THE ADMINISTRATION BY PARISH COUNCILS OF THEIR POWERS AND DUTIES UNDER THE MENTAL DEFICIENCY AND LUNACY AMENDMENT ACT,

1913.

A Lecture delivered by Dr. JOHN MACPHERSON, Senior Medical Commissioner in Lunacy for Scotland, at Aberdeen on 25th October 1913.

FOR many years past there has been a growing conviction that a large class of the mentally defective was neglected, that the provisions of the Lunacy Acts inadequately dealt with this class and that, unchecked, the increase in the numbers and absolute freedom from control of these defectives was not only becoming scandalous, but that it formed a source of danger to the community at large. Not only so, but it was pointed out with considerable truth that the neglect to deal with them was, in the long run, more expensive to the community than the cost of any active measure for their control and detention could possibly be.

The result of this public opinion was the appointment in 1904 of a Royal commission to enquire and report upon the mentally defective and the manner of dealing with them. The Commission reported in 1908 and now, five years later, we have the satisfaction of having both for England and Scotland Acts of Parliament, which, however imperfect, form the basis of a social reform the ultimate results of which are impossible to foresee.

Public opinion crystallises slowly, and, notwithstanding the attention directed to the subject by the Report of the Royal Commission, the terms of the Bill when it was first published, were met with a storm of criticism and a vast amount of apathy. It is to the credit of this Association of Inspectors of Poor that they boldly raised their voices in favour of the Measure at a time when it was not enthusiastically received by any public body in Scotland.

The history of this Act, so far as Scotland is concerned, can be briefly told. There had been no lunacy legislation of any importance for Scotland since 1866—forty-seven years ago—and our machinery had become antiquated and unadaptable to modern requirements. For the past twenty years the General Board of Lunacy had been pressing for a Lunacy Amendment Bill, and at last, Lord Pentland in 1911 introduced a Bill with the terms of which you are all probably familiar. You may remember that two of the clauses of that Bill gave power to District Boards of Lunacy and to Parish Councils to deal with and provide for mentally defective children. That Bill never proceeded farther than a first reading in the House of Lords. It had a patent defect, for it provided no additional Government Grant to meet the possible additional burden imposed upon local authorities: moreover, the country was not ready for it and it died from want of support and captious criticism combined.

Very shortly afterwards the English Mental Deficiency Bill was introduced with a very strong and determined backing and with a promise of a respectable annual contribution from imperial funds. The opportunity of tacking Scotland on to it was too tempting to be resisted, as it offered facilities for passing into law that an independent Scottish Bill could scarcely secure, and it dangled in front of us the bribe of a grant of about £20,000 annually. Yielding to this temptation, the Lunacy Amendment Bill was temporarily dropped, and we “tacked on” to the English Bill for better or worse—as the result proves, I think it was for better. But the English Bill was revolutionary in so far as it erected a new local authority—the County or Borough Council—to supersede the local Poor Law authority as the authority directly responsible for dealing with defectives. This was not at all palatable to the Scottish Parish Councils, and they rose almost as a body against the proposal. We are undoubtedly a contentious people, but we have at the same time a good eye for the main chance. The pecuniary and other advantages of the English Bill were so obvious that it was finally almost unanimously agreed upon to have a separate Bill for Scotland, more suitable to Scottish local government as it existed, and which would run concurrently with the English Bill through both Houses of Parliament. The risks of such a step were great; the only chance of success was the simultaneous passage of both Bills. As it was, both Bills just managed to scrape through at the fag-end of an overcrowded session.
The Scottish Act is divided into six parts, but the second and fifth parts are practically independent of the other four, and are amendments of the three principal Lunacy Acts of 1857, 1862, and 1866, although they in some respects govern the provisions of the mental deficiency portions of the Act.

In order to get a comprehensive view of the Measure it is better not to follow the lines of its divisions. If there is any complexity in the Bill it arises from the logical method in which the subject is presented.

**DEFINITION.**

The Bill commences with a definition of "mental defect," and states 8.1 that the following classes of persons shall be deemed to be defectives within the meaning of the Act. Observe, however, that it does not follow from this definition that all defectives are to be dealt with under the Act. The classes defined are idiots, imbeciles, feeble-minded persons, and moral imbeciles. The description of each of these classes in the Act is so clear and unmistakeable that we need not waste time in going over it. One point only requires attention. You are aware that 8.1 (a). idiots fall under the provisions of the Lunacy Acts. That is to say, a Parish Council may at present have an idiot certified and treated as a lunatic. The Act, however, introduces another authority—the School Board—whose duty it is, in the first instance, to deal with all mentally- defective persons between five and sixteen years of age, and it was therefore found impossible to exclude idiots from the definition, notwithstanding the appearance of overlapping. Again, very young idiots are not at present so frequently relieved under the Lunacy Acts as they ought to be; and, finally, no definition is or can be perfect, so that the omission of idiots from the definition would have proved a much more serious impediment to the working of the Act than any confusion which might possibly arise from their inclusion.

**POWER OF DEALING WITH DEFECTIVES.**

After the general definition the Act proceeds to impose a duty upon 8.2 (1). (a) parents or guardians, (b) School Boards, and (c) Parish Councils, to (2). (5). make suitable provision for persons labouring under mental defect.

There are two methods under the Act whereby defectives are to be dealt with

1. The parent or guardian of a child between five and sixteen years of age must make provision for the education or for the proper care and supervision of such a child, but where they are too poor to do so, or, as the Act euphemistically and humanely expresses it, "where, by reason of the attendant expense they are unable to do so," the School Board, with the consent of the parent or guardian, must make such provision either under their existing powers (formerly permissive, now compulsory) or under this Act. The School Board must also ascertain what children, of school age, within their area are defective within the meaning of the Act, and they must also ascertain which of these defective children are incapable of benefiting from instruction in special schools or classes, and notify the names and addresses of such children to the Parish Council. When the School Board have so notified the Parish Council, the duty of providing for these uneducable children, with consent of the parent or guardian, is at once and automatically transferred to the Parish Council. Again, it is the duty of the School Board to intimate to the Parish Council the names of all defective children for whom, during school age, they have made provision, and whose discharge from a special school or class or from an institution or from guardianship is impending by reason of their attaining the age of sixteen, and in whose case it is desirable, in the opinion of the School Board, that they should continue under some form of care or supervision. The Parish Council may in such cases, with the consent of the parent or guardian, provide for their care.

So far we have seen:

8.2 (1). (i) That it is the duty of every parent or guardian, if he can afford to do so, to provide for the education and proper supervision of his defective child or ward.
(2) That it is the duty of the School Board, with the consent of the parent or guardian, to provide for the education and care of all defective but educable children between the ages of five and sixteen. The word "educable," as used here, has a wide meaning, and is not limited to a capacity for acquiring ordinary elementary education.

(3) That it is the duty of the Parish Council, with the consent of the parent or guardian, to provide for such uneducable children under sixteen as may be notified to them by the School Board, and it is also expected that the Parish Council will provide for children who have attained the age of sixteen, or over, and who have been notified to them by the School Board as requiring continued care. This also with the consent of the parent or guardian. If the Board are satisfied that the local authority concerned have neglected or refused to place under care any defective whose parents or guardians consent to his being so placed, the Board may present a petition to the Sheriff under the process about to be described.

2. We have next to consider the cases which are to be dealt with otherwise than with the consent of the parent or guardian.

Parish Councils have the duty imposed upon them of ascertaining what persons of sixteen years and over, within their area (not being persons who can be certified under the Lunacy Acts) are defectives and subject to be dealt with under this Act, otherwise than at the instance of their parents or guardians, and of placing such persons in institutions or other guardianship. Some misapprehension has arisen over the terms of this paragraph; some people have erred so far as to suppose that it implies an inquisitorial house-to-house visitation by the Inspector of Poor. Note, however, the words "subject to be dealt with under this Act." Who are subject to be dealt with under this Act in addition to the classes of young persons already considered? The answer is explicitly set forth in section 3, as follows:—

"(1) A person who is a defective shall be subject to be dealt with under this Act in accordance with the provisions thereof hereinafter contained

(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 an imbecile, he is under the age of twenty-one; or

(b) at the instance of the School Board or the Parish Council, as the case may be, if he is a person under the age of sixteen for whom it is the duty of the School Board or the Parish Council to make suitable provision; or

(c) 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 offence punishable in the case of an adult with penal servitude or imprisonment, or who is ordered or found liable to be ordered to be sent to a certified industrial school; or

(iii) who is undergoing a sentence of imprisonment (except imprisonment under civil process or penal servitude, or is undergoing detention in a place of detention by order of a Court, or in a reformatory or industrial school, or in an inebriate reformatory, or who is detained in an asylum or other lawful place of detention for lunatics or a criminal lunatic asylum or criminal lunatic department of prison; 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 School Board as is hereinafter in this section mentioned; or

(vi) who, being a woman and unmarried, is in receipt of poor relief at any time during her pregnancy or at the time of giving birth to a child; or

(vii) who, during any consecutive period of six months in the year immediately before the
commencement of proceedings under this Act, has been in receipt of poor relief in a poorhouse on three or more than three several occasions:

Provided that, in the case of persons under the age of sixteen, referred to in paragraph (c) of this sub-section, the local authority concerned shall be the School Board, unless such persons are, or have been, notified to the Parish Council under the immediately preceding section; and in the case of persons of sixteen years, or over, referred to in paragraph (c) of this sub-section, the local authority concerned shall be the Parish Council."

It will be seen from this quotation that only certain classes of defectives—not all defectives—are subject to be dealt with under this section; that these classes are strictly limited; and that it is extremely improbable that any person coming under one or other of the categories of the section could escape the observation of an ordinarily active Inspector of Poor.

The number of cases then in which it is the duty of the Parish Council to take initial action, without the consent of the parent or guardian, will probably be comparatively few. The distinguishing and underlying principle of the Act is the continuous supervision of defective children from school age onwards. The duty of selecting out such children and of deciding as to their educability, and as to the method of dealing with them, is placed upon the local education authority for the obvious reason that they have a knowledge of children of school age possessed by no other authority, and that they have special machinery consisting of attendance officers, teachers, and medical inspectors, which give them exceptional facilities for forming judgments and opinions as to the mental state of the children under their charge.

**MANNER OF DEALING WITH DEFECTIVES.**

We have next to glance at the processes and formalities necessary for dealing with defectives under the Act.

When a child or young person is placed under care by a School Board or a Parish Council, with the consent of the parent or guardian, no Sheriff’s order is required, but before being so placed by the parent or guardian, without the intervention of a local authority, the consent of the Board must be obtained.

No person, child, or adult can be placed under any form of care without two medical certificates, and one of the certificates must be signed by a medical man duly approved for the purpose by the Board or by the local authority concerned.

When a defective is over twenty-one years and subject to be dealt with under the Act, or when for any reason, in the case of a person under twenty-one years, the consent of the parents or guardians is not obtained or obtainable, or where it is not expedient to require such consent, a Sheriff’s order must be procured. Such an order will be obtained on a petition to the Sheriff, accompanied by two medical certificates, in the manner familiar to us all under the Lunacy Acts. But there are one or two technical novelties introduced under this Act. One of the medical men certifying must be duly approved of for the purpose by the Board, and one (where practicable) must be the ordinary medical attendant of the defective. The certificates must be signed not more than one month prior to the presentation of the petition; a statutory declaration must be signed by the petitioner, and at least one other person (who may be one of the certifying medical men), stating that the person referred to is a defective within the meaning of the Act, the class of defectives (as laid down in the definition in section 1) to which he belongs, and stating whether a petition under this Act or the Lunacy Acts has ever previously been presented in his case and the result of it. When the Board are satisfied that a petition ought to be presented in relation to any defective, and that the local authority concerned have refused or neglected to do so, then the Board may itself present the petition.

8.6 When a petition is presented the Sheriff may cite the defective to appear before him; or
he may remit to some suitable person to examine the defective and to take evidence regarding his mental condition on commission; or the Sheriff may himself visit the defective in order to satisfy himself as to his condition. This procedure is wholly different from that exercised by the Sheriff under the Lunacy Acts. In the latter case his function is merely administrative, but under this Act his function is judicial, with the power of examining witnesses, administering oaths, awarding expenses, and, otherwise, as if he were acting in the exercise of his ordinary civil jurisdiction.

When a person is brought before a Court charged with any offence punishable in the case of an adult with penal servitude or imprisonment, or where a child is charged under section 58 of the Children’s Act, if it appears that the person so charged is a defective, the Court may adjourn proceedings and report the case to the local authority concerned (Parish Council or School Board), or to the Procurator-Fiscal with the view of having a petition presented to the Sheriff under this Act.

When the Secretary for Scotland is satisfied by two medical certificates that any person in any prison, inebriate reformatory, or industrial school is a defective, he may order him to be transferred to an institution for defectives or to be placed under guardianship.

An order not only implies the power of detention under care, but also (1) authorises the conveyance of the person named in the order to an institution and his reception therein within fourteen days after the date of the order. Subject to regulations to be made by the Secretary for Scotland, an order that a defective be placed under guardianship confers on the guardian powers similar to those of a parent over a child.

The methods recognised by the Act for the disposal of defectives are

1. Certified Institutions.
2. Certified Houses.
4. Private Dwellings.
5. A Place of Safety
6. Certified Houses.

A Certified Institution is an institution provided by a District Board of Control or by a combination of District Boards or by a charitable society or corporation, and which is certified by the Board.

A Certified House is a house provided by a private individual or individuals for the reception, for profit, of private patients (defectives), and certified by the Board.

A State Institution is an institution for the care of defectives of violent or dangerous propensities, established and maintained by the Government at the expense of the State, and managed by the Prison Commissioners and two of the paid members of the Board.

Private Dwellings are for the reception of defectives ordered to be placed under guardianship. These dwellings will, in most respects, closely resemble those presently in use for the care of pauper lunatics.

A Place of Safety means any poorhouse, police station, hospital, or any suitable house, the occupier of which is willing to receive temporarily a defective who is found by an Inspector of Poor or constable to be neglected, abandoned, cruelly treated, or without visible means of support, pending the presentation of a petition under the Act. The governor of a poorhouse shall be bound to receive such a case into the poorhouse, unless he has no room, and the local authority must repay the expense of his maintenance in the place of safety with, however, recourse against the defective or any person liable to maintain him.

8. 8. A defective placed under guardianship, whether by an order of the Sheriff or otherwise,
may, on application by a responsible person or by the local authority concerned, be removed by the Board to an institution for defectives; and on similar application, or where the guardian dies or resigns or is removed from his office, the Board may transfer the defective to another guardian.

S. 16. For the transference of defectives from institutions to lunatic asylums or from lunatic asylums to institutions for Sheriff’s orders are in each case required.

DURATION OF DETENTION UNDER THE ACT.

8. 13 (1). A defective placed under care by a parent or guardian may be removed therefrom by his parent or guardian at any time on giving notice in writing to the Board. If within fifteen days after receiving such notice the Board determine that the for his care or supervision after discharge would be unsatisfactory, and that it is in the interest of the defective that he should be detained, no further by the parent or guardian will be allowed till after the expiration of a 8. 13 (3). year from the date of the previous notice. Where a defective has been placed under care by a School Board, with the consent of his parent or guardian, the authority for his detention ceases when the defective attains the age of sixteen, but when the School Board intimates the case to the Parish Council the latter body may continue to deal with him as formerly. When a defective has been placed under care, whether by a 8. 13 (2). Sheriff’s order, or by his parent or guardian, with consent of the Board, or by a Parish Council, with consent of his parent or guardian, the following processes must be observed. The authority for detention 8. 12 (1). ceases at the end of one year. But as this would involve very complicated and tedious clerical work, it is provided that the Board may fix four quarterly dates in each year, so that orders for detention may expire, not on any day of the year, but at these quarterly dates. In this way the expiration of orders is brought into line at each of these four annual periods.

At the end of the first year, as adjusted above, a special medical report as to the mental and bodily condition of the defective with a medical certificate that the defective is still a proper person to be detained under care must be transmitted to the Board, when, after considering the circumstances, the Board may continue the order for a second year, or may discharge the defective. If the Board continue the order they shall intimate the fact to the defective, to his parent or guardian, and to the local authority concerned. At the end of the second year the same process is gone through, but thereafter the Board will continue the order for three years, and thereafter for successive periods of three years. It is provided, however, that where a defective was under twenty-one years at the time of being placed under care, his case must be specially reconsidered by the Board within three months after he has attained the age of twenty-one.

If at any of the various periods mentioned the Board do not order S. 12 (3). the discharge of a defective the person who presented the original petition, or the parent or guardian, or the local authority concerned may, within fourteen days after the intimation of the decision of the Board, appeal to the Sheriff who, after enquiry, may discharge the defective or not, as he thinks fit.

CONSTITUTION AND POWERS OF THE BOARD OF CONTROL
AND OF DISTRICT BOARDS OF CONTROL.

The word "lunacy" has in recent times become obnoxious. S. 19. It is regarded as a term of reproach. It owes its origin to a gross superstition founded on an old belief that mental unsoundness.

depended on the phases of the moon—(Latin, "Luna"). The first step towards the abolition of the word lunacy is contained in this Act, which changed the definition of the Central and District Boards from Boards of Lunacy to he Boards of Control. "Control" is admittedly a clumsy, indeterminate kind of designation but it is an improvement upon lunacy, and the ingenuity of our legislation has failed to coin a better word.

The constitution of the General Board of Control remains unaltered, save for the power to appoint another Medical Commissioner and four additional Deputy Commissioners.

8.22 (3)The constitution of District Boards of Control has been materially altered in so far as one-third of the members are to be elected by Parish Councils—except in the seven large urban
areas where the Parish Council is now the District Board.

The difficulty of arranging for the election of Parish Councillors to District Boards of Control was found to be considerable, for in certain of the districts, e.g., Stirling, Fife, and Inverness, the number of Parish Councils varies from over fifty to over eighty. Following the example of the election by School Boards of representatives upon the County Committees for secondary education, it was resolved to commit the election of representatives to the Chairman of Parish Councils within the area of the District Board of Control, subject to regulations to be § 19 (7) prescribed by the Board. It is further enacted that if in any District Board no women have in the ordinary course been elected to it, then the District Board must co-opt not more than two women to act as members of it.

8. 25 The general powers of the General Board of Control as regards defectives are to be subject to regulations made by the secretary for § 25 (2). Scotland; but it is enacted that the Board shall have power to discharge at any time any person detained as a defective under care.

S. 26. The duty is imposed upon District Boards of Control of providing sufficient and suitable accommodation for defectives sent to certified institutions under Sheriff's orders, and for defectives sent to certified institutions by Parish Councils or School Boards without a Sheriff's order, but with consent of parents or guardians. It is also their duty, as we shall see immediately, to contribute towards the expense of the maintenance of all defectives under care whether in institutions or under guardianship.

One or two points of importance have, however, to be noted in this connection.

(1) School Boards retain the power of dealing with defective children § 26. under the provisions of the Defective Children Education Act, 1906, and the Education Act of 1908. Whether they will choose to do so, however, is another matter.

(2) District Boards retain their power of receiving defective children who § 26. may be at present dealt with under the Lunacy Acts, and they are to have no powers under this Act to provide for defectives who, for the time being, are being treated as lunatics or who might be so treated as lunatics, or who might be so treated as lunatics, except so far as regulations yet to be made by the Board and to be approved of by the Secretary for Scotland permit them to do so. In short, there is to be no wholesale transfer of defectives from under the provisions of the Lunacy Acts to the Mental Deficiency Act.

(3) There is no obligation upon a District Board or a Parish Council § 26. or a School Board to provide for a defective where the amount of the Government Grant is less than one-half of the cost incurred by any of these local authorities on his behalf.

FINANCIAL PROVISIONS.

You are aware that in many of the smaller and poorer parishes the present expenditure upon the maintenance of pauper lunatics bears hardly. In the more westerly and north-westerly Highland parishes, and in all insular parishes, this burden has almost reached the limit of tolerance. You are also aware that the fixed Government Grant for pauper lunacy, which amounts roughly to £115,000 is, per capita, steadily decreasing as the number of patients increases, until now it stands at about: 2/10 per head per week instead of at 4/8, as it did some thirty years ago. In these circumstances it was evident that the addition of an expenditure for mental deficiency might prove the last straw on the already overburdened local taxation of the parishes referred to, while it would form no welcome addition to the financial burdens of many more prosperous parishes.

S. 27. After much deliberation it was decided that while it would be unwise to relieve the parishes of all financial responsibility, it was in every respect desirable that they should be relieved to the extent of one-

s. 64. half of the cost of maintenance of pauper lunatics and defectives, and that the other half should be assessed over the whole area of the District Board of Control. In this way the burden would be equalised to the extent of 50 per cent. of its amount over a wider and richer area than that
of the parish boundary, while the incidence of the District Board's taxation is upon a less restricted valuation than that of the Parish Council. Not only so, but as you will observe from section 27 (sub-section 3), and section 64 (sub-section 2), the cost of maintenance is defined as including the cost of the certification of pauper lunatics and defectives, the cost of obtaining a Sheriff's order, and the cost of conveying a lunatic or a defective to or from an asylum or certified institution and to or from a private dwelling or guardianship. In this way the parishes are relieved of one-half of the whole of their ordinary expenses in connection with lunatics and defectives.

In the section of the Act just referred to "cost of maintenance" is defined as the annual expense of maintaining a lunatic or a defective in an institution, or under guardianship, after deducting all contributions received by a Parish Council or a School Board from the estate of a lunatic or defective, or from persons liable to maintain him, and also deducting all money provided by Parliament as a Government Grant. The "cost of maintenance" is, therefore, a net sum one-half of which is payable by the local authority responsible for the lunatic or defective and one-half by the District Board. In order to arrive at this net sum, it is enacted that the local authority (Parish Council or School Board) shall account annually to the District Board for all such contributions received by them in respect of a lunatic or a defective. It is also enacted that they shall pay to the District Board one-half of the net cost of maintenance by periodical instalments, or otherwise, as may be prescribed by regulations to be framed by the Board.

One or two simple illustrations will serve as examples of how the process works. Suppose a parish has a pauper lunatic boarded out in a private dwelling, and that the annual gross cost of his maintenance is £30. Less the Government Grant of about £7, the present actual cost to the parish is £23. Under the new Act the net maintenance rate would be £16 of which the District Board contribute £8 and the Parish £8. The balance of £14 is completed by the Government Grant plus the contribution from relatives.

The Pauper Lunacy Grant will, as formerly, continue to be paid to Parish Councils subject to the conditions referred to for the relief of District Boards in respect of their liability to assess for half the maintenance cost. The Mental Deficiency Grant of £20,000 will be distributed on such conditions as the Secretary for Scotland, with the consent of the Treasury, may determine.

SETTLEMENT.

The present law of legal settlement of pauper lunatics is not affected by the new Act. Certain novel features of importance are, however, introduced with respect to the settlement of defectives. Under the influence of future legal decisions some of these new points may be modified, but it may be permissible to discuss them from the point of view of the framers of the Act. The first point to be observed s. 33 is the introduction of the term "residence." The local authority concerned is not the Parish Council or School Board of the parish of legal settlement, but the local authority within whose area the defective S. 33 (1) happened to be residing at the time of his being committed to care.

The second point to be noted is, that the local authority of the s 35. parish of residence is to be entitled to reimbursement of their outlays by the local authority of the parish of legal settlement.

The third point to be noted is, that a defective must be placed s. 33 (1). under care within the jurisdiction of the District Board in which the parish of residence is situated.

These provisions have been introduced into the Act mainly because of the belief that the larger proportion of the persons to be dealt with under the Act will be young persons under sixteen, and that their removal to distant parts of the country far from the reach of visitation by their natural guardians might, in many instances, prove a hardship and a ground of complaint.
There are in addition to the above three principal points one or two subsidiary points deserving attention:

(a) An order to place a defective under care shall not be made without giving the Parish Council or School Board, who will incur liabilities on his account, an opportunity of being heard.

(b) Where a defective charged with an offence or undergoing detention for an offence is committed to care, he shall be presumed to have resided in the place where the offence was committed; or in the case of a person in a reformatory or an industrial school, that person shall be deemed to have resided in the place determined to have been his residence when he was committed to the reformatory or industrial school.

(c) Where a Parish Council or School Board has established a claim for reimbursement against a local authority outwith the area of its own District Board, the District Board within which the parish of residence is situated shall be entitled to reimbursement by the District Board within situated the parish of legal settlement.

(d) Owing to the fact that there are several where the boundary of a school district is not identical with the parish boundary, it is provided that the School Board of the school district comprising that part of the parish of legal settlement in which the birth or residence determining the settlement took place shall be liable. But where there is more than one School Board in a parish and where settlement has been acquired within the parish but within more than one of the school districts, each school district shall be jointly liable to such proportion as, failing agreement, shall be determined by the Local Government Board. Observe that the parish is the basis of settlement and that the provision applies solely to the liability of School Boards.

(e) The time during which a defective is detained in an institution is specially excluded in computing time for the purpose of ascertaining a legal settlement.

(f) No person is to be deprived of any franchise, right, or privilege because he may be responsible for the maintenance of a defective in an institution or under guardianship.

Where Parish Councils or School Boards differ as to the legal settlement of defectives, but are agreed as to the facts on which the settlement depends, it shall be lawful for them to refer the disputed case to the Local Government Board, and the determination of that body shall be final.

On an application of the local authority concerned or of any person authorised in the Act to do so, the Sheriff may make an order requiring the defective or any person liable to maintain him, to contribute towards the expenses of his maintenance either in an institution or under guardianship, and any charges incidental thereto as having regard to their ability to pay seems reasonable, Such an order may, at any time, be varied or revoked by any Sheriff having jurisdiction.

THE LUNACY AMENDMENT PORTION OF THE ACT.

Of the twenty sections of this portion of the Act, about ten or one-half directly affect the powers and duties of Parish Councils.

The first section deserving our attention is 55, where a new and very important change is made. At present when a patient is removed from an asylum to the lunatic wards of a poorhouse, or to a private dwelling, the Sheriff's order lapses as soon as the patient leaves the asylum, and if at any time afterwards it is found necessary to send the patient back to the asylum fresh medical certificates and a fresh Sheriff's order are required. In future this will not be necessary, for sub-section

(1) enables a patient who has been removed from an asylum with the sanction of the Board to be
again received back into the asylum on the original Sheriff's order. But the annual medical certificate in the case of patients who have been three years under a Sheriff's order, and without which that order would lapse, became a serious difficulty, for it is not always either easy or convenient to have patients in private dwellings certified once a year. Sub-section (2) was accordingly framed so as to give the Board power to dispense with the annual certificate whenever they consider it expedient to do so, and for such periods as they think proper.

It may be useful to point out that section 57 makes it illegal for any person to keep a lunatic in a private dwelling, whether for gain or not, without the order of the Sheriff or the sanction of the Board, for a longer period than six months, if compulsory confinement to the house or restraint or coercion of any kind are required. It further provides that if any lunatic in any private dwelling or house has been so confined or restrained or subject to harsh and cruel treatment, or, if a female is inadequately protected from sexual danger, that the Board may take steps for representing the facts to the Sheriff under a procedure similar to that followed in the case of dangerous lunatics; and that the Sheriff may commit the lunatic to an asylum or another guardian, and give decree for the expenses of the enquiry against the party or authority liable to maintain the lunatic.

Section 58 slightly amends section 10 of the Act of 1866, but the amendment is important. The last-cited section made it illegal to take a pauper lunatic off the poor roll when the Board had issued an order for his replacement in an asylum. The present section goes farther, and provides that it shall also be illegal to take him off the poor roll when the Board has ordered removal to an asylum in the case of a patient who had never previously been in an asylum, or removal to another house or guardian.

Section 63 makes it in ordinary cases unnecessary to bring a pauper lunatic into Court in order that a warrant for his removal from Scotland may be obtained.

Sections 64 and 65 deal with finance and assessments—questions which have been already discussed.

In section 74 the definition of the term "house" in the Act of S. 74. 1857 is indirectly amended. In the previous Lunacy Acts a "house" meant a private dwelling or other establishment in which a lunatic is detained by order of the Sheriff. As for many years past the practice of sending patients to private houses by order of the Sheriff has fallen into desuetude, and as most of the 3,000 patients in private dwellings in Scotland are detained under the sanction of the Board and not by order of the Sheriff, the definition of the word "house" was often found embarrassing and always ambiguous. Section 70, however, applies the S. 70. general powers of the Board to any house in which a lunatic is detained under the sanction of the Board in the same way as if he were detained by order of the Sheriff.

Section 71 dealing with the removal and chargeability of insane S. 71. prisoners contains two important provisions.

(1) When an insane prisoner is removed to an asylum under the Criminal and Dangerous Lunatics Amendment Act, 1871, he shall, until the parish of his legal settlement has been determined, be deemed to be chargeable to the parish within which the offence for which he was sent to prison was committed; and

(2) An order granted by the Sheriff under the Act just quoted is not to cease when the sentence of the prisoner expires—as is the case at present—but is to continue as if it were an order granted in terms of section 14 of the Act of 1862—that is to say, as if it were an ordinary lunacy warrant. A necessary protection is given to persons putting the Act in force by the terms of section 73. It had long been felt that there S. 73. was not sufficient protection afforded to officials and others under the old Lunacy Acts, and although in Scotland actions at law for wrongful committal or detention have been very rarely raised since 1857, yet the possibility of their occurrence was always present to the minds of medical men and Inspectors of Poor. But as the raising of actions by certain classes of defectives are much more likely to occur under the Mental Deficiency Act than under the Lunacy Act, it has been enacted that any person who grants a certificate or makes a report or presents a petition or carries out an order or does anything in pursuance of this Act or the Lunacy Acts, whether relating to lunatics or defectives, shall
(1) enables a patient who has been removed from an asylum with the sanction of the Board to be
again received back into the asylum on the original Sheriff's order. But the annual medical
certificate in the case of patients who have been three years under a Sheriff's order, and without
which that order would lapse, became a serious difficulty, for it is not always either easy or
convenient to have patients in private dwellings certified once a year. Sub-section (2) was
accordingly framed so as to give the Board power to dispense with the annual certificate whenever
they consider it expedient to do so, and for such periods as they think proper.

It may be useful to point out that section 57 makes it illegal for any person to keep a lunatic in a
private dwelling, whether for gain or not, without the order of the Sheriff or the sanction of the
Board, for a longer period than six months, if compulsory confinement to the house or restraint or
coercion of any kind are required. It further provides that if any lunatic in any private dwelling or
house has been so confined or restrained or subject to harsh and cruel treatment, or, if a female is
inadequately protected from sexual danger, that the Board may take steps for representing the facts
to the Sheriff under a procedure similar to that followed in the case of dangerous lunatics; and that
the Sheriff may commit the lunatic to an asylum or another guardian, and give decree for the
expenses of the enquiry against the party or authority liable to maintain the lunatic.

Section 58 slightly amends section 10 of the Act of 1866, but the amendment is important. The
last-cited section made it illegal to take a pauper lunatic off the poor roll when the Board had issued
an order for his replacement in an asylum. The present section goes farther, and provides that it
shall also be illegal to take him off the poor roll when the Board has ordered removal to an asylum
in the case of a patient who had never previously been in an asylum, or removal to another house
or guardian.

Section 63 makes it in ordinary cases unnecessary to bring a pauper lunatic into Court in
order that a warrant for his removal from Scotland may be obtained.

Sections 64 and 65 deal with finance and assessments—questions which have been already
discussed.

not be liable to any civil or criminal proceedings, whether on the ground of want of
jurisdiction or any other ground, if he has acted in good faith and with reasonable care.

In the preceding desultory remarks I have touched upon and endeavoured to expound only
those points which more intimately concern the duties and functions of Parish Councils. There are
many other matters of interest in the Act which time does not permit me to refer to.

In conclusion, I desire to point out that this is the most important piece of lunacy
legislation which has been enacted in Scotland since 1857. It is not possible to forecast its effect or
the success or want of success which may attend its administration. Many important Acts of
Parliament have failed to effect the purpose for which they were framed, for the reason either that
they were not congenial to public opinion or that they did not adequately correspond to the
requirements of the social environment. It is scarcely conceivable that public opinion will not in
time realise the justice and humanity of protecting the most helpless class of the community from
the cruelty and dangers with which they are constantly beset, as well as the expediency from the
social standpoint of isolating those classes of defectives who are actively dangerous to the common
weal.

If this Act, which comes into force in a few months, will be as judiciously administered by
local authorities as the Lunacy Acts have been, then Scotland will retain its reputation for local
government. It is not a perfect Measure—no Act can possibly be perfect—but many rough places
have been made so smooth and many difficulties have been rendered so surmountable that I am
confident that, with the aid of the goodwill and the energy of the Inspectors of Poor of this country,
its success will be assured. For in the ultimate result much depends upon Inspectors of Poor: their
knowledge of social conditions in Scotland is unrivalled, and in my experience of them, extending
over thirty years, I have found them, as a class, wise, cautious, and energetic. It is largely upon their
knowledge that public opinion respecting mental deficiency must be based, and it is their attitude
towards it that will mould the future destiny of the Act.