of uncleanly habits, as experience has shown that children of this type can frequently be trained by individual care and attention in a Special School to such extent that their presence ceases to be objectionable. In certain circumstances such training may be more successfully carried out when the child is in attendance at a Residential School.

The Board are, in fact, of opinion that children who are incapable of being instructed in a Special School without detriment to the interests of the other children are in practice found, in nearly all cases, to be moral imbeciles as defined by section 1 (*d*) of the Mental Deficiency Act, and, further, that there are very few, if any, children who are moral imbeciles within the meaning of that definition who could be instructed in a Special School without detriment to the interests of the other children. In this connection I am to point out that the term "moral imbecile" cannot be applied to children who possess comparatively slight criminal tendencies, such as a tendency to petty pilfering, since, under section 1 (*d*) of the Act, a "moral imbecile" is a person who, from an early age, displays some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

5. The provisions of Article 5 of the Regulations and section 11 of the Model Arrangements enable a Local Education Authority, with the approval of the Board of Education, to bring to the notice of the Local Control Authority cases of educable feeble-minded children who, in their opinion, should be placed under supervision or guardianship owing to unfavourable home conditions or for some similar reason. In order, however, that the education of such children may be continued, it is very desirable that arrangements should be made for the children to continue in attendance at a Day Special School, and thus to remain under the control of the Local Education Authority as regards their education, while they would be within the sphere of the Local Control Authority as regards their supervision or guardianship out of school hours.

6. With reference to Article 6 of the Regulations and section 12 of the Model Arrangements, it may be pointed out that under section 11 of the Elementary Education (Defective and Epileptic Children) Act, 1899, the parents of mentally defective children are under

an obligation (where a Special School is available) to cause them to attend school until the age of sixteen. Consequently the necessity of notifying a child to the Local Control Authority under Article 6 of the Regulations will, as a rule, arise only in the case of children who have attained, or will shortly attain, the age of sixteen, and in whose case the Local Education Authority are of opinion that it would be to their benefit that they should be sent to an institution or placed under guardianship.

7. With regard to Article 8 of the Regulations and section 14 of the Model Arrangements, I am to explain that these provisions have been included in view of the possibility that a child may be certified as ineducable whose apparent ineducability is due to its blindness or deafness and who would be found to be educable if trained by suitable methods in a School for blind or deaf children. In view of the risk of incorrect certification where the Certifying Officer has not had special experience in dealing with children who are blind or deaf, it is important that any such cases should be investigated with special care, and that, where necessary, an expert medical opinion should be obtained.

8. The Board of Education understand that the Board of Control consider it important that the Local Control Authority should be in possession of as complete and accurate information as possible with regard to cases of mental deficiency in their area. It would be convenient, therefore, if Local Education Authorities, in addition to notifying such cases as fall within the scope of the Regulations, would furnish the Local Control Authority with information as to other children in their area, whether over or under seven years of age, who are, or appear to be, mentally defective within the meaning of the Mental Deficiency Act, 1913. Such information would be supplied mainly for statistical purposes and it would, of course, be necessary that reports thus furnished should be clearly distinguished from formal notifications under section 2 (2) of the Act. In this connection reference may be made to Table III. of Appendix J. of the Annual Report for 1912 of the Board's Chief Medical Officer, which suggests a form in which School Medical Officers may present a numerical return of all exceptional children in their area, including mentally defective children.

9. In the Appendix to the Model Arrangements the authority will find the forms of certificate and report referred to in the Regulations and in the Arrangements. It will be understood that, with a view to securing the necessary uniformity, all certificates should be given in the form there prescribed. Copies of all the schedules will be supplied by the Board for the use of Authorities on application.

With regard to Schedule F., it will be observed that the suggested Form of Report is substantially the same as the schedule printed in Appendix E. of the Annual Report for 1911 of the Board's Chief Medical Officer. The Board realise that much remains doubtful and unknown in respect of feeble-mindedness, but it has been deemed advisable to suggest, tentatively, a form for recording the results of inquiry which has been found to be of practical value. It is obvious that the filling up of this Schedule will involve some care and trouble to the Certifying Officer, but it should be borne in mind that in the interests of the child a detailed and careful examination should be made, and a complete record of such examination is

essential. Such a record will be particularly desirable in the case of those children whom it is proposed to notify to the Local Control Authority, as the report will furnish a basis for the "dossier" which will be kept by that Authority for each child brought to their notice. A detailed record of the examination will also be required for those cases which are referred to the Board under the Regulations.

It may be added that Schedule F. was arrived at after careful consideration and with the assistance of expert advice, and the Board trust that it will be found to supply useful guidance to Medical Officers who are entrusted with the duty of carrying out these examinations of defective children, especially those who have not hitherto had special experience in such work, and that certifying officers generally will co-operate in securing that the examinations and the records of them should be as complete and detailed as possible. Whilst it would have been possible to issue a shorter form with added notes, it was considered that on the whole the form here adopted would prove in the long run the most convenient. It will, of course, be understood that the various items of the Schedule are not of equal diagnostic value or importance, and that many feeble-minded children do not manifest all the signs and symptoms at present believed to be characteristic of the disease or even all those most commonly found.

10. While the responsibility for deciding in which category a child should be placed must rest with the Certifying Medical Officer, it is desirable that he should take advantage as far as possible of the knowledge and experience possessed by the teachers, whether in Special Schools or in the ordinary Elementary Schools. When a child already in attendance at a Special School or Public Elementary School is to be examined, the opinion of the Head Teacher of the School will clearly be of value in determining the degree of mental defect, while even in the case of children who have not hitherto attended any school the Certifying Officer may find it advantageous to associate with himself in the work of examination a teacher who has had special experience in dealing with mentally defective children.

11. The Board also wish to direct the attention of Local Education Authorities to the desirability of close co-operation with the parents of mentally defective children in all matters relating to the education of their children or their notification to the Local Control Authority. In the opinion of the Board it is important that parents should be given ample opportunities of making representations in regard to these matters, and that every endeavour should be made to meet the legitimate views of parents as to the course which is most consistent with the welfare of their children, and to keep them informed of their progress. It may be anticipated that the information furnished by the parents will often prove of value in enabling an accurate diagnosis of the case to be made.

12. As the Mental Deficiency Act comes into operation on the 1st April, 1914, it is desirable that Local Education Authorities should at once proceed to frame arrangements for carrying out their duties under section 31 (1) of the Act, and I am accordingly to request that the Authority will inform the Board at an early date

whether they propose to adopt the Model Arrangements drawn up by the Board.

I am, Sir, your obedient Servant,

L. A. SELBY-BIGGE.

To the Local Education Authority.

The sections of the Mental Deficiency Act, 1913, which directly concern Local Education Authorities are as follows:—

Section 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.

Section 2 (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 benefit that they should be sent to an institution or placed under guardianship.

Section 30 enumerates the various duties of the Local Control Authority and contains the following proviso amongst others:—

- (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 addresses have been notified to them by the local education authority under the provisions of this Act.

Section 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—

- (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 herein-before 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 1 of the Elementary Education (Defective and Epileptic Children) Act, 1899, shall apply with the necessary modifications for the purposes of this section.

Mental Deficiency (Notification of Children) Regulations, 1914.

[**Note.**—These Regulations replace the Provisional Regulations referred to in the letters of the Board of Education of the 30th March, 1914, and 31st August, 1914.]

The Board of Education, by virtue and in pursuance of the powers in them vested under the Mental Deficiency Act, 1913, and of every other power enabling them in this behalf, do order, and it is hereby ordered, that the following Regulations be observed:—

1. The School Medical Officer of the Local Education Authority and such other duly qualified medical practitioners approved by the Board of Education under the Elementary Education (Defective and Epileptic Children) Act, 1899, as the Local Education Authority may nominate for that purpose, hereinafter called Certifying Officers, shall be the Medical Officers for the purpose of these Regulations.

2. (1) If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable, by reason of mental defects, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided the Local Education Authority are in doubt whether a child is or is not capable of receiving such benefit as aforesaid, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not an idiot or an imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

3. (1) If the Certifying Officer certifies that a child of the age of seven years or upwards who is, or has been, in attendance at a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, is incapable of receiving further benefit from instruction in such a school or class, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided, the Local Education Authority are in doubt whether a child is or is not capable of receiving such further benefit as aforesaid, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not an idiot or an imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

4.—(1) If the Certifying Officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and shall furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the prescribed form, and of his report on the child.

(2) In any case where, upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as hereinafter provided, the Local Education Authority are in doubt whether the retention of a child in a special school or class would be detrimental to the interests of the other children, they shall refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Article of these Regulations the name of a child who is not a moral imbecile, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, shall refer to the Board for determination the question whether the name should be notified.

5. If the Local Education Authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913, they shall notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority shall notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913.

6. The Local Education Authority shall notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address

of any mentally defective child who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.

7. For the purpose of these Regulations the Local Education Authority may ask for a report from any teacher of the school, if any, which the child has been attending, or from any other person, and if on consideration of such report or reports or of the report of the Certifying Officer the Local Education Authority are in doubt as to the action to be taken, they shall refer the case to the Board of Education for determination.

8. In any case where a Local Education Authority propose to notify to the Local Authority under the Mental Deficiency Act, 1913, the name of a child who is blind or deaf within the meaning of section 15 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, the Local Education Authority shall furnish the Board of Education with a copy of the report of the Certifying Officer on the child and, in the case of a child already in attendance at a special school for blind or deaf children, with a report by the Head Teacher of the school on the child's progress while in the school, and if, after consideration of the report or reports, the Board so require, shall refer to the Board for determination the question whether the name of the child should be notified.

9. The Local Education Authority shall inform the parent of any child affected by these Regulations of any action proposed to be taken with reference to that child under these Regulations.

10.—(1) In these Regulations the expression "prescribed" means prescribed in the arrangements made by the Local Education Authority under section 1 of the Elementary Education (Defective and Epileptic Children) Act, 1899, and section 31 (1) of the Mental Deficiency Act, 1913.

(2) These Regulations may be cited as the Mental Deficiency (Notification of Children) Regulations, 1914.

Given under the Seal of the Board of Education the 26th day of June, 1914.

(L.S.)

L. A. SELBY-BIGGE.

**Memorandum on Regulations under Section 2 (2)
of the Mental Deficiency Act, 1913, and on
the Revised Model Regulations.**

MEMORANDUM RELATING TO REGULATIONS UNDER SECTION 2 (2)
OF THE MENTAL DEFICIENCY ACT, 1913, AND REVISED
MODEL ARRANGEMENTS UNDER SECTION 1 (1) OF THE
ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILD-
REN) ACT, 1899, AND SECTION 31 (1) OF THE MENTAL
DEFICIENCY ACT, 1913.

Sir,

1. I am directed to refer to the Mental Deficiency (Notification of Children) Regulations, 1914, a copy of which was recently sent to the Authority. These Regulations take the place of the Provisional Regulations of the 24th March, 1914, a copy of which was forwarded to the Authority on the 30th March. It will be observed that Article 7 of the Provisional Regulations has been redrafted and that paragraphs dealing with the reference to the Board of doubtful cases have been inserted in Articles 2, 3 and 4. The last paragraphs of Articles 2, 3 and 4 have also been expanded with a view to explaining more clearly the procedure contemplated and a new Article 9 has been inserted. These alterations have been made by the Board after consideration of representations and suggestions which have been made to them.

2. I am also directed to forward to the Authority a copy of the revised Model Arrangements which have been framed by the Board for the guidance of Local Education Authorities in carrying out the duties imposed upon them by section 31 (1) of the Mental Deficiency Act. Section 5 of the Model Arrangements has been altered so as to correspond with section 6 of the Elementary Education (Defective and Epileptic Children) Act, 1914, which will come into operation on the 1st January, 1915. Sections 6, 7, 10, 13 and 14 have been modified in order to correspond with the revised Regulations now issued, and section 15 has been added in view of the addition of the new Article 9 of the Regulations. The other sections remain unaltered. I am to request that the Authority will inform the Board whether they propose to adopt these Model Arrangements. If the Authority have already notified the Board of their intention to adopt the Model Arrangements issued on the 30th March, it is assumed that they will desire to adopt the slightly modified Arrangements now issued, and the Board will be glad to receive a notification to this effect.

3. As some misunderstanding has arisen with regard to the intention of paragraph 8 of Circular 829, I am to explain that the Board did not contemplate that reports on individual children should be forwarded by the Local Education Authority to the Local Control Authority except in those cases where a duty of formal notification is placed upon the Local Education Authority. Any information supplied as to other cases would, as stated in the paragraph in question, be supplied mainly for statistical purposes, and it was intended to suggest that it should take the form of a numerical report and that the names of individual children should not be communicated.

I am, Sir, your obedient Servant,

L. A. SELBY-BIGGE.

BOARD OF EDUCATION.

Revised Model Arrangements.

31st August, 1914.

MODEL ARRANGEMENTS UNDER SECTION 1 (1) OF THE ELEMENTARY
EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899,
AND SECTION 31 (1) OF THE MENTAL DEFICIENCY ACT, 1913.

1. The School Medical Officer of the Local Education Authority and such other duly qualified medical practitioners approved by the Board of Education under the Elementary Education (Defective and Epileptic Children) Act, 1899, as the Local Education Authority may nominate for that purpose, hereinafter called Certifying Officers, shall be the Medical Officers for the purpose of the Elementary Education (Defective and Epileptic Children) Act, 1899, and of the Regulations made by the Board of Education under the Mental Deficiency Act, 1913, and for the purpose of these Arrangements.

2. The Head Teacher of every Public Elementary School shall bring to the notice of the Local Education Authority any children attending the School who appear, by reason of mental defect, to be incapable of receiving proper benefit from the instruction in an ordinary Public Elementary School, and the Medical Officers of the Authority shall report to the Authority the names and addresses of all children discovered by them in the course of their work in connection with the School Medical Service to be defective within the meaning of the Mental Deficiency Act, 1913.

3. The Officers of the Local Education Authority who are charged with the duty of enforcing the law of school attendance shall report to the Local Education Authority the names and addresses of all children not in attendance at school who appear, or are reputed to be, defective within the meaning of the Mental Deficiency Act, 1913.

4. The Local Education Authority will make arrangements for the examination by a Certifying Officer appointed for the purpose of these Arrangements of any child whose name has been so reported, and will also make arrangements for enabling any parent who is of opinion that his child ought to be dealt with under the Elementary Education (Defective and Epileptic Children) Act, 1899, to present such child to a Certifying Officer for examination. The child shall be examined within three months of his attaining the age of seven years, and at such other times as appear to the Local Education Authority to be desirable.

5. (1) The Certifying Officer, after he has examined the child, shall furnish the Local Education Authority with a certificate in one of the forms prescribed in the Schedules to these Arrangements, and with a full report on the child on the lines suggested in Schedule F.

(2) Before giving a certificate the Certifying Officer shall, if so directed by the Local Education Authority, or if he is so requested by the parent of the child, consult the Head Teacher of the School, if any, which the child has been attending, or such other person as the Local Education Authority may appoint for the purpose, and a copy of any report made by the Head Teacher or such other person shall be forwarded to the Local Education Authority.

6. (1) If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable,* by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule C. of these Arrangements, and with a copy of his report on the child.

(2) In any case where upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as herein provided, the Local Education Authority are in doubt whether a child is or is not capable of receiving such benefit as aforesaid, they will refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this section of these Arrangements the name of a child who is not an idiot or an imbecile, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, will refer to the Board for determination the question whether the name should be notified.

7. (1) If the Certifying Officer certifies that a child of the age of seven years or upwards cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule E. of these Arrangements, and with a copy of his report on the child.

(2) In any case where upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the Local Education Authority as herein provided, the Local Education Authority are in doubt whether the retention of a child in a special school or class would be detrimental to the interests of other children, they will refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this Section of

* Under the Elementary Education (Defective and Epileptic Children) Act, 1899, idiots and imbeciles are excluded from special schools and classes certified for the purpose of that Act.

these Arrangements the name of a child who is not a moral imbecile, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, will refer to the Board for determination the question whether the name should be notified.

8. The Local Education Authority will arrange for the examination from time to time by a Certifying Officer appointed for the purpose of these Arrangements of all mentally defective children who are being educated in special schools or classes maintained by them under the Elementary Education (Defective and Epileptic Children) Act, 1899, with a view to ascertaining in each case (1) whether the child can be discharged from the special school or class on the ground that he has attained such a mental condition as to be fit to attend the ordinary classes of Public Elementary Schools, (2) whether he is incapable of receiving further benefit from instruction in a special school or class, or (3) whether he cannot be instructed in a special school or class without detriment to the interests of the other children. Such examination shall be made at intervals of not more than twelve months, provided that if a parent of any child claims that his child shall be examined and the child has not been examined within six months before the date of such claim a special examination of the child shall be made on the request of the parent.

9. The Local Education Authority will also make provision for ascertaining in the case of any mentally defective child sent by them to a special school or class not maintained by a Local Education Authority, or to a special school or class maintained by another Local Education Authority, (1) whether the child can be discharged from the special school or class on the ground that he has attained such a mental condition as to be fit to attend the ordinary classes of Public Elementary Schools, (2) whether he is incapable of receiving further benefit from instruction in a special school or class, or (3) whether he cannot be instructed in a special school or class without detriment to the interests of the other children. For this purpose the Local Education Authority sending the child will arrange for reports on the child to be forwarded to them at intervals of not more than twelve months. These reports shall be made by a Certifying Officer and for this purpose the Local Education Authority may approve the Medical Officer of the school or class at which the children are being educated as Certifying Officer in respect of those children.

10. (1) If the Certifying Officer certifies that a child of the age of seven years or upwards is incapable of receiving further benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913, and will furnish that Authority with a copy of the certificate of the Certifying Officer, which shall be in the form prescribed in Schedule D. of these Arrangements, and with a copy of his report on the child.

(2) In any case where upon consideration of the certificate of the Certifying Officer and of any report which may be obtained by the

Local Education Authority as herein provided, the Local Education Authority are in doubt whether a child is or is not capable of receiving such further benefit as aforesaid they will refer to the Board of Education for determination the question whether the name should be notified.

(3) In any case where it is proposed to notify under this section of these Arrangements the name of a child who is not an idiot or an imbecile, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and if, after consideration of the report, the Board so require, will refer to the Board for determination the question whether the name should be notified.

11. If the Local Education Authority are satisfied upon any representation made to them or otherwise that it is desirable that a mentally defective child of the age of seven years or upwards who is certified to be capable of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, should be dealt with by way of supervision or guardianship under the Mental Deficiency Act, 1913, they will notify the case to the Board of Education, together with such particulars as the Board of Education may require, and if the Board certify that there are special circumstances which render it desirable that the child should be dealt with under the Mental Deficiency Act, 1913, by way of supervision or guardianship, the Local Education Authority will notify the name and address of the child to the Local Authority under the Mental Deficiency Act, 1913.

12. The Local Education Authority will notify to the Local Authority under the Mental Deficiency Act, 1913, the name and address of any mentally defective child who, on or before attaining the age of sixteen, is about to be withdrawn or discharged from a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, and in whose case the Local Education Authority are of opinion that it would be to his benefit that he should be sent to an institution or placed under guardianship under the Mental Deficiency Act, 1913.

13. For the purpose of these Arrangements the Local Education Authority may ask for a report from any teacher of the school, if any, which the child has been attending, or from any other person, and if, on consideration of such report or reports or of the report of the Certifying Officer, the Local Education Authority are in doubt as to the action to be taken, they will refer the case to the Board of Education for determination.

14. In any case where a Local Education Authority propose to notify to the Local Authority under the Mental Deficiency Act, 1913, the name of a child who is blind or deaf within the meaning of Section 15 (1) of the Elementary Education (Blind and Deaf Children) Act, 1893, the Local Education Authority will furnish the Board of Education with a copy of the report of the Certifying Officer on the child, and, in the case of a child already in attendance at a special school for blind or deaf children, with a report by the Head Teacher of the school on the child's progress while in the school and if, after consideration of the report or reports, the Board so require,

will refer to the Board for determination the question whether the name of the child should be notified.

15. The Local Education Authority will inform the parent of any child affected by these Arrangements of any action proposed to be taken with reference to that child under these Arrangements.

[Appendix to this document is given on next page.]

APPENDIX.

SCHEDULE A.

School (if any):
 Local Education Authority:
 Name of Child (in full):
 Date of Birth:

I certify that this child is not incapable, by reason of mental defect, of receiving benefit from the instruction in an ordinary Public Elementary School.

SCHEDULE B.

School (if any):
 Local Education Authority:
 Name of Child (in full):
 Date of Birth:

I certify that this child, not being merely dull or backward and not being an idiot, an imbecile, or a moral imbecile, is feeble-minded within the meaning of the Mental Deficiency Act, 1913, but is not incapable by reason of mental defect of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

SCHEDULE C.

School (if any):
 Local Education Authority:
 Name of Child (in full):
 Date of Birth:

I certify that this child is incapable, by reason of mental defect, of receiving benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

NOTE.—Under the Elementary Education (Defective and Epileptic Children) Act, 1899, idiots and imbeciles are excluded from special schools and classes certified under that Act.

SCHEDULE D.

School (if any):
 Local Education Authority:
 Name of Child (in full):
 Date of Birth:

I certify that this child is incapable, by reason of mental defect, of receiving further benefit from instruction in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899.

SCHEDULE E.

School (if any):

Local Education Authority:

Name of Child (in full):

Date of Birth:

I certify that this child cannot be instructed in a special school or class under the Elementary Education (Defective and Epileptic Children) Act, 1899, without detriment to the interests of the other children.

SCHEDULE F.

SUGGESTED FORM OF REPORT ON CHILD EXAMINED FOR MENTAL DEFICIENCY.

- I. Name of Child (in full) - - - _____
 Address - - - - - _____
 Date of Birth - - - - - _____
 School (if any) - - - - - _____
 Local Education Authority - - - _____
- II. Particulars of Home Conditions, Environment, School Attendance, and other Factors - - - _____
- III. Family History (in regard to history of mental defect, epilepsy, alcoholism, &c.) - - - _____
- IV. Personal History:—
 (a) Constitutional Defects, Injury at Birth, Malnutrition, Rickets, Congenital Syphilis, &c. - - - _____
 (b) Diseases of Childhood - - - _____
 (c) Commencement of Teething - - - _____
 (d) Walking - - - - - _____
 (e) Speech - - - - - _____
- V. Physical Conditions:—
 (a) General (results of routine medical inspection) - - - _____
 (b) Special:—
 (1) Speech: Defective articulation - - - _____
 (2) Sight: Blindness, total or partial, errors of refraction - - - _____
 (3) Hearing: Deaf-mutism, partial deafness, partial mutism - - - _____
 (4) Nose and throat: Enlarged tonsils, adenoids, mouth breathing - - - _____
 (5) Control of spinal reflexes and of salivation - - - _____

(c) Stigmata :—

- | | |
|---|-------|
| (1) General retardation—Cretinoid development - | _____ |
| (2) Cranium—Microcephaly, hydrocephaly, asymmetry, rickets, imperfect closure of fontanelles, simple head measurement - | _____ |
| (3) Hair—Double and treble vortices, wiry or supple - | _____ |
| (4) Face—Irregularity of features - | _____ |
| (5) Lower jaw—Protruding or receding - | _____ |
| (6) Eyes—Mongoloid, presence of epicanthic fold - | _____ |
| (7) Ears—Size, setting, conformation, lateral symmetry, size of lobes, attachment of lobe to the cheek, supernumerary lobules - | _____ |
| (8) Tongue — Enlarged, furrowed, papillæ enlarged - | _____ |
| (9) Teeth—Irregular, absent, enlarged incisors - | _____ |
| (10) Palate—Arched, narrow - | _____ |
| (11) Fingers — Webbed, clubbed, defective in number or shape, supernumerary digits - | _____ |
| (12) Limbs — Excessive length of upper limbs - | _____ |

VI. Mental Conditions :—

[N.B.—In assessing mental conditions, the tests designed by Binet and Simon are recommended.]

(a) Reactions of Motor Mechanism :—

- | | |
|---|-------|
| (1) Formation of Motor Ideas. (Execution of simple movements from imitation) - | _____ |
| (2) Storage of Motor Ideas. (Execution of simple familiar command by word of mouth) - | _____ |
| (3) Power of control, initiative, purpose, and concentration. Success of motor output. (Execution of familiar complex movement) - | _____ |

(4) Motor Incompetence.
Attitude in standing, position
of head, spine, knees.
Gait. Position of arms,
hands, fingers, in horizontal
extension. General balance

(5) Motor Instability.
(Habits.) Rocking of body.
rubbing hands, spitting,
biting nails, or licking lips

(6) Motor Disturbance.
Tremors (face, hand, tongue),
Chorea, Epilepsy, Aphasia,
Hemiplegia - - -

(b) Reactions resulting from
Sensory Stimulation:—

(1) Attention — colour,
shape, size, smell - - -

(2) Formation of Memory
Images:

(a) Recognition; ob-
jects, sounds -

(b) Recollection - -

(3) Association of Ideas -

(4) Judgment (for example
—length, size, distance) -

(5) Relationship(similarity,
contrast, symbolism) - -

(6) General concepts (pos-
session, self-protection, pur-
pose, concentration, initia-
tive) - - - -

(c) Emotional Conditions:—

Interest, excitement, ag-
gression, co-operation, affec-
tion, &c. (positive or negative
phases) - - - -

(d) Tests of Intelligence:—

(1) Description of pictures,
models, objects, familiar
events - - - -

(2) Letters, words, read-
ing (word blindness) - -

(3) Counting, manipula-
tion of simple numbers.
simple money values - -

(4) Writing - - -

(5) Manual Tests - -

(e) Will Power as tested under the above headings.

(f) Moral characteristics not recorded in (a)-(e).

VII. Diagnosis :—

- (a) Physically defective—stating defect - - - - - _____
- (b) Blind or partially blind - _____
- (c) Deaf-mute or semi-mute or semi-deaf - - - - - _____
- (d) Epileptic - - - - - _____
- (e) Merely dull or backward - _____
- (f) Mentally defective (feeble-minded) - - - - - _____
- (g) Imbecile - - - - - _____
- (h) Moral Imbecile - - - - - _____
- (i) Idiot - - - - - _____

[In this group the symbols "a" to "i" are intended to be correlated when necessary.]

VIII. Treatment recommended :—

(With any necessary notes as to after-care, custody, and the degree and character of manual training and ordinary school teaching likely to be advisable.)

(1) An ordinary public elementary school - - - _____

(With or without particular supervision or modification of curriculum.)

(2) A special class for dull or backward children - - - _____

(3) A Special school (state whether day or residential is recommended) - - - _____

(4) Unsuitable for a Special school :— _____

Signature of the Medical Officer _____

Date _____

Mental Deficiency Act, 1913.

(Section 48.)

TREASURY CONTRIBUTION TOWARDS THE EXPENSES OF SOCIETIES ASSISTING OR SUPERVISING DEFECTIVES

1. The Board of Control is authorised by the Secretary of State and the Treasury to contribute towards the expenses incurred by Societies which have undertaken the duty of assisting or supervising defectives not in Institutions.

2. Applications for such aid should be addressed to the Board of Control and should be made by the Secretary or other authorised officer of the Society either directly or, if the Society thinks fit, through the Central Council for the care of the mentally defective.

3. The application should set forth:—

(i.) The name of the Society, its Secretary and Treasurer, and its office or other address;

(ii.) Its membership, invested funds, and subscription list, or other sources of income;

(iii.) The Local Authority or Authorities which approve it or accept its co-operation;

(iv.) The precise duties which it undertakes, or is prepared to undertake for the benefit of defectives, or any class of defectives;

(v.) The district in which it undertakes the above duties;

(vi.) The number of its practical workers, and of its paid officers, if any;

(vii.) An estimate of the number of defectives which the Society will assist or supervise;

(viii.) The name and address of any Institution, Home, Refuge, or other similar establishment with which it is connected, and the purposes for which such establishment is used.

(ix.) Whether its work is restricted to any religious denomination.

4. The application should specify the purposes for which financial aid is desired, the duties, if any, with which it is entrusted by the Local Authority, and the payments made to it by such Authority.

5. The contribution by the Board may be towards—

(i.) the travelling expenses of approved members and officers of the Society while engaged in assisting or supervising defectives;

(ii.) the salaries of paid officers of the Society;

(iii.) stationery, postage, and office expenses;

(iv.) expenses of, or in connection with, a Central Council; or other expenditure approved by the Board.

6. No contribution will be made towards the expenses of founding a Society which has not come into existence and actually undertaken the duties specified in the Act or some of them.

7. Contributions will be fixed for one year, unless the Board otherwise decide, but they may be renewed. They will ordinarily be paid in quarterly instalments.

APPENDIX.

LUNACY ACT, 1890, 53 Vict. c. 5.

LUNATICS NOT UNDER PROPER CARE AND CONTROL OR CRUELLY TREATED OR NEGLECTED.

Summary Reception Orders.

XIII.—(1) Every constable, relieving officer, and overseer of a parish, who has knowledge that any person within the district or parish of the constable, relieving officer, or overseer, who is not a pauper and not wandering at large, is deemed to be a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, shall within three days after obtaining such knowledge give information thereof upon oath to a justice being a judicial authority under this Act.

(2) Any such justice upon the information on oath of any person who-soever, that a person [*within the limits of his jurisdiction*], not a pauper and not wandering at large, is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected as aforesaid, may himself visit the alleged lunatic, and shall, whether making such visit or not, direct and authorise any two medical practitioners whom he thinks fit to visit and examine the alleged lunatic and to certify their opinion as to his mental state, and the justice shall proceed in the same manner so far as possible, and have as to the alleged lunatic the same powers, as if a petition for a reception order had been presented by the person by whom the information with regard to the alleged lunatic has been sworn.

(3) If upon the certificates of the medical practitioners who examine the alleged lunatic, or after such other and further inquiry as the justice thinks necessary, he is satisfied that the alleged lunatic is a lunatic, and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the care or charge of him, and that he is a proper person to be taken charge of and detained under care and treatment, the justice may by order direct the lunatic to be received and detained in any institution for lunatics to which, if a pauper, he might be sent under this Act, and the constable, relieving officer, or overseer upon whose information the order has been made, or any constable whom the justice may require so to do, shall forthwith convey the lunatic to the institution named in the order.

NOTICE TO BE GIVEN OF PAUPER LUNATIC WHO OUGHT TO BE SENT TO AN ASYLUM.

XIV.—(1) Every medical officer of a union who has knowledge that a pauper resident within the district of the officer is or is deemed to be a lunatic and a proper person to be sent to an asylum, shall, within three days after obtaining such knowledge, give notice thereof in writing to the relieving officer of the district, or, if there is no such officer, to an overseer of the parish where the pauper resides.

(2) Every relieving officer and every overseer of a parish of which there is no relieving officer, who respectively have knowledge, either by

notice from a medical officer or otherwise, that any pauper resident within the district or parish of the relieving officer or overseer is deemed to be a lunatic, shall, within three days after obtaining such knowledge, give notice thereof to a justice having jurisdiction in the place where the pauper resides.

(3) A justice, upon receiving such notice, shall by order require the relieving officer or overseer giving the notice, to bring the alleged lunatic before him or some other justice having jurisdiction in the place where the pauper resides at such time and place within three days from the time of the notice to the justice as shall be appointed by the order.

LUNATIC WANDERING AT LARGE TO BE BROUGHT BEFORE A JUSTICE.

XV.—(1) Every constable and relieving officer and every overseer of a parish who has knowledge that any person (whether a pauper or not) wandering at large within the district or parish of the constable, relieving officer, or overseer is deemed to be a lunatic, shall immediately apprehend and take the alleged lunatic, or cause him to be apprehended and taken, before a justice.

(2) Any justice, upon the information upon oath of any person that a person wandering at large within the limits of his jurisdiction is deemed to be a lunatic, may by order require a constable, relieving officer, or overseer of the district or parish where the alleged lunatic is, to apprehend him, and bring him before the justice making the order, or any justice having jurisdiction where the alleged lunatic is.

LUNATIC BROUGHT BEFORE A JUSTICE MAY BE SENT TO AN INSTITUTION FOR LUNATICS.

XVI. The justice before whom a pauper alleged to be a lunatic or an alleged lunatic wandering at large is brought under this Act shall call in a medical practitioner, and shall examine the alleged lunatic, and make such inquiries as he thinks advisable, and if upon such examination or other proof the justice is satisfied in the first-mentioned case that the alleged lunatic is a lunatic and a proper person to be detained, and, in the secondly-mentioned case, that the alleged lunatic is a lunatic, and was wandering at large, and is a proper person to be detained, and if in each of the foregoing cases the medical practitioner who has been called in signs a medical certificate with regard to the lunatic, the justice may by order direct the lunatic to be received and detained in the institution for lunatics named in the order, and the relieving officer, overseer, or constable who brought the lunatic before the justice, or in the case of a lunatic wandering at large, any constable who may by the justice be required so to do, shall forthwith convey the lunatic to such institution.

[**Note.**—There are provisions in the Act (sections 19 and 21) for justice to suspend order for reception of patient in asylum or to send him to workhouse. And a further provision (section 24) for permanently detaining suitable case in workhouse under order of justice made on certificate of medical officer and that of another practitioner.]

POWER TO EXAMINE ALLEGED LUNATIC AT HIS OWN ABODE OR ELSEWHERE

XVII. Where, under this Act, notice has been given to, or an information upon oath laid before a justice that a pauper resident within the limits of his jurisdiction is deemed to be a lunatic, and a proper person to be sent to an asylum, or that a person, whether a pauper or not, wandering at large within the limits aforesaid, is deemed to be a lunatic,

such justice may examine the alleged lunatic at his own house or elsewhere, and may proceed in all respects as if the alleged lunatic had been brought before him.

REMOVAL OF LUNATIC TO WORKHOUSE IN URGENT CASES.

XX. If a constable, relieving officer, or overseer is satisfied that it is necessary for the public safety or the welfare of an alleged lunatic with regard to whom it is his duty to take any proceedings under this Act, that the alleged lunatic should, before any such proceedings can be taken, be placed under care and control, the constable, relieving officer, or overseer may remove the alleged lunatic to the workhouse of the union in which the alleged lunatic is, and the master of the workhouse shall, unless there is no proper accommodation in the workhouse for the alleged lunatic, receive and relieve, and detain the alleged lunatic therein, but no person shall be so detained for more than three days, and before the expiration of that time, the constable, relieving officer, or overseer shall take such proceedings with regard to the alleged lunatic as are required by this Act.

INQUIRIES AS TO PROPERTY.

L.—(1) Where any person is detained as a lunatic and the commissioners represent to the Lord Chancellor that it is desirable that the extent and nature of his property, and its application, should be ascertained, the Lord Chancellor may, if he think fit, through the masters, require that the person upon whose petition the reception order under which the lunatic is detained was made, or other the person paying for the care and maintenance of the lunatic or having the management of his property, shall transmit to the Lord Chancellor a statement in writing, to the best of his knowledge, of the particulars of the property of the lunatic and of its application.

(2) The commissioners may also, whenever they think it expedient, make inquiries as to the property of any person detained as a lunatic.

POWER OF COUNTY COURT JUDGE TO DEAL WITH PROPERTY OF SMALL AMOUNT.

CXXXII.—(1) Where a reception order is made in the case of a lunatic the value of whose real and personal property is under two hundred pounds, and no relative or friend of the lunatic is willing to undertake the management of such property, any judge of county courts having jurisdiction in the place from which the lunatic is sent, may, upon the application of the clerk to the guardians, or a relieving officer of the union from which the lunatic is sent, authorize the clerk or relieving officer, or such other person as the judge by his order appoints, to take possession of and sell and realise the real and personal property of the lunatic, and to exercise all the powers which could be exercised by the legal personal representative of the lunatic if he were dead; and the receipt of the person so authorized shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

(2) The judge, by whom such order is made, may by the same or any subsequent orders give such directions as he thinks fit as to the application of the property of the lunatic for his benefit or in reimbursement of such sums as may have been or may be expended by the guardians of the union for his care or relief, or of the costs or expenses incurred in relation to the lunatic by such guardians, or by the person acting under any such order as aforesaid, or the judge may, if he thinks fit, order that the whole or any part of the proceeds of the lunatic's property be paid into the county court to the credit of an account intituled in the matter of such lunatic, and any sum so paid into court may either be invested in the manner provided by the county court rules in force for the time being, or be paid out of court from time to time to such person as the judge directs, to be held and

applied for the benefit of such lunatic, or in or towards such reimbursement as aforesaid, in such manner as the judge directs.

(3) The person acting under any such order shall render an account of his dealings with the lunatic's property to the judge by whom such order was made in such manner as the judge appoints.

MEETINGS OF VISITING COMMITTEE.

CLXXV.—(1) The provisions of section eighty-two of the Local Government Act, 1888, with respect to the proceedings of committees of county councils shall apply to the proceedings of every visiting committee appointed wholly or partly by a county council, and the chairman of such committee may be elected accordingly.

(2) To other visiting committees the following provisions shall apply:—

- (a) The members of the committee shall within one month after their election meet at some convenient place, to be named in a notice in writing given by two or more of such members, or by the clerk of the outgoing committee by the direction of two or more of such members;
- (b) Notices of meetings shall be given to each member personally or left at his place of abode, or sent by post seven days at least before the time appointed for the meeting;
- (c) The members shall at the first meeting elect one of their number to be chairman of the committee;
- (d) The chairman shall preside at all meetings at which he is present. In case of his absence from any meeting the members present shall elect one of their number to be chairman of the meeting;
- (e) Any meeting may be adjourned from time to time and from place to place;
- (f) The committee shall meet as often as they may think fit;
- (g) A meeting may be adjourned by two members; for all other purposes three members shall be a quorum;
- (h) Every question shall be decided by a majority of the votes of the members present, and in the event of an equality of votes the chairman shall have a second or casting vote;
- (i) The clerk of the committee shall, whenever required in writing by the chairman or any two members of the committee, or by the manager of the asylum, and the chairman may, whenever he thinks fit, summon a meeting of the committee.

CHILDREN ACT, 1908, 8 Edw. 7, c. 67.

Section 44.—DEFINITIONS.—(1) For the purposes of this Part of this Act unless the context otherwise requires—

The expression "reformatory school" means a school for the industrial training of youthful offenders, in which youthful offenders are lodged, clothed, and fed, as well as taught;

The expression "industrial school" means a school for the industrial training of children, in which children are lodged, clothed, and fed, as well as taught;

The expression "certified school" means a reformatory or industrial school which is certified in accordance with the provisions of this Part of this Act.

Section 45.—**CERTIFICATION OF SCHOOLS.**—(1) The Secretary of State may upon the application of the managers of any reformatory or industrial school direct the chief inspector of reformatory and industrial schools hereinafter mentioned to examine into the condition and regulations of the school and its fitness for the reception of youthful offenders or children to be sent there under this Part of this Act, and to report to him thereon.

(2) The Secretary of State, if satisfied with the report of the inspector, may certify that the school is fit for the reception of youthful offenders or children to be sent there in pursuance of this Part of this Act.

Section 57.—**COMMITMENT OF OFFENDERS BETWEEN TWELVE AND SIXTEEN YEARS OF AGE TO REFORMATORY SCHOOLS.**—(1) Where a youthful offender, who in the opinion of the court before which he is charged is twelve years of age or upwards but less than sixteen years of age, is convicted, whether on indictment or by a petty sessional court, of an offence punishable in the case of an adult with penal servitude or imprisonment, the court may, in addition to or in lieu of sentencing him according to law to any other punishment, order that he be sent to a certified reformatory school:

Provided that where the offender is ordered to be sent to a certified reformatory school he shall not in addition be sentenced to imprisonment.

(2) Where such an order has been made in respect of a youthful offender of the age of fourteen years or upwards, and no certified reformatory school can be found the managers of which are willing to receive him, the Secretary of State may order the offender to be brought before the court which made the order or any court having the like jurisdiction, and that court may make such order or pass such sentence as the court may determine, so however that the order or sentence shall be such as might have been originally made or passed in respect of the offence.

Section 58.—**CHILDREN LIABLE TO BE SENT TO INDUSTRIAL SCHOOLS.**—(1) Any person may bring before a petty sessional court any person apparently under the age of fourteen years who—

- (a) is found begging or receiving alms (whether or not there is any pretence of singing, playing, performing, offering anything for sale or otherwise), or being in any street, premises or place for the purpose of so begging or receiving alms; or
- (b) is found wandering and not having any home or settled place of abode, or visible means of subsistence, or is found wandering and having no parent or guardian, or a parent or guardian who does not exercise proper guardianship; or
- (c) is found destitute, not being an orphan and having both parents or his surviving parent, or in the case of an illegitimate child, his mother, undergoing penal servitude or imprisonment; or
- (d) is under the care of a parent or guardian who, by reason of criminal or drunken habits, is unfit to have the care of the child; or

- (e) is the daughter, whether legitimate or illegitimate, of a father who has been convicted of an offence under section four or section five of the Criminal Law Amendment Act, 1885, in respect of any of his daughters, whether legitimate or illegitimate; or
- (f) frequents the company of any reputed thief or of any common or reputed prostitute; or
- (g) is lodging or residing in a house or the part of a house used by any prostitute for the purposes of prostitution, or is otherwise living in circumstances calculated to cause, encourage, or favour the seduction or prostitution of the child,

and the court before which a person is brought as coming within one of those descriptions, if satisfied on inquiry of that fact, and that it is expedient so to deal with him, may order him to be sent to a certified industrial school.

Provided that a child shall not be treated as coming within the description contained in paragraph (f) if the only common or reputed prostitute whose company the child frequents, is the mother of the child, and she exercises proper guardianship and due care to protect the child from contamination.

(2) Where a child apparently under the age of twelve years is charged before a court of assize or quarter sessions or a petty sessional court with an offence punishable in the case of an adult by penal servitude or a less punishment, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be sent to a certified industrial school.

(3) Where a child, apparently of the age of twelve or thirteen years, who has not previously been convicted, is charged before a petty sessional court with an offence punishable in the case of an adult by penal servitude or a less punishment, and the court is satisfied that the child should be sent to a certified school but, having regard to the special circumstances of the case, should not be sent to a certified reformatory school, and is also satisfied that the character and antecedents of the child are such that he will not exercise an evil influence over the other children in a certified industrial school, the court may order the child to be sent to a certified industrial school, having previously ascertained that the managers are willing to receive the child:

Provided that the Secretary of State may, on the application of the managers of the industrial school, by order transfer the child to a certified reformatory school.

(4) Where the parent or guardian of a child proves to a petty sessional court that he is unable to control the child, and that he desires the child to be sent to an industrial school under this Part of this Act, the court, if satisfied on inquiry that it is expedient so to deal with the child, and that the parent or guardian understands the results which will follow, may order him to be sent to a certified industrial school:

Provided that if the court thinks that it is expedient that the child instead of being sent to a certified industrial school should

be placed under the supervision of a probation officer, the court may deal with him in like manner as, if he had been charged with an offence, the court might have dealt with him under the Probation of Offenders Act, 1907, so however that the recognisance on entering into which he is discharged shall bind him to appear for having a detention order made against him.

(5) Where the guardians of a poor law union or the managers of a district poor law school satisfy a petty sessional court that any child maintained in a workhouse or district poor law school is refractory or is the child of parents either of whom has been convicted of an offence punishable with penal servitude or imprisonment, and that it is desirable that the child be sent to an industrial school under this Part of this Act, the court may, if satisfied that it is expedient so to deal with the child, order him to be sent to a certified industrial school.

(6) A petty sessional court may, on the complaint of a local education authority, made in accordance with the provisions of section twelve of the Elementary Education Act, 1876, for the purpose of enforcing an attendance order, order a child to be sent to a certified industrial school as provided in that section:

Provided that if upon any such complaint it appears to the court that the child comes within one of the descriptions mentioned in sub-section one of this section, the court may, on the application of the local education authority, proceed under that sub-section and not under this sub-section or section twelve of the Elementary Education Act, 1876.

(7) Where under this section a court is empowered to order a child to be sent to a certified industrial school the court, in lieu of ordering him to be so sent, may in accordance with the provisions of Part II. of this Act, make an order for the committal of the child to the care of a relative or other fit person named by the court, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

(8) It shall be the duty of the police authority to take proceedings under sub-section one of this section as respects any child in their district who appears to the authority to come within one of the descriptions mentioned in that sub-section, unless—

(a) the case is one within the cognisance of the local education authority and that authority decide themselves to take the proceedings; or

(b) proceedings are being taken by some other person; or

(c) the police authority are satisfied that the taking of proceedings is undesirable in the interests of the child.

Section 59.—POWER TO COMMIT YOUNG PERSONS TO CARE OF RELATIVE OR FIT PERSON IN CERTAIN CASES.—Any person who may bring before a petty sessional court any person apparently of the age of fourteen or fifteen years, so circumstanced that if he were a child he would come within one or other of the descriptions mentioned in sub-section one of the last foregoing section, and the court, if satisfied, on inquiry of that fact and that it is expedient so to deal with him, may, in accordance with the provisions of

Part II. of this Act, make an order for his committal to the care of a relative or other fit person named by the court, and the provisions of that Part shall, so far as applicable, apply as if the order were an order under that Part.

THE SUMMARY JURISDICTION ACT, 1879.

RECOVERY OF CIVIL DEBTS IN COURT OF SUMMARY JURISDICTION.

Section 35.—Any sum declared by this Act, or by any future Act, to be a civil debt, which is recoverable summarily, or in respect of the recovery of which jurisdiction is given by such Act to a court of summary jurisdiction, shall be deemed to be a sum for payment of which a court of summary jurisdiction has authority by law to make an order on complaint in pursuance of the Summary Jurisdiction Acts. Provided as follows:—

- (1) A warrant shall not be issued for apprehending any person for failing to appear to answer any such complaint; and
- (2) An order made by a court of summary jurisdiction for the payment of any such civil debt as aforesaid or of any instalment thereof, or for the payment of any costs in the matter of any such complaint, whether ordered to be paid by the complainant or defendant, shall not, in default of distress or otherwise, be enforced by imprisonment, unless it be proved to the satisfaction of such court or of any other court of summary jurisdiction for the same county, borough, or place, that the person making default in payment of such civil debt, instalment, or costs, either has, or has had since the date of the order, the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same, and in any such case the court shall have the same power of imprisonment as a county court would for the time being have under the Debtors Act, 1869 [32 & 33 Vict. c. 62], for default of payment if such debt had been recovered in that court, but shall not have any greater power.

Proof of the means of the person making default may be given in such manner as the court to whom application is made for the commitment to prison think just, and for the purposes of such proof the person making default, and any witnesses may be summoned and examined on oath according to the rules for the time being in force under this Act in relation to the summoning and examination of witnesses, or if no such rules are in force, to the rules for the like purpose made in pursuance of the Employers and Workmen Act, 1875 [39 & 40 Vict. c. 46].

PERJURY ACT, 1911, 1 & 2 Geo. 5, c. 6.

Section 5.—If any person knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made:—

- (a) in a statutory declaration; or
- (b) in an abstract, account, balance-sheet, book, certificate, declaration, entry, estimate, inventory, notice, report, return, or other document

which he is authorised or required to make, attest, or verify, by any public general Act of Parliament for the time being in force; or

- (c) in any oral declaration or oral answer which he is required to make by, under, or in pursuance of any public general Act of Parliament for the time being in force;

he shall be guilty of a misdemeanour, and shall be liable on conviction thereof on indictment to imprisonment, with or without hard labour, for any term not exceeding two years, or to a fine or to both such imprisonment and fine.

Section 7 (1).—Every person who aids, abets, counsels, procures or suborns another person to commit an offence against this Act shall be liable to be proceeded against, indicted, tried and punished as if he were a principal offender.

(2) Every person who incites or attempts to procure or suborn another person to commit an offence against this Act shall be guilty of a misdemeanour, and, on conviction thereof on indictment, shall be liable to imprisonment, or to a fine, or to both such imprisonment and fine.

THE ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1899—62 & 63 Vict. c. 32.

[Note.—For this Act, see pp. 179-184 *ante*.]

THE ELEMENTARY EDUCATION (DEFECTIVE AND EPILEPTIC CHILDREN) ACT, 1914—4 & 5 Geo. 5, ch. 45.

[Note.—For this Act, see pp. 184-187 *ante*.]

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