The Lunacy Amendment Act, 1862.

THIS new Act appears to us, on the whole, a wise and judicious measure of legislation. It must undoubtedly be accepted as the result of the agitation against the lunacy law, and of the inquiry of the special committee of the House of Commons, which ensued upon it about three years ago; and if we consider all the vices which were then charged against the Lunacy Law and its administration, and the large and sweeping measures of change which were proposed, we must accept this Act as a measure of amendment characterised by moderation, and a wise adhesion to existing forms.

It might indeed be called, an Act to extend the powers of the Commissioners in Lunacy; but the members of our Association will not forget the strong opinions which they expressed against the delegation of any part of the power of the commissioners to new officials; when it was proposed, first that an independent physician living in the immediate neighbourhood of every licensed house, should be the independent visitor and reporter on every individual patient; and subsequently that England should be divided into small districts under the supervision of a staff of sub-inspectors of lunacy. Their earnestly expressed wish that if any change took place, it should be an extension of the powers of the commissioners will induce our members to recognise in this Act the fructification of their own desires and opinions. Moreover, the extension of these powers is kept within moderate limits, and consists for the most part in the increase of visitation. It imposes two additional visits in each year to be made by the commissioners to each licensed house within their district, and by the visitors to each licensed house not in the metropolitan district; so that now each licensed house in the metropolitan district will be visited six times in each year, and each house in the provinces will be visited eight times in each year, namely, six times by the visitors, and twice by the commissioners. This is the amount of visitation which is imperative, but in addition to this, one or more of the commissioners have now power to visit any asylum or hospital for the insane, or licensed house, at any time and as often as they may think fit, and at such visits they will have the same powers as they enjoy at the regular visits. This provision is certainly more in accordance with common sense than the law as it stood before, which only enabled the commissioners to make the prescribed number of statu-

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

tory visits, whether the house was under the best or the worst management. Their time will be too fully occupied for them to be able to throw away superfluous visits upon any establishment where they may not think their visits are needful; and an amendment Act which did not give them full powers to visit whenever and wherever their presence may be thought needful, would indeed have been a lame and futile measure.

By section 31 two of the commissioners may order the removal of any lunatic from a workhouse, and direct him to be received into an asylum; an appeal, however, being granted the guardians to the Secretary of State. This power, needful as it is, even under present conditions, is likely to become more so, if the powers of the 8th section should be largely carried out, by which chronic lunatics selected by the superintendents, may, with the approval of the commissioners and the Poor Law Board, be removed from the asylum and accommodated in the workhouse. The 32nd section gives power to two of the commissioners to visit any pauper lunatic who is not in a workhouse, to call in the assistance of any medical man, and under his certificate to order the removal of the patient to an asylum. The 31st, 32nd, and 33rd sections, in fact, give the same power to two commissioners in sending pauper patients to asylums, as that already possessed and exercised by one justice; a very reasonable extension of their powers, which cannot be expected to work otherwise than beneficially, since it is not likely to be exercised except in instances where their knowledge and experience, and disinterestedness, are opposed to other qualities in local authorities.

The general purport of the most important clauses which we have not already commented upon, is as follows:—The 4th clause refers to a dispute about plans for an asylum for an union of counties, in which the courts of session, or committee of justices of one county, disapprove of the plans; under such circumstances the decision is placed in the hands of the secretary of state. The 5th section provides that plans for building or enlarging county asylums shall be accompanied by estimates of cost.

The 6th clause permits the visitors of an asylum to apply such sums of money received from non-contributing counties or boroughs as may be in excess of the ordinary maintenance rate, to the formation of a fund by which the asylum may be altered, repaired, or improved. Perhaps it would have been still better if the clause had gone somewhat further, and had directed the visitors of every asylum to apply these moneys in this manner; since there can be no doubt that the money is derived as a rent-charge on the buildings, and that therefore it ought to be applied to the maintenance of the buildings. In the majority of asylums it is still applied to diminish the maintenance rate; a mode of appropriation which not only

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

appears unjust in itself, but which renders it exceedingly difficult to institute any exact comparison between the finances of the different county asylums.

The 7th section enables the justices of a county or borough under contract for reception of their lunatic paupers into an asylum, to defray out of the county or borough rates so much of the weekly charge as shall represent the sum due to the asylum; that is, the sum paid as a rent-charge for the buildings, and which by the preceding section the visitors are empowered to appropriate as a building fund. This sum, however, which may be raised on the county or borough rates, must not exceed one fourth of the weekly charge—a limitation which seems to be too narrow, for in most of the asylums which receive borough patients under contract, the sum fairly charged for rent is considerably more than one fourth of the total for rent and maintenance.

In connection with this subject of contracts, it is worth noting that the original bill contained a clause to compel the justices of counties to admit boroughs into unions for providing asylum accommodation. As might have been expected, this clause was strenuously opposed; for whatever feelings of humanity the county magnates might entertain for the condition of poor borough lunatics, it was not probable that they would readily grant powers to the Secretary of State to throw open all their board-rooms to the tradesmen-magistrates living in the borough towns.

If Sir George Grey had ascertained in what manner the borough and county of Oxford ploughed together under the same yoke, before the time when Berkshire was added to the county element of the board, he would have been able to foresee the objections which have been raised to compulsory unions of counties and boroughs. But if the county men have been permitted to have their way in objecting to legislation which would render such unions imperative upon them, they have, we think, no right to object to any other feasible method, by which the pauper lunatics of boroughs of moderate size may be provided with accommodation in the neighbouring county asylum; and we do think that in withdrawing this clause, which under certain circumstances would have rendered unions of boroughs and county asylums imperative, Sir George Grey might fairly have stipulated that contracts upon equitable terms for the admission of borough patients into county asylums should be compulsory upon the counties under order from the secretary of state. Sir George Grey might in effect have said,—We will not, gentlemen of the counties, compel you to commingle in joint boards of management with gentlemen of the boroughs, but we will not permit your opinions and feelings to throw any impediment in the way of the proper care and treatment of a class of unhappy people very much dependent upon legislative protection. A proper asylum for the

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

reatment of pauper lunatics, is a large and complicated institution, and a borough with only forty or fifty lunatics chargeable on its rates, cannot be expected to provide such an institution for itself. We must therefore urge, and if needful compel you to admit them, on such just and equitable terms as will repay you for past expenditure, and guarantee you from future loss. Some legislative measure must, indeed, sooner or later be passed, unless the justices of counties and the visitors of their asylums generally and voluntarily act in this direction. There is a subsidiary point, however, which deserves the attention of the members of our Association, namely, the remuneration of officers for the care and treatment of patients admitted into asylums under new contracts. The superintendent of an asylum, for instance, has been engaged to take charge of the asylum provided for the care and treatment of the patients of a certain county; if, after a time, the size of his asylum should be increased, and his own responsibilities and cares doubled, perhaps, by the admission of a number of troublesome borough patients, it does seem reasonable that he should be paid for work which has thus been thrust upon him. We have been informed that the objections of superintendents have sometimes proved the greatest impediment to contracts for the admission of borough patients into our asylums; and it may well be supposed that the experience of other superintendents who have made no such objections, but who have had their labour and their pains for thanks and reward for the care and treatment of borough patients, may not have been without influence upon the minds of their professional brethren.

We hardly know what to think of the 8th clause, or to foresee in what way it will work. It enables the visitors of an asylum, and the guardians of an union, with the approval of the commissioners and the president of the Poor Law Board, to make arrangements in the workhouse for the accommodation of a limited number of chronic lunatics, "to be selected by the superintendent of the asylum, and certified by him to be fit and proper so to be removed." A limited number must mean, either a small number or a specified number, the number being fixed in the scheme to which the commissioners give their approval. The real responsibility, it will be observed, is made to rest upon the shoulders of the superintendent of the asylum who has to select the patients and to certify their quality, so that whatever goes wrong with the lunatics in the workhouse is likely to be attributed to the error of his selection. If it were possible he ought to see the manner in which his selected patients are accommodated and treated. Few superintendents, however, would have the leisure to visit union-houses; yet it seems probable that if this clause should be acted upon to any large extent, the visiting commissioners will desire to provide themselves with some local assistance in discharging this particular duty; and if the clause should be actively worked;

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

the next lunacy amendment act will probably provide such assistance.

The 11th section repeals a restriction in the old Lunacy Act, that visitors of asylums must not lease lands for less than sixty years, the absurdity of which was pointed out in these pages long ago. The visitors may now hire or take on lease for a year or any term of years; which indeed they have already done, though contrary to the law, for a law without a penalty is often found to be no very great impediment where men are doing a good thing with right intentions.

The 12th section will prove a great disappointment to the officers of asylums, since it refers to their superannuation, and since the latter part of it contains a provision which more than neutralizes the good intentions of the clause as it originally stood. The clause as it stood, for which the officers of asylums were indebted to Lord Shaftesbury, reduced the term of service for which a pension could be granted to them from twenty years to fifteen years, and provided that in calculating the amount of superannuation regard may be had to the lodgings, rations, or other allowances enjoyed. In committee the following rider was attached, under which we have no hesitation in saying, that no superintendent will ever enjoy a superannuation until he has a foot and a half in the grave, or unless he has had the good fortune to serve in some small homogeneous county in which the visitors completely rule the courts of session, and we fear we may also add, in which he has been more studious to make friends than to do his duty. The rider runs thus: "Provided that no annuity by way of superannuation granted by the visitors of any asylum under the provisions of this Act, or of the Lunacy Act, chapter 97, shall be chargeable on, or payable out of, the rates of any county, until such annuity shall have been confirmed by a resolution of the justices of such county in general or quarter sessions assembled."

The 13th section provides for the superannuation of a matron whose husband is already superannuated, said to be inserted for the benefit of one particular matron; if this be so, we can only say, that the interests of an individual may be better cared for in the legislation of the country than those of an important class.

The 14th and 15th clauses require that justices, on application being made to them for a licence, or for consent to additions to a licensed house, should take into consideration the report and opinion of the commissioners before such licence or such consent be granted. Perhaps it would have been well to have said, before such licence be refused, since wrong is quite as likely to be done by justices refusing a licence to a building in every way suited to the welfare of lunatic inmates, because it is near to some influential person who dislikes the proximity of mad people, as by granting a licence to some dilapidated building in some lone and sequestered spot, which, in

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

the opinion of nine justices out of ten, would be the very locality in which people out of society should be shut up.

The 16th clause provides that the medical men residing in or visiting licensed houses of which the proprietors are non-resident, should be approved of by the commissioners if the house is metropolitan, and by the justices if it is in the provinces.

The 17th section imposes a penalty not exceeding fifty pounds for each patient received into a licensed house beyond the number specified in the licence; and the 18th section allows two of the commissioners to permit a person who has been under certificates as a lunatic for five years, to be received as a boarder in a licensed house, with his own assent; a clause which probably goes quite far enough in providing for that voluntary seclusion in asylums which has of late years been so much advocated.

The 19th clause very properly relieves relieving officers from the responsibility of expressing an opinion as to whether "a lunatic is a proper person to be sent to an asylum." The 20th clause, on the other hand, imposes upon medical officers of unions the responsibility of declaring whether a lunatic in a workhouse is a proper person to be kept in a workhouse; and the 21st clause imposes a new form of return of the pauper lunatics in workhouses to be used by medical officers.

The 22nd section abolishes the necessity of medical certificates for placing in an asylum a person found lunatic by iuquisition, the order of the committee and copy of the office order appointing the committee being substituted. Hitherto when a person has been found lunatic under the full and careful investigations of an inquisition, he could not be placed in an asylum without the, in his case, superfluous authority of two medical men certifying, *de novo*, to his insanity. Persons found lunatic under inquisition are also removed from the operation of the law of medical visitation which applies to other lunatics living as single patients.

By the 23rd section persons signing orders for the reception of a private patient into asylums, &c., must have seen the patient within one month prior to the date of the order, and must make a statement when the patient was so seen, in the order. This clause will necessitate an alteration in the form of order.

The 24th section prohibits any medical man from signing certificates for the reception of private patients in asylums, &c., who has either received a per-centage on the payments of private patients, or who is a *medical attendant* as defined by the Lunacy Act, chapter 100; that is, every medical man who shall either keep any licensed house, or shall attend in his medical capacity any licensed house, asylum, hospital, or other place where any lunatic shall be confined. As medical men may very fairly be divided into those who know something about insanity and those who know nothing about it, and as

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

the former class will almost entirely come under the denomination of medical attendants, it follows that the 24th section of this Act imposes the duty and responsibility of signing certificates of insanity upon that class of medical men who know nothing about the matter.

The 25th section very properly directs that notice of the death of any patient in an asylum, &c., should be sent to a relative; and section 26th enacts that the original papers shall authorise the detention of a private or pauper patient, although his status as private or pauper may be changed.

The 27th section gives the commissioners power to order the discharge of any patient from any asylum, &c., either of whose certificates being incorrect or defective, are not amended to the satisfaction of the commissioners within fourteen days. It would, we think, have been well if the commissioners had also been empowered to order new examinations and certificates to be made of the patient without discharging him from the asylum, &c., since it might well happen that a patient discharged on account of informal certificates during an attack of acute insanity, might thereby suffer the terrible mischief of losing his chance of cure, and all through the ignorance or obstinacy of the certifying medical man.

The 28th section requires that notice of the admission of any private patient should be sent to the commissioners within one clear day of the admission; the statement of the patient's condition being sent as before after two, and before the expiration of seven days. The next sections have been already referred to.

The 34th section enjoins upon the superintendent of every asylum to send each half year to the guardians of each union a statement of the condition of every pauper lunatic chargeable to the union. We trust that the commissioners will prescribe some form in which this shall be done; for if the superintendents should have to make a statement in such detail as to supersede the necessity of correspondence with the guardians as to the condition of individual patients, that, indeed, would be rather a heavy half-yearly task in asylums containing from five or six hundred up to a thousand patients.

The 38th section empowers the proprietor or superintendent of a licensed house or hospital, with the consent of the commissioners or visitors, according to the jurisdiction, to permit any patient to be out on trial for such period as he may think fit; and the 39th section imposes a penalty, not exceeding £20, upon any officer or servant who permits or connives at the escape of any patient from any licensed house. These two clauses do but assimilate hospitals and licensed houses to asylums, to which similar clauses have long applied. The next clause, however, the 40th, applies only to private patients, whether in asylums, or elsewhere. It enacts that letters addressed by patients to the commissioners, or to the committee, or to

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press

visitors, shall be forwarded unopened, and that if addressed to any other person, such letters shall also be forwarded; unless, in the latter case, the person in charge of the patient prohibit it by endorsement, in which case the letters shall be produced to the authorities at their next visit. We have nothing to say against this clause as it stands in the Act; we have long given up all attempts to interfere with or control the correspondence of our own patients, and if the legal injunction that such correspondence shall be unfettered affords any assurance to the public that the inmates of asylums are fairly dealt with, such assurance will be cheaply given at the expense of embarrassing the commissioners with a large amount of waste paper. With regard to letters addressed to other persons than the commissioners and other authorities, there can be no doubt that the power of prohibition has been most wisely placed in the hands of the persons in charge. If this were not the case, the most mischievous results would ensue. Take the instance of a professional or commercial man, struck down with an attack of curable insanity, during which his great delight is to write to all his friends and acquaintance letters of which the unprincipled might take ruinous advantage, and which, at the very best, would be a publication of his state of mind as mischievous as an advertisement to that effect in the second column of the 'Times.' This clause, as it stood in the original bill, contained the extraordinary provision that letters addressed to other persons, should be forwarded *unopened*, unless by endorsement, &c., but luckily this was changed in committee.

Of the concluding clauses, which are useful amendments of an administrative kind, none requires notice except the 44th, which enacts that the superintendent of an asylum, or a person in charge of a single patient, shall transmit notice to the coroner of the death of a patient, and in default be guilty of a misdemeanour. This clause, which bring patients in asylums and single patients under the same law as patients in hospitals and licensed houses, will relieve superintendents of an irksome responsibility. Heretofore it rested with the superintendent whether he should send to the coroner or not, and in many cases it was by no means easy to determine the proper occasion to do so. If he sent for the coroner to see an epileptic who died with his face on the pillow, he might experience a rebuff for giving needless trouble, and the next time he might omit to send for him when an investigation would have elicited events which ought not to be concealed.

On the whole, this Act, although like all amendment acts it is neither systematic nor complete, is, we think, except in the few points we have indicated, a wise and judicious and satisfactory measure, and one which we trust will prevent the necessity for any meddling with lunacy law for some time to come.

https://doi.org/10.1192/bjp.8.43.431 Published online by Cambridge University Press