Mental Deficiency Act, 1913.
[3 & 4 Geo. 5. Ch. 28.]

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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 defective-ness 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 1886, 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, 1896, 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).

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

"Appears 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, 1886, 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 LIII.] 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. Oakley 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 than at instance of parent or guardian, was 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

ioned. 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 bona fide intention of benefiting the defective; and

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

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

Provided that, unless the petition is dismissed, the judicial authority shall order a medical examination in any case where

...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 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 Homo 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 3.—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.

\[\text{Effect and Duration of Orders, \&c.}\]

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

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

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

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

\[\text{Notes to Section 10.}\]

\[\text{Place of safety is defined in section 71.}\]

\[\text{Fourteen days.—The limit of 14 days is taken from section 36 (1) of the Lunacy Act, 1890.}\]

\[\text{As is hereinafter mentioned.—Section 11.}\]

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, sec 201—217 of the Home Secretary’s Regulations, 2nd April, 1914, post.

\[\text{Intoxicants.—For the offence of supplying intoxicants contrary to warning, see section 52. For definition of the expression "intoxicants," see section 71.}\]
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 sec 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-

notic 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. 493). 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 "stepfather" 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 O1-03, 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 Councillors, 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 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 5 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 exercisable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors,

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 exercisable 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. e. 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 exercisable, with respect to "lunatics," under the Lunacy Acts, 1890 to 1911, are powers exercisable: (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 20th, 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 £1,600 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;

(c) 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, etc.—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, 1898, 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.

23 (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 modifica-
tions, 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 regula-
tions 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 par-
tially, 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 pre-
liminary 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 30 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;

(b) 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.

(b) Reports.—See 26-29 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 receipt or detention orders in certain cases where Secretary of State does not act or has not done so. (The Criminal Lunatic Acts, 1833 and 1834.) 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 35 and 36 and the Notes thereto. For Regulations made by the Home Secretary, with the concurrence of the Lord Chancellor, pursuant to section 50, 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, 1854, 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 pauper 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;

(b) 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 51) 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 provisions 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 50 (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 Notes thereto.

Section 247 of the Lunacy Act, 1890, empowers the Secretary of State, on report made by the Lunacy Commissioners that the local authority
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 prose-cute 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 enact-ments 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 (Lunacy 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 33, 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 Charges 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 PREMISSES 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 insti-
tution.

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 prac-
titioner, 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 (Visititation of Institutions and of Patients therein) and 221–222 (Visititation of Patients under Guardianship) of the Home Secretary’s Regulations, 2nd April, 1914, post.
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, 1884. 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 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 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 (not 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."
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, Furnival 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 certified 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, 2½ 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 reduce 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 33 (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, road, 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; 233—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:—60—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:


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 Comissioner 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, illtreats 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. 632.) The Lunacy Commissioners have issued memoranda on epileptic 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

(c) 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. Kaufman (68 J.P. 159), 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 bona 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 (c) 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 (e) 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 76.

(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 51 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 of 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 Commissio, 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 ASYLMS 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 23.

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 Charities 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.