

## BUREAUCRACY AND MENTAL ILLNESS: THE COMMISSIONERS IN LUNACY 1845–90

by

D. J. MELLETT\*

BY THE early nineteenth century the dynamics of economic growth, urban expansion, and demographic change had produced both new social problems and new dimensions of traditional problems. Changes in cultural and medical responses to insanity were one outcome, and there emerged a psychiatry based mainly on the experiences of alienists working within an asylum system which, after slow growth in the previous century, rapidly became a taken-for-granted strategy for dealing with the mad. As a first-resort solution to problems created by mental disorder, the asylum was designed initially to cope with afflicted members of society's middling ranks, and was operated on a profit-making basis by medical and lay entrepreneurs. Allegations of illicit confinement and of brutalities in "madhouses" prompted limited state intervention from the early 1700s. The inadequacy of provision in the handful of subscription hospitals, which grew up in the later eighteenth century, and total lack of provision for the pauper insane, attracted the concern of philanthropists and legislators from the last quarter of the century. Increasingly sophisticated legislation – the lunacy laws – produced by 1845, during an increased tempo of government growth, a centralized bureaucracy to control the "trade in lunacy" and to supervise statutorily-enjoined public provision for the insane poor.<sup>1</sup>

Surprisingly little attention has been paid by administrative historians to the lunacy laws and their invigilators, despite two decades of research and theorizing stimulated by the Parris-MacDonagh controversy and somewhat sterile search for a "model" of government growth.<sup>2</sup> During the past decade there has been an increase in the number

\* D. J. Mellett, M.A., Ph.D., Lecturer in History, Department of Adult Education and General Studies, The St Helens College of Technology, Merseyside WA10 1PZ.

The research from which materials have been distilled to present this essay was carried out on a Department of Education and Science grant in Cambridge between 1969 and 1972, and was integrated into D. J. Mellett, 'Society, the state and mental illness. Social, cultural and administrative aspects of the institutional care and control of the insane in nineteenth-century England', unpublished Ph.D. thesis, University of Cambridge, 1978. My thanks to my erstwhile supervisors, Derek Beales and Olive Keidan.

<sup>1</sup> Kathleen Jones, *A history of the mental health services*, London, Routledge & Kegan Paul, 1972, pp. 3–182; William L. Parry-Jones, *The trade in lunacy. A study of private madhouses in England in the eighteenth and nineteenth centuries*, London, Routledge & Kegan Paul, 1971, pp. 6–26; Mellett, op. cit., pp. 33–108; Andrew T. Scull, *Museums of madness. The social organization of insanity in nineteenth century England*, London, Allen Lane, 1979, pp. 13–119.

<sup>2</sup> Valerie Cromwell, 'Interpretations of nineteenth century administration: an analysis', *Victorian Studies*, 1965/66, 9: 245–255; Gillian Sutherland (editor), *Studies in the growth of nineteenth century government*, London, Routledge & Kegan Paul, 1972; Peter Stansky (editor), *The Victorian revolution. Government and society in Victorian Britain*, New York, Franklin Watts; London, Croom Helm, 1973.

of studies devoted to the social history of insanity,<sup>3</sup> yet the Commissioners in Lunacy still figure largely as commentators on a scene rather than as leading actors. David Roberts included the Commissioners in his broad study of nineteenth-century welfare strategies; Kathleen Jones duly invokes them as guardians of the “reform” processes which form the mainstream of her account; Andrew Scull has more recently offered some consideration of the Commissioners’ corporate ideology.<sup>4</sup> But overall there has been little attempt to analyse the organization and function of the Commissioners, or to examine their role in generating, not simply symptomatizing, changes in mental health policy. This essay provides materials towards filling the first of these gaps.

## I

Changing conceptions of the role of government in the early nineteenth century integrated with a broadly-based humanitarianism<sup>5</sup> to encourage the growth of centralized administrative agencies whose purpose was to supervise or even to supplant traditional local authorities in the implementation of social and economic policies.<sup>6</sup> Benthamite influences promoted ideals of economical efficiency, uniformity, and professionalism which helped to create the crucial role of the inspector. The inspector, as Herman Finer has written,

... may begin as a kind of disciplinary invigilator, merely to see that the law is complied with . . . . But in the course of time, he becomes considerably more, undergoes a transfiguration, as the potentialities of the human link between human beings at the centre and in the localities are appreciated . . . . He becomes a repository of central knowledge, wisdom and tradition; he learns from the diverse experience of the different places and people he observes, and can offer comparative, sifted knowledge about alternative ways of fulfilling the same task. He can become a skilled adviser; a beneficial mediator as well.<sup>7</sup>

The role of the inspector was realized in the government Factory Act of 1833, which was seen to “contain the seeds of mighty changes in . . . domestic policy.”<sup>8</sup> In lunacy matters, the principle of independent supervision of asylums had been voiced as an ideal in the eighteenth century, but visitation by local magistrates or asylum governors remained the norm until 1845. In London the Royal College of Physicians had a nebulous responsibility for inspection, but, as one of their members told the Select Committee on Madhouses in 1815, the College was little more than a toothless watchdog, and what was necessary was a board of three Parliamentary visitors who

<sup>3</sup> For instance: Vieda Skultans, *Madness and morals. Ideas on insanity in the nineteenth century*, London, Routledge & Kegan Paul, 1975; and *idem*, *English madness. Ideas on insanity 1580–1890*, London, Routledge & Kegan Paul, 1980; William F. Bynum, ‘Rationales for therapy in British psychiatry 1780–1835’, *Med. Hist.*, 1974, 18: 317–334; Peter McCandless, ‘Liberty and lunacy: the Victorians and wrongful confinement’, *J. soc. Hist.*, 1978, 11: 366–386; John K. Walton, ‘Lunacy and the Industrial Revolution. A study of asylum admissions in Lancashire 1848–50’, *ibid.*, 1979, 12: 1–22.

<sup>4</sup> David Roberts, *Victorian origins of the British welfare state*, New Haven, Conn., Yale University Press, 1960, pp. 242, 317; Jones, *op. cit.*, note 1 above, pp. 145–147, 157–160; Scull, *op. cit.*, note 1 above, pp. 208–209.

<sup>5</sup> Roberts, *op. cit.*, note 4 above, p. 27.

<sup>6</sup> Oliver MacDonagh, *Early Victorian government 1830–70*, London, Weidenfeld & Nicolson, 1977, pp. 1–21.

<sup>7</sup> Herman Finer, in J. S. Harris (editor), *British government inspection*, London, 1955, pp. viii–ix.

<sup>8</sup> *The Times*, 21 September 1833.

should “correspond with and control every insane institution in the kingdom”.<sup>9</sup>

Framed by Lord Ashley and others, the 1828 Madhouse Act replaced the College commissioners with a fifteen-strong board of Metropolitan Commissioners in Lunacy.<sup>10</sup> Composed of five magistrates, five private gentlemen, and five physicians, the Commissioners were markedly unprofessional and formed a body too extensive for personal responsibility. S. W. Nicoll, Recorder of York and a prominent figure in local lunacy reform; remarked that the board possessed “no new stimulus, no new motive, no new intelligence,” and, despairing at the parochiality of the Commissioners, urged that “nothing but a Board established in London, and thence, from time to time, visiting all the institutions in England, could offer advantages . . . . They would visit with more authority than any set of visitors from a neighbouring town and with far more independence.”<sup>11</sup> Full-time professional inspectors were seen as the only solution; the state power should be more apparent. This was the view of ex-public asylum superintendent J. G. Millingen, who argued that the role of inspector should extend to “every stage of admission and discharge, as well as supervising the conduct of asylums”. Millingen contended that

All lunatic asylums, whether public or private, should be placed under the immediate care of government . . . under the control of inspectors, metropolitan and provincial . . . . No patient should be sent to a public or private institution until the case has been submitted to the inspectors, with the proper medical certificates, and the confinement of the lunatic sanctioned by them as indispensable. The inspectors should have the power of discharging those persons whose further confinement they should think improper.<sup>12</sup>

The Metropolitan Commissioners scarcely matched these expectations. Their early reports – averaging half a dozen pages of comment and statistics – indicate a self-satisfaction and optimism about madhouse licensees which ring discordantly with the tenor of their national survey of 1844. In their first year they licensed thirty-eight private asylums in which they found “a most ready attention on the part of proprietors to such suggestions as we have thought it right to make . . .”.<sup>13</sup> From 1832 to 1836, the Commissioners “attended every reasonable request made by patients,” and where it had been necessary to “animadvert” upon conditions in pauper wards, desired improvements were forthcoming.<sup>14</sup> Proven ill-treatment of patients had been followed by staff dismissals and “some remedy” had been found for all evils encountered “whenever a remedy has been practicable”.<sup>15</sup> Not until the end of 1837 did the Commissioners record an instance of flagrant illegality – and then they were unable to gain

<sup>9</sup> J. Sharpe (editor), *Report together with the Minutes of Evidence . . . from the Select Committee appointed to consider the Provision being made for the better Regulation of Private Madhouses in England*, London, 1815, p. 189.

<sup>10</sup> 9 Geo. IV c. 41. Jones, *op. cit.*, note 1 above, pp. 101–131.

<sup>11</sup> S. W. Nicoll, *An enquiry into the present state of visitation in asylums for the reception of the insane and into the modes by which such visitation might be improved*, London, 1828, pp. 79, 84, 88–89.

<sup>12</sup> J. G. Millingen, *Aphorisms on the treatment and management of the insane; with considerations on public and private lunatic asylums, pointing out the errors of the present system*, London, J. Churchill, 1840, pp. 179–180.

<sup>13</sup> PP (1830) XXX: Metropolitan Commissioners in Lunacy, *Report to the Lord Chancellor*, p. 3.

<sup>14</sup> PP (1841) Sess. 2. VI: Metropolitan Commissioners in Lunacy, *Report to the Lord Chancellor* (1836–37), p. 4.

<sup>15</sup> *Ibid.*, p. 2.

satisfaction.<sup>16</sup> That same year found the Board lamenting the lack of co-operation of provincial asylums and magistrates as they attempted to widen their “advisory” capacity in line with their conception of the legislature’s objective of securing a “complete and general registry in lunacy.”<sup>17</sup> By 1840 the Commissioners were becoming increasingly involved with provincial communications, and in 1842 two of their parliamentary members, Somerset and Ashley, obtained extended inspectorial powers.<sup>18</sup>

The Commissioners’ subsequent report (1844) – the “Doomsday Book of the Insane”<sup>19</sup> – underlined the desperate inadequacies of the obtaining systems of asylum provision and inspection. Provincial licensing and magisterial visitation were almost dead letters. Twenty-one counties in England and Wales had neither public nor private asylum. Profiteering was rife in the private sector; such public asylums as existed were often defective in terms of site, design, or accommodation. The Commissioners’ appended “Suggestions for the Amendment of the Law regarding Lunacy” highlighted dichotomies which were to haunt the national inspectorate for the rest of the century: the “Suggestions” displayed an overwhelming concern for the liberty of the individual, but was compromised by awareness of the conflicting necessity for speedy certification and confinement to secure early treatment; and whilst the undesirable detention of curable patients in workhouses was lamented, it was noted helplessly that asylums were failing in their curative function because of overcrowding.<sup>20</sup>

The report’s impact facilitated the progress of Ashley’s legislative reforms, and in 1845 he was able to secure the passing of two acts: the Lunatics Act and the Lunatic Asylums and Pauper Lunatics Act.<sup>21</sup> The former established the long-hoped-for central board of control: the Commissioners in Lunacy; the second made the provision of county asylums a statutory duty. In analysing the organization and function of the Commissioners, from their inception to the passing of the Lunacy (Consolidation) Act of 1890, I have employed an arrangement of materials adapted from John Harris’s stylization of the factors contributing to the success of central government inspection: (i) the number of inspectors; (ii) the skill and competency of the inspectors; (iii) the mode of organization; (iv) the frequency of inspection; (v) the freedom of the inspectorate to interpret central authority’s definition of its task; (vi) the adequacy of legal means for securing information from local government; (vii) the effectiveness of other means of control and central supervision; (viii) the newness of the inspectorial system; (ix) the diversity of local government activity involved; (x) the independence of the authorities to be inspected.<sup>22</sup>

<sup>16</sup> *Ibid.*, pp. 4–5.

<sup>17</sup> *Ibid.*, pp. 5–6.

<sup>18</sup> 5 & 6 Vic. c. 87; Jones, *op. cit.*, note 1 above, pp. 132–135.

<sup>19</sup> Daniel Hack Tuke, *Chapters in the history of the insane in the British Isles*, London, Kegan Paul, 1882, p. 178.

<sup>20</sup> Metropolitan Commissioners in Lunacy, *Report to the Lord Chancellor* (London, 1844, in octavo), pp. 3–4, 6–7, 12–18, 38, 42, 55, 85, 92, 96, 165, 167, 204–208.

<sup>21</sup> 8 & 9 Vic. c. 100 and 8 & 9 Vic. c. 126. Mellett, *op. cit.*, pp. 162–166; Scull, *op. cit.*, note 1 above, pp. 107–113.

<sup>22</sup> Harris, *op. cit.*, note 7 above, chapter 1.

II

The Lunacy Commission statutorily consisted of six professional inspectors: three physicians and three lawyers. Up to five honorary Commissioners might be appointed. The salaried professionals received £1,500 per annum plus travelling expenses. Initially there was provision for superannuation payments, but as none of the original membership wished to take advantage of the scheme, Ashley prevailed on Trevelyan to have the Treasury refrain from making salary deductions. The salary was attractively high to compensate the desired potential candidate for office for the loss of private practice, and compared favourably with other government offices.<sup>23</sup> A tradition was early established that Commissioners retiring from the professional inspectorate whilst still able and healthy should be drafted on to the Board as part of the honorary complement, which was rarely filled.<sup>24</sup> Weekly meetings were held on either Monday or Wednesday, and were normally attended by two or three Commissioners and the secretary. Office rules demanded the attendance of at least one physician and one barrister. At the first meeting each month the reports of inspectors and of asylum visiting committees were considered.<sup>25</sup>

A full-time secretary was employed on a salary scale of £800 to £1,000 per annum. Here again, a tradition was soon established: when a vacancy arose amongst the legal Commissioners, the secretary was promoted, provided length of service was sufficient. The 1845 Act provided for two clerks, with authority to make a third appointment if necessary. Within six months, advantage had been taken of this provision and the secretary's staff consisted of a senior clerk (£200 per annum) and two clerks (£80 per annum).<sup>26</sup> Amending legislation increased the office's work-load, and a retrospective comment by the Commissioners on the 1853 Acts<sup>27</sup> was that

The admissions in county asylums and hospitals during that year had been nearly 8000, an increase of 1200 over the previous year. The Discharges and Deaths had increased in like proportion. The quarterly returns from the unions, which give rise to much correspondence, had increased to 16,000 annually, showing during the last four years an increase in each quarter of 1000. In various other matters, the labours of the clerks had been increased by the legislation of 1853, and the preparation of the Statistical Tables, such as those which accompany our recent annual reports, had rendered necessary an amount of skilled labour not contemplated in our original arrangements, involving a very large amount of exact care, labour and correspondence in the collection and revision of such returns . . . .<sup>28</sup>

The Board negotiated with the Treasury and obtained the appointment of two new clerks, at a higher salary to attract better candidates. Two further appointments were sanctioned in 1861, and office salaries were raised: that of the chief clerk rose to £450 per annum. There were to be two clerks in the second-class grade and four in the third. Despite the Commissioners' appeals, new appointments were to be made at the bottom of the lowest grade.<sup>29</sup> Higher qualifications were demanded for clerkships, and

<sup>23</sup> Public Record Office (hereinafter, PRO), MH/50/1, p. 58; 8 & 9 Vic. c. 100 ss. 3–5; W. L. Burn, *The age of equipoise*, London, Allen & Unwin, 1964, pp. 141–142.

<sup>24</sup> PP (1859) Sess. 1 (75) III: *Report of the Select Committee on Lunatics*, p. 46.

<sup>25</sup> PRO: MH/50/1, p. 7.

<sup>26</sup> 8 & 9 Vic. c. 100 ss. 9, 11, 12; PRO: MH/50/1, pp. 30–31.

<sup>27</sup> 16 & 17 Vic. c. 70 and 16 & 17 Vic. c. 96.

<sup>28</sup> Commissioners in Lunacy, *Sixteenth Annual Report* (1862), pp. 72–73.

<sup>29</sup> PRO: MH/50/1, p. 320.

after consultation with the Secretary of the Civil Service Commission, it was decided to introduce an examination. The tests, begun in 1862, comprised: (1) exercises to test writing and orthography; (2) copying from manuscripts and writing from dictation; (3) correspondence; (4) précis, involving preparation and digest of tabular statements and returns with summaries; (5) arithmetic, including vulgar and decimal fractions; (6) calculations of percentages and averages; (7) Latin or any one modern language.<sup>30</sup> Age limits were eighteen to thirty. From 1877, the clerical staff numbered nine.

Office space was expanded proportionately, though the Commissioners seemed always to be at the rear of the queue for government offices. Their initial premises in Abingdon Street, Westminster, were quickly outgrown, and by the end of 1845 they were installed in Spring Gardens, having failed to oust the Ecclesiastical Commissioners from what the Board saw as more desirable offices. Two further moves occurred later: to Whitehall Place and thence to Victoria Street, neither of which was satisfactory in terms of space or convenience, and plans to re-house them in new government offices fell through in the 1870s because of the Commissioners' low priority rating.<sup>31</sup>

The inspectorate's duties snowballed as discretionary tasks were added to statutory duties. Within the Metropolis, the Board acted as licensing authority, inspecting agency, and reporting agency. The two latter functions applied also to the provinces, where licensing and visitation were duties of the magistrates. The Board was responsible for all insane persons – save Chancery lunatics – and was charged with the inspection of all institutions housing the insane and of all locations of a single patient (i.e., those certified insane who remained outside the asylum, hospital, or work-house).<sup>32</sup> In addition, as secretary Charles Perceval indicated,

There is all the superintendence of the building and the alteration and construction of the lunatic asylums throughout the country; there are constant alterations and enlargements going on and there are new asylums constantly opening. All the plans . . . have to be approved by the Secretary of State . . . and that is done always on the report of the Commissioners . . . . Then in the same way, all the rules for county asylums submitted for the approval of the Home Secretary are referred to him by the Commissioners . . . and they have to be examined very carefully.<sup>33</sup>

The Board was conscious of its numerical weakness when confronted with such a volume of business, but emphasized its constant vigilance:

Notwithstanding the great additions to the class of persons placed more or less directly under our charge, we have not limited our visitations to asylums according to the numbers appointed by statute. From time to time, we have made extra and special visits to Asylums, Registered Hospitals and Licensed Houses; also to single patients both pauper and private; as well as to dwelling houses reported to have one or more certified insane inmates . . . and we are constantly in the habit of responding to applications made to us on the part of individual patients or their relatives . . . .<sup>34</sup>

The Commissioners were unwilling to see an increase in their numbers. Shaftesbury told Grey that the smallness of the Board was one of its strongest points: "we could

<sup>30</sup> *Ibid.*, p. 370.

<sup>31</sup> *Ibid.*, pp. 99 ff; PP (1877) XIII (1): *Report from the Select Committee on the Lunacy Laws*, qq. 558, 573–575.

<sup>32</sup> Jones, *op. cit.*, note 1 above, pp. 146, 156.

<sup>33</sup> *Report from the Select Committee on the Lunacy Laws*, q. 555; 8 & 9 Vic. c. 100 ss. 14–17, 61–65, 77.

<sup>34</sup> Commissioners in Lunacy, *Sixteenth Annual Report*, p. 74.

not carry out the business of the Board when the numbers had greatly increased. At present we work with the utmost harmony.” This harmony had grown from the presence on the Board of a nucleus of the original appointees named in the 1845 Act. These had, as Shaftesbury noted with satisfaction, continued a “traditional policy” which later appointees were encouraged to identify with.<sup>35</sup>

Between 1845 and 1900, twenty-eight men were appointed to the professional membership of the Lunacy Commission. In order of appointment, these were:

*Legal Commissioners:*<sup>36</sup> John Hancock Hall (1845); William George Campbell (1845–78); Bryan Waller Proctor (1845–61); James William Mylne (1845–55); Robert Wilfred Skeffington Lutwidge (1855–73); John Forster (1861–72); Charles Palmer Philips (1872–95); Hon. Greville Theophilus Howard (1873–77); Sir Charles Samuel Bagot (1877–1903); William Frere (1878–1900); George Harold Urmson (1895–1907); Frank Hardinge Giffard (1900–1908).

*Medical Commissioners:* John Robert Hume (1845–57); Henry Herbert Southey (1845); Thomas Turner (1845–56); James Cowles Prichard (1845–48); Samuel Gaskell (1848–66); James Wilkes (1856–78); Robert Nairne (1857–83); John Davies Cleaton (1866–93); William Rhys Williams (1878–89); Reginald Southey (1883–89); Sir T. Clifford Allbutt (1889–92); Sir Frederick Needham (1892–1924); Thomas Lawes Rogers (1893); John Michael Augustus Wallis (1894–97); Sir Edward Marriott Cooke (1898–1921); Sidney Coupland (1898–1921).

It has not been possible to locate the precise path of recruitment in more than a few cases, in each of which patronage was the key factor. Of the six statute-named appointees, all had been Metropolitan Commissioners, as had the named secretary. Of the nine subsequent appointments to the legal inspectorate, five had been secretary to the Board: Lutwidge (1845–55); Forster (1855–61); Philips (1865–72); Urmson (1889–95); Giffard (1895–1900). Of seven secretaries, only William Spring Rice (1861–65) and Charles Spencer Perceval (1872–89) were not made professional Commissioners. Philips had earlier been chief secretary to Lord Chancellor Chelmsford, and prior to his appointment had published *The law concerning idiots*. Giffard, too, had been secretary to a Lord Chancellor (1886–92), and the inference of direct patronage is inescapable. Bagot had had a distinguished early career as secretary to Lord Justice Selwyn and Lord Justice Hatherley. Forster was a close friend of Proctor, through whose influence with Shaftesbury he obtained his secretaryship.<sup>37</sup> Howard was the second son of the Earl of Suffolk and Berkshire. Apart from the promoted secretaries, none of the legal Commissioners appears to have had any experience of the lunacy laws prior to his appointment. Mylne had been a prominent barrister, and Frere revising barrister for Wiltshire. Despite his professional standing, the latter, according to the alienist L. S. F. Winslow, a relative by marriage, was “the last person whom I thought would be selected for such a responsible post . . . . As soon as he received the appointment, he wrote me a letter as follows: ‘Dear Winslow, – I

<sup>35</sup> *Report from the Select Committee on Lunatics* (1859), p. 835.

<sup>36</sup> Dates in parentheses indicate tenure as full-time professional Commissioner. Sources for all statements made in this section are those indicated in the Biographical Appendix.

<sup>37</sup> Richard Renton, *John Forster and his friendships*, London, Chapman & Hall, 1912, p. 186.

have just been appointed a Commissioner in Lunacy. I know nothing about the subject. Send me your book.' ”<sup>38</sup>

Of the sixteen medical Commissioners, seven had been county asylum superintendents, and one had been physician to Bethlem. Hume’s appointment might well have been due to his position as Wellington’s private physician. Southey had family connexions with one of the statute-named members. The eminence of Prichard and Allbutt in the medical profession was sufficient justification for appointment, and the former was an influential theoretician in the field of mental disorder. Turner was a noted surgeon and medical writer, with great experience in the organization of medical institutions. Nairne and Coupland had been physicians to metropolitan hospitals.<sup>39</sup> The appointment of the former in 1857 had angered the psychiatric Establishment. John Bucknill, then editor of the *Journal of Mental Science* (the organ of the Association of Medical Officers in Asylums and Hospitals for the Insane (AMOAHI)), described the choice as

... a heavy blow, and a great discouragement to all medical men practising in Lunacy, and especially to the class of asylum superintendents ... placed under the authority of strange medical men, who have no claims for such preferment and who, practically, ignorant of the responsibilities entailed in the management of asylums and the treatment of the insane, must come for what instruction might suffice them for an apparently decent discharge of their duties to the very men whose rightful position they have usurped. . . . It is fair to say, that in Dr Nairne’s appointment, no false pretence was made to knowledge which he did not possess. We are informed that he takes great credit in himself for bringing to the Commission a freedom of prejudice derived from his primitive ignorance in all that relates to asylums and the insane.<sup>40</sup>

Later treatment of Nairne was more generous, and he was made an honorary member of the AMOAHI in 1861 – although his obituary notice reminded readers of his initial damning inexperience.<sup>41</sup>

The ire of the asylum doctors arose partly from injured professional pride, partly from disappointed expectation, since in 1848 one of their own number, Samuel Gaskell, had been appointed to the Commission.<sup>42</sup> After a difficult start to his career, Gaskell was to start what might be termed the “Lancastrian succession” on the Commission. As medical officer to Lancaster Moor Asylum, he abolished mechanical restraint and so conducted the institution as to impress Shaftesbury, upon whose recommendation the Lord Chancellor appointed Gaskell to succeed Prichard. Gaskell in turn was succeeded by Cleaton, from the Lancashire Asylum at Rainhill. Cleaton’s temporary successor, Rogers, had been superintendent at the same asylum. John Wallis, whose career in medical administration had concluded with the superintendency of the Lancashire Asylum at Whittingham, replaced Rogers. Thus, of seven appointees with

<sup>38</sup> L. S. F. Winslow, *Recollections of forty years*, London, J. Ouseley, 1910, p. 40. The book referred to was Winslow’s *Manual of lunacy*, London, 1874, dedicated to the Commissioners. It received a poor review: *J. ment. Sci.*, 1874, 20: 126.

<sup>39</sup> Wilkes told the 1877 Select Committee that “the general principle . . . has been to appoint two of the medical Commissioners who have had practical experience in asylums, and one who has been in practice as a physician, in London probably.” (q. 705).

<sup>40</sup> *J. ment. Sci.*, 1857, 4: 127–128.

<sup>41</sup> *Ibid.*, 1861, 8: 329; *ibid.*, 1886, 32.

<sup>42</sup> Scull, *op. cit.*, note 1 above, pp. 164–185, for the professionalization of mental science; *J. psychol. Med. ment. Path.*, 1850, 3: 139; Parry-Jones, *op. cit.*, note 1 above, p. 90.



public asylum experience, four came from the vast barracks institutions of Lancashire. Needham's experience had been gained in the medium-sized registered hospital at York and at Barnwood Asylum, Gloucester. Cooke had had experience of the relatively small county establishments catering to Worcester and Wiltshire. Williams came from a radically different environment, Bethlem, which admitted only cases deemed curable.

Rogers and Needham had had very long tenures before appointment: thirty years at Rainhill and thirty-four years at York and Barnwood respectively. Gaskell had been nine years at Lancaster, preceded by six at Manchester Infirmary and Lunatic Hospital. Wallis had spent fifteen years at Whittingham. Both Cooke and Cleaton had had varied experience, and only Williams seems to have been a rapid riser, owing firstly to the patronage of Sir William Hood at Bethlem, and secondly to that of Shaftesbury who secured his appointment to the Lunacy Commission.<sup>42</sup>

Of the twenty-eight appointments, direct patronage by members of the Commission is evident in three cases; patronage by high officials may be inferred in six. The "secretarial" and "Lancastrian" successions produced seven Commissioners. The proportion of appointments, made on proven medical experience of insanity – nine out of sixteen – indicates a reasonable degree of "objective" selection. The "secretarial succession" provided on the legal side leaven of experience which could counter-balance any initially ignorant placements.

The inspectorate's efficiency, and its eventually dogmatic traditionalism, were reinforced by an extremely high incidence of very long service. Eight Commissioners held office for over twenty years; eighteen for over ten: Campbell (thirty-three years); Needham (thirty-two years, including a period as member of the Board of Control); Cleaton (twenty-eight years); Nairne and Bagot (twenty-six years); Philips (twenty-three years, in addition to seven years as secretary); Gaskell and Lutwidge (eighteen years, in addition, in the case of the latter, to thirteen years as Metropolitan Commissioner and secretary); Proctor (sixteen years, in addition to thirteen years as Metropolitan Commissioner); Wilkes and Frere (twenty-two years); Reginald Southey (fifteen-years); Hume and Urmson (twelve years, in addition to nine years as Metropolitan Commissioner and six years as secretary respectively); Turner, Williams, and Forster (eleven years, plus six as secretary in Forster's case); Mylne (ten years, in addition to thirteen as a Metropolitan Commissioner). Giffard was secretary for five years and a Commissioner for eight. Perceval was secretary for seventeen years without becoming an inspector. Six of the professionals became Honorary Commissioners on retirement: Campbell (three years); Cooke (nine years); Nairne (three years); Proctor (thirteen years); Wilkes (sixteen years); Cleaton (seven years). Reginald Southey and Gaskell retired through ill health following road accidents. Williams and Howard were forced out by mental collapse. Ten Commissioners were active professionals until their deaths: Frere, Giffard, Hume, Lutwidge, Mylne, Needham, Prichard, Philips, Urmson, and Wallis. Lutwidge was actually killed on duty: on a visit to Fisherton House Asylum, Salisbury, he was attacked by an inmate who drove a nail through his skull.

III

The Commissioners' mode of organization and their inspection procedures were evolved during their first year of operation, and did not change substantially thereafter. The first Board was convened on 6 August 1845, at 12 Abingdon Street, with six of the statute-named Commissioners present, including two honorary Commissioners.<sup>43</sup> On a motion from Robert Gordon, Ashley was elected permanent chairman, after both had been sworn in. Gordon again took the lead in organizing the routine of the office, and the barrister members were constituted a committee to draw up a scheme of regulations for the conduct of the office and the transaction of business. Office hours were fixed from 10 a.m. to 5 p.m. on weekdays.<sup>44</sup> At the next weekly meeting, the secretary was instructed to keep a book for entering cases to be specially attended to by the Commissioners on circuit, and to prepare a form of answer to questions on points of law and the construction of the lunacy acts. A fortnight later, the Board lost its first member.<sup>45</sup>

Provincial visitations commenced on 20 August, although the circuits were not formally mapped-out until the following February.<sup>46</sup> It was immediately discovered that "questions of an important nature, requiring the assistance of the Medical and Legal Commissioners, were occurring frequently at the office in London; and it was found necessary that meetings . . . held once a week . . ." should have in attendance one physician and one barrister. The monthly meetings, "deliberating the more important and difficult questions . . . should be attended by all the medical and legal Commissioners," unless their presence were required elsewhere. Proctor and Prichard were instructed to collect and arrange materials for a general report to be presented the following year, based on the particulars of the 949 institutions subject to inspection by the Board.<sup>47</sup> The first public action of the Commissioners was to place a bi-weekly notice in appropriate journals, demanding notification of all single lunatics.<sup>48</sup> Their activities for the first twelve months, the model for their subsequent operation, may be summarized as follows:

A seven-point questionnaire was drawn up and distributed to ascertain the fitness and competence of applicants for licences, and unbelievably, revocation of a licence was felt necessary in only one case.<sup>49</sup> In conformity with s. 43 of the 1845 Act, a

<sup>43</sup> 8 & 9 Vic. c. 100 s. 3. The named Commissioners – former Metropolitan Commissioners in Lunacy – were: Lord Ashley, Lord Seymour, Robert Vernon Smith, Robert Gordon, Francis Barlow (Honorary Commissioners); the professionals were Turner, Southey, Hume, Proctor, Mylne, and Hall.

<sup>44</sup> For the form of the oath: 8 & 9 Vic. c. 100 s. 6; PRO: MH/50/1, pp. 1–7.

<sup>45</sup> Southey resigned on 27 August and was replaced by Prichard.

<sup>46</sup> PRO: MH/50/1, p. 193. There were four circuits: (a) Northern, based on Liverpool/Manchester and Newcastle/York; (b) Western, based on Bath/Bristol and Salisbury; (c) Midland, based on Birmingham and Norwich; (d) Home: Surrey, Kent/Sussex; Hants/Berks/Oxon; Bucks/Beds/Herts/Essex.

<sup>47</sup> These comprised all asylums, registered hospitals, workhouses, gaols, plus Bethlem and the naval and military hospitals: Commissioners in Lunacy, *First Report* (1846/47), p. 6.

<sup>48</sup> PRO: MH/50/1, p. 8. The advertisement appeared in the *Lancet*, *British Medical Journal*, *The Times*, *Standard*, *London Gazette*, and *Morning Chronicle*.

<sup>49</sup> Questions covered the age, sex, and residence of the applicant; medical qualifications, education, experience with the insane; moral character and financial position; testimonials as to fitness and skill; particulars as to class of patient to be admitted; and fees to be charged: *First Report*, p. 319. The licence revoked was at Gate Helmesley Retreat, near York.

circular was sent to the medical superintendents of all hospitals known to receive lunatics, requiring that they register with the Board. All responded, save the military and naval hospitals,<sup>50</sup> and Guy's where it was indicated that "the patients were altogether incurable and therefore not under medical treatment," and so there was no particular medical officer who might apply for registration. Despite constant appeals from the Board's solicitors to the Treasurer of the Hospital, there was no satisfaction: the stock reply was that there was no regulation of the establishment relating specifically to lunatics, and that the wards did not come within the meaning of the Lunatics Act.<sup>51</sup>

Although the duty of examining the orders and medical certificates of confinement transmitted to the office was not required by statute, the Commissioners checked carefully for any irregularities or omissions and "endeavoured to have them remedied". In their first report, they noted that there were very few cases of defective certification in pauper cases, and that surprisingly little advantage had been taken of the permission to receive patients initially on the authority of a single certificate.<sup>52</sup> Asylums, the Board claimed, were diligent in forwarding notices of admission, death, and discharge; but it was remarked with regret that "the transmission of copies of the visitors' entries had been frequently neglected". Nor were all superintendents conscientious in keeping the legally-required Case Books, until a strongly-worded circular (9 January 1846) effectively reminded them of their obligation.<sup>53</sup> Powers of night visitation and of dietary control were used only once and twice respectively.<sup>54</sup> The plan adopted for implementing ss. 76 and 77 of the Act, concerning the liberation of patients, was adapted from the practice of the late Metropolitan Commissioners: it was first suggested to a friend of the patient, or to the parish officers, that the patient be removed from the institution, and only in the rare instance of their refusal would the Commissioners act on their own powers. In the provinces, attention to cases deemed suitable for release was directed by entries in the prescribed Patients' Book; visiting magistrates, it was claimed, invariably complied. Especially valuable, thought the Commissioners, was the provision for temporary removal for reasons of health – "a valuable amendment to the lately existing law".<sup>55</sup>

Not every section of the Act was greeted so enthusiastically. The constitution of a private committee of a single patient, for example, proved in practice "extremely inconvenient", and the powers assigned to three of the Board in this regard were as

<sup>50</sup> Hospitals receiving lunatics were to have printed regulations, a resident medical officer, and be registered by the Commissioners. Haslar (naval) and Shornecliffe (military) hospitals were dubiously included under the Act. The latter soon removed its patients to a permanent hospital at Yarmouth. The military authorities were amenable to inspection; Haslar proved more obstinate: PRO: MH/50/1, p. 27; *First Report*, pp. 16–18.

<sup>51</sup> *Ibid.* The Commissioners eventually persuaded the President of the Hospital, Mr. Justice Patterson, to intervene, and regulations were drawn up and a medical superintendent of lunatics appointed.

<sup>52</sup> 8 & 9 Vic. c. 100 s. 47. In emergencies, one certificate would suffice to obtain a confinement, provided reasons were given as to why the second was lacking, and provided a disinterested physician signed a confirmatory certificate within three days of admission.

<sup>53</sup> 8 & 9 Vic. c. 100 s. 60; *First Report*, pp. 19–20.

<sup>54</sup> 8 & 9 Vic. c. 100 ss. 71, 83; *First Report*, p. 21.

<sup>55</sup> 8 & 9 Vic. c. 100 s. 86.

effectively performable by one professional Commissioner.<sup>56</sup> The question of single patients was, in fact, constantly vexatious, especially as to doubts over the forms of orders and certificates, and as to the frequency of medical visitation.<sup>57</sup> Nor were the Commissioners satisfied with their powers to protect the property of lunatics, which consisted chiefly in the duty of notifying the Lord Chancellor in the hope that proceedings might be obtained before the Masters in Lunacy. The expense incurred rendered this process useless for parties of slender or moderate means. Powers to visit (under ss. 112, 113) were equally meaningless in most instances, since the Commissioners possessed no penalizing discretion by which they might enforce compliance with their ruling.<sup>58</sup>

Statutory visits to gaols (twenty county and borough institutions were visited in the first year) revealed that the provisions of the 1840 Criminal Lunatics Act had been carried out: only two or three feeble-minded persons were found, sentenced to short terms of imprisonment. Acting under the provisions of s. 28 of the second of the 1845 Acts, the Commissioners received plans from several counties and consulted with experienced architects before issuing a circular which made suggestions for the siting, structure, and arrangements of asylums, together with instructions requiring specified preliminary plans to be forwarded to the Board for official approval. It was not sufficient for a county to be conscientious in wishing to erect suitable accommodation for its insane. Middlesex, for example, was refused permission on its initial application for additional asylum space because the proposed site was considered to be too near the existing Hanwell Asylum, which was already deemed too large.<sup>59</sup> The Board accordingly advised the Secretary of State to withhold consent until the magistrates had been persuaded to transfer the site to the eastern part of the county, where the Commissioners felt needs to be greater. Surrey, too, was obliged to amend plans for a projected addition to Wandsworth Asylum.<sup>60</sup> No attempt was made to pressure

<sup>56</sup> 8 & 9 Vic. c. 100 ss. 89, 90. This was an entirely new function and difficult to implement. The committee was constituted of the chairman and one legal and one medical Commissioner. The Commissioners complained that "a large proportion of those whom the statute has placed exclusively under its supervision, are dispersed over different parts of the kingdom, at a distance from the capital, and cannot be seen by the Commissioners in the course of their ordinary visitations while on circuit, unless it happens, which is of course seldom, that these are also members of the committee. In all other cases it becomes necessary that one or more of the committee be detached for the purpose; and such a step cannot be taken without more or less interrupting and in fact suspending the labours of the other Commissioners who are not themselves on the Committee . . ." The object of the system was to secure privacy, but since all the Commissioners were sworn to secrecy ("religiously observed by all members"), the function could have been entrusted to all the Commissioners indiscriminately.

<sup>57</sup> As the residence of a single patient was likely to vary, there was the probability of great difficulty in procuring the required certificates and fresh orders. The Commissioners suspected that there was "a general disposition . . . among those who earn a livelihood by receiving single patients, to avoid . . . being brought within the operation of the statute". Thus, under ss. 90 and 91 of the Act, the Board should have possessed a complete list of all single patients in the country, but after eighteen months knew of only two hundred. It was not the practice of the private committee to visit unless the certification proved faulty, or information were received showing the need for investigation: *First Report*, pp. 26–27.

<sup>58</sup> Authorization to visit could come from either the Lord Chancellor's Office or the Home Office.

<sup>59</sup> The Board, through Home Secretary Graham, communicated their objections to the asylum's visiting committee, but plans were not amended until Graham's successor, Grey, "strongly recommended" the magistrates' accession to the Commissioners' suggestions.

<sup>60</sup> *First Report*, p. 34; J. Mortimer Granville, *The care and cure of the insane, being the report of the*

*Bureaucracy and mental illness: the Commissioners in Lunacy 1845–90*

counties unprovided with asylums until August 1848, after which the Commissioners acted through the Home Office with indifferent success.<sup>61</sup> The Home Secretary prevailed upon the Board to implement s. 40 of the Lunatics Act more rigidly than the inspectorate would have liked, and the result was a *Proposed General Rules for the Government of Lunatic Asylums*, which was circulated to all county asylums.<sup>62</sup>

At the end of their first year, the Commissioners could detect “a great improvement of receptacles for the insane . . .” produced by their own supervision and suggestions, and by those of county magistrates. Co-operation was acknowledged at every level, and especial praise was bestowed upon the county asylums.<sup>63</sup> The members of the Board had been kept fully employed throughout; their report stated that the

Legal and Medical Commissioners [were] absorbed by the business of the Commission; by visitations; by reports; by examination of plans, estimates and accounts; by long and frequent interviews with Magistrates, Architects and private individuals; and by attending Boards held for the dispatch of business. Questions of considerable nicety have frequently occurred . . . and these have involved the necessity of some of the Legal and Medical Commissioners being constantly present at . . . weekly and other meetings.<sup>64</sup>

The amount of ordinary business at the office “far exceeded our expectations” and special enquiries proved a positive hindrance to an already full routine. Within eighteen months, 107 regular boards were held; 409 asylums were inspected, entailing travelling by the six professionals totalling 10,776 miles, and including the “personal examination” of 17,749 patients.<sup>65</sup>

The smallness of the inspectorate led to visitations of erratic frequency and occasional superficiality. For example, Prestwich Asylum (Lancashire) was inspected on 5 March 1875, and was not visited again until 29 September 1876 – which somewhat stretched the concept of annual visitation intended by statute.<sup>66</sup> The size of the asylum would often preclude the full and rigorous investigation that the law – and the inspectors – desired. Thus, Philips and Williams, visiting the Lancaster Moor Asylum in 1866, concluded their minute with self-justifying vagueness: “The Asylum is now a vast pile of buildings and the patients are so numerous, that it must be difficult for any medical superintendent to keep up any distinct recollection of every individual patient under his care . . . . The case books are, *as far as we had time to examine them*, some evidence that proper attention is given to individuals.”<sup>67</sup> In public asylums, the Commissioners’ contact with individual patients was perforce minimal. In the larger institutions, especially those with attached farmland, labouring patients were seldom seen. There was more scope for individual contact in licensed houses and, theoretically, the Commissioners would grant private interviews to “suitable”

---

*‘Lancet’ Commission on Lunatic Asylums 1875–77 for Middlesex, the City of London and Surrey*, 2 vols., London, 1877, pp. 222–224.

<sup>61</sup> Cambridge, for example, needed much threatening suasion before consenting to erect Fulbourne. Plans were not submitted until 1852: Commissioners in Lunacy, *Seventh Annual Report* (1853), p. 7.

<sup>62</sup> *First Report*, p. 46.

<sup>63</sup> *Ibid.*, p. 61.

<sup>64</sup> *Ibid.*, p. 34.

<sup>65</sup> *Ibid.*, p. 135.

<sup>66</sup> Lancashire Asylums Board (hereinafter, LAB), *Report of the Superintendent of Prestwich Asylum* (1875–76), pp. 19–20.

<sup>67</sup> LAB, *Report of the Commissioners in Lunacy, Lancaster Asylum* (1886), p. 13. My italics.

patients, and public interviews to the more querulous. But, as John Bucknill pointed out, the reserved convalescent, the type of patient most likely to benefit by removal from the asylum, was the least likely to solicit an interview, and individual inspection was impossible.<sup>68</sup>

Visitation was not always as unexpected as the law envisaged. In evidence before the 1877 Select Committee on the Lunacy Laws, James Wilkes admitted that where there were several institutions in the same district, forewarnings of inspection were inevitable. He told of a licensed house in South Wales where the superintendent cheerfully admitted that one of his attendants had witnessed the Commissioners' arrival at Neath station and had given the house time to put itself in readiness.<sup>69</sup> Provincial visitation was more difficult than metropolitan, and eight months were given over to the circuits each year. The nine divisions of the circuits were split between the six professionals who alternated in their visitations in half-yearly circuits. In the Metropolis, there were six circuits, and since each institution had to be visited four times by two Commissioners and twice by a single Commissioner, Wilkes reckoned that six to eight days each quarter were given over to each metropolitan circuit, making an annual total of some four months.<sup>70</sup>

#### IV

Since the six professional inspectors were Board members, the question of their competence to interpret for themselves the central authority's definition of their task did not arise.

To implement their report function adequately, however, the Commissioners needed the co-operation of asylum administrators and poor law officials. The latter seldom seemed to meet the Board's requirements, especially when it came to furnishing statistical data. In the 1860s the Commissioners began to publish in their annual reports a wide range of valuable statistical tables. The scope varied, but was increased and refined in the later 1870s. In compiling these tables, the Commissioners were reliant on the voluntary labour of asylum medical staffs.<sup>71</sup> The size and structure of their reports indicate the Commissioners' changing style in interpreting their function. Gradually there emerged a conviction that in the battle for mental health, there was a tremendous benefit to be had in assembling as much statistical information as possible on the distribution and assigned causality of various types of insanity, in spatial, temporal, and cultural terms. All this was to be additional to descriptive and analytical reportage of the state of asylumdom each year.<sup>72</sup>

The Commissioners' earliest reports were short: forty-nine pages in 1850, forty in 1856, with appendices giving the numbers and institutional distribution of the

<sup>68</sup> Sir John Charles Bucknill, *The care of the insane and their legal control*, London, Macmillan, 1880, p. 51.

<sup>69</sup> *Ibid.*, p. 79.

<sup>70</sup> *Report from the Select Committee on the Lunacy Laws*, qq. 635–637.

<sup>71</sup> Commissioners in Lunacy, *Thirty-second Annual Report* (1878), pp. 3–4.

<sup>72</sup> "Asylumdom" as a description of the detention of the insane in lunatic asylums and other special institutions was used from the last quarter of the nineteenth century, and its first appearance in print seems to have been in an article: 'The prerogative of asylumdom', *Br. med. J.*, 1879, i: 94.

*Bureaucracy and mental illness: the Commissioners in Lunacy 1845–90*

insane.<sup>73</sup> Until the 1860s size and content expanded slowly.<sup>74</sup> But from 1869 the vast compendium became normal. In 1850, for example, the report had consisted of: an address; notes on changed licences; notes on new asylums; general remarks on visitations with particular comments and recommendations; remarks on matters of law; a note on criminal lunatics; reference to proposed legislation; tables giving numbers and distribution of lunatics in England and Wales; tables showing the incidence of cholera in asylums during the recent outbreak. In contrast, the 1879 report consisted of 140 pages of descriptive and analytical reporting and 303 pages of statistical appendices. It contained the kinds of materials which had been appearing spasmodically since the early 1860s: detailed descriptions and comments on all asylums; analysis of conditions in hospitals and workhouses; general policy statements regarding the construction and management of asylums; tables of casualties, suicides, etc.; comparative tables of maintenance costs; hospital statistics; a general discussion of the position of lunatics in workhouses; details of prosecutions; discussion of the proceedings of the 1877 Select Committee. The appendices contained information regarding the distribution, condition, and maintenance costs of private and pauper lunatics throughout the asylum system; reproductions of reports on all institutions visited; special notices of the military, naval, and criminal asylums; lists of all asylums in England and Wales, with names of superintendents or proprietors.

The Board was quick to become figure-conscious and the gathering and assembling of information was dangerously near to becoming an end in itself in the Commissioners' urgency to maintain a complete registry of all the lunatics in the kingdom, and of all persons having charge of them. John Bucknill lamented the disappearance of the old-style reports in the Board's rush to become part of the modish numeracy infecting other government departments:

[I]n the early years of the Commission, wide and scientific views of medical hygiene and medical treatment were to be found in the Reports, worthy of such eminent physicians as Dr. Turner and Dr. Prichard; but of late the medical spirit has been drowned in the flood of official duty, and it is vain now to look for any signs of the consideration of Lunacy questions from a medical point of view . . .<sup>75</sup>

The Commissioners, however, were sure of their purpose:

The statistical information given in our Annual Reports has gradually increased in bulk and importance, and we have reason to believe that among those interested in the care and treatment of the insane, and the question of insanity in its various aspects, this portion of our Report is considered to possess much value. At no time however, have we considered it our duty to draw but the most plain and obvious deduction from the figures . . . nor can we deem it advisable or justifiable to offer . . . any speculations or theories of our own based on these statistics. At present we do not feel our recorded experience is sufficiently extensive to warrant many certain conclusions . . . and . . . conjectures . . . would not . . . be attended by any public advantage.<sup>76</sup>

It was not just in assembling statistics that the Commissioners were dependent on other authorities. For supervision of provincial institutions the Board was quick to acknowledge the role of visiting magistrates: "These gentlemen are more immediately

<sup>73</sup> Commissioners in Lunacy, *Fifth Annual Report* (1850) and *Eleventh Annual Report* (1856).

<sup>74</sup> An exception was the *Eighth Annual Report* (1854).

<sup>75</sup> Bucknill, *op. cit.*, note 68 above, p. 66.

<sup>76</sup> Commissioners in Lunacy, *Thirtieth Annual Report* (1876), p. 22.

the visitors to whose inspection the provincial Asylums are entrusted . . . Their visits are, by law, more frequent than ours; and the legislature seems to have selected them as the persons who are primarily to perform certain duties, which we, in our turn and at far more distant intervals, are required to perform . . .". The sheer bulk of the Commissioners' duties would have made efficient administration of the lunacy laws impossible "unless we received this assistance".<sup>77</sup> Should the local magistracy, in fact, refuse to co-operate, the central inspectorate was practically powerless. Thus the Commissioners, in 1850, complained that Belle Vue House, Devizes, had proved continually defective and urged the local magistrates to refuse renewal of the licence. The chairman of quarter sessions refused even to reply to the Board's letter, and the house was re-licensed in two consecutive years.<sup>78</sup> At Lancaster, in 1863, the Board was unable to persuade magistrates to do more than mildly reprimand an attendant following the death of a patient due to breach of asylum discipline in the use of undue force.<sup>79</sup>

In the case of pauper lunatics, the Board had to deal with central and local poor law authorities. With the former, initially at least, relations were amicable, provided the wider theories of neither board were touched upon.<sup>80</sup> To the central poor law authority, throughout the century, pauper lunatics were first and foremost paupers. Until 1874, when a 4s. capitation grant was introduced, the principle that the county rate and local subscription should maintain pauper lunatics inhibited the transmission to asylums which the Commissioners considered necessary for cure.<sup>81</sup> The separation of the categories of "pauper" and "mentally ill" was never completed. Over-insistence on one or the other inevitably produced friction. In a letter to Leonard Weatherley, a private asylum proprietor, Allbutt recalled his experiences as a Commissioner from 1889 to 1892, and complained that "our greatest obstacle was the Local Government Board," which he characterized as "a crocodile and a python" whose "domination and greed of power, and . . . unimaginative incompetency" were the source of most friction.<sup>82</sup>

The Lunatics Act of 1845 stated that "it should not be lawful for any person to receive two or more lunatics into any house other than an asylum, registered hospital or licensed house," and the Commissioners were understandably dissatisfied that a subsequent section rendered union houses subject to their inspection, thereby implying the legality of detention of lunatics within limits.<sup>83</sup> By January 1847, 8,986 lunatics were known to be confined in workhouses in England and Wales. The inspectors organized visitation by starting with all workhouses known to contain ten or more lunatics, and any other house which happened to be nearby whilst in the course of

<sup>77</sup> Commissioners in Lunacy, *Further Report* (1847–48), p. 168.

<sup>78</sup> Commissioners in Lunacy, *Fifth Report* (1850), pp. 6–7; *Sixth Annual Report* (1851), p. 12.

<sup>79</sup> *Lancaster Gazette*, 23 May and 30 May 1863; PRO: MH/51/53, no. 7521; Commissioners in Lunacy, *Eighteenth Annual Report* (1864), pp. 97–99.

<sup>80</sup> Mellett, *op. cit.*, pp. 348–392.

<sup>81</sup> *J. ment. Sci.*, 1859, 5: 551; Commissioners in Lunacy, *Twentieth Annual Report* (1866), p. 23.

<sup>82</sup> Leonard Weatherley, *A plea for the insane*, London, 1918, pp. 73–75.

<sup>83</sup> 8 & 9 Vic. c. 100 ss. 42, 111.



*Bureaucracy and mental illness: the Commissioners in Lunacy 1845–90*

visiting asylums and licensed houses.<sup>84</sup> Between August 1845 and August 1846, the Commissioners visited 340 workhouses, and added a further 152 during the next six months. Occasionally, a house was visited twice. But workhouse visitation was necessarily less frequent than that of asylums: thus the union house at Ashton-under-Lyne (Lancashire/Cheshire) was visited in 1849, and not again until 1852; four more years elapsed before the next inspection.<sup>85</sup>

The procedure adopted was as thorough as time allowed, but scarcely rigorous. The master of the house was requested to indicate every person considered insane or idiotic, and the inspector duly noted the information. The named individuals were then spoken to: the nearest the Commissioner came to a diagnostic interview. Enquiries were made as to diet and general treatment, especially as to the use of mechanical restraint. Rooms were inspected and a short minute entered in the visiting book. The limits of interference were the Commissioners' directions to guardians to effect the removal of suitable cases to asylums, and to charge masters to bring unfavourable comments to the attention of the guardians.<sup>86</sup>

A co-ordinated system of inspection of union houses was not undertaken until 1857, when all 655 workhouses in England and Wales were visited in an eighteen-month period. The inspectorate was limited to the functions of inspection and report: "We have frequently thought it necessary, for the welfare of the insane inmates, to make various suggestions for their better care and treatment, and to recommend, amongst other things, removals to asylums from time to time, but the law invests us with no power to enforce the recommendations we may offer, no matter how important or essential they may be." The central poor law authority offered superficial co-operation but "its interference has failed to effect the desired object, and our suggestions have remained neglected" by boards of guardians.<sup>87</sup>

The Poor Law Commissioners had directed masters of workhouses to adopt a nine-fold classification of workhouse inmates, in which class 4 was to comprise "insane, idiots, and lunatics". In practice, the ruling was imperfectly or negligently observed, making the Lunacy Commissioners' complete registry impossible. Even where attempts at classification were not lacking, lunatics and idiots were likely to be considered as eligible for class 1: the aged, disabled, and infirm; or class 7: the sick or injured. According to the Commissioners in Lunacy, it was "not infrequently" that masters would yield to boards of guardians – who were, predictably, apprehensive of asylum charges – and simply ignore separate classification, resorting to memory or simple "ad libbing" to indicate class 4 eligibles to visiting inspectors. In houses managed under local acts and in Gilbert unions, the Commissioners claimed that this was "invariably" the case.<sup>88</sup>

Lunacy Commissioners and poor law authorities were divided on the issue of the suitability of workhouse detention for particular classes of the insane. Magistrates and local poor law officials tended to take the view that "harmless" cases were fit for

<sup>84</sup> Commissioners in Lunacy, *First Report*, pp. 58–59, 240.

<sup>85</sup> Tables of workhouse visits in Commissioners' reports from 1849 to 1856.

<sup>86</sup> Commissioners in Lunacy, *First Report*, pp. 251–252

<sup>87</sup> Commissioners in Lunacy, *Supplement to Twelfth Annual Report* (1859), p. 4.

<sup>88</sup> Commissioners in Lunacy, *First Report*, p. 255.

workhouse confinement, and the Commissioners endorsed this criterion in 1857.<sup>89</sup> Medical opinion disagreed, and the Commissioners, ideally, would have preferred the committal to an asylum of all potentially curable cases.<sup>90</sup> Prognosis, however, rested not with physicians, but with workhouse masters. Often a classifiably insane pauper would be excluded from a master's list because, although incapable of earning a living outside the house, he or she proved useful and capable of labour inside.<sup>91</sup>

Forced to accept the inevitable, the Commissioners admitted that wards of recent construction in union houses could provide reasonable accommodation for lunatics, though their reports indicate a desire to find fault over particulars of general arrangements or medical controls.<sup>92</sup> The inspectorate was chiefly disturbed by the fear that if special lunatic wards were widely erected as adjuncts to union houses, lunatics who ought to be transmitted to asylums would be siphoned off into the cheaper establishments: "In places where such wards have been opened, there is an obvious determination on the part of guardians to consider them as constituting Lunatic Asylums. All or nearly all the Patients belonging to the Union, whatever the forms of their disease, are in the first instance most improperly sent to the workhouse, and are then generally detained there."<sup>93</sup> The Poor Law Board accentuated the risk, albeit unwittingly. In General Consolidated Order 27, it instructed masters to report to union medical officers and to guardians all cases in which mechanical restraint was used for insane paupers, in an attempt to approximate asylum practice. The instruction was, however, rarely acted upon.<sup>94</sup> The Commissioners were unable to impose on workhouses the standardization of record-keeping and the minimum of humane, medically orientated treatment which they guaranteed in asylums. They had no authority over the persons of workhouse inmates, their sole function being to "detect the evil that . . . we have not the power to remove"<sup>95</sup> The Lunatic Laws Amendment Act of 1862 offered short-lived optimism to the Commissioners: the Act directed relieving officers to bring all alleged lunatics before a magistrate and to facilitate removal to an asylum. The inspectorate had even succeeded in having omitted from the Act the discretionary power granted to relieving officers by earlier legislation.<sup>96</sup> Under the new law, the officer must report to a justice within three days any pauper known to be a lunatic. But in practice, and to the disappointment of the Commissioners, little was altered. Relieving officers disregarded the Act, and often reverted simply to removing the insane pauper to the workhouse, even though this made them liable to a fine. The Commissioners found themselves compromised. They were empowered to proceed against recalcitrant relieving officers and claimed that in cases of wilful neglect they would invariably bring an action. But the technical difficulties of obtaining a convic-

<sup>89</sup> Commissioners in Lunacy, *Eleventh Annual Report*, p. 16.

<sup>90</sup> John Arlidge, *On the state of lunacy and legal provision for the insane; with observations on the construction and organization of asylums*, London, Churchill, 1859, pp. 58–59, 66; Commissioners in Lunacy, *First Report*, p. 240.

<sup>91</sup> *Ibid.*, p. 267.

<sup>92</sup> Commissioners in Lunacy, *Supplement to Twelfth Annual Report*, pp. 6–10.

<sup>93</sup> *Ibid.*, p. 10.

<sup>94</sup> *Ibid.*, p. 25.

<sup>95</sup> *Ibid.*, p. 11.

<sup>96</sup> 25 & 26 Vic. c. 111 s. 67; Commissioners in Lunacy, *Eighteenth Annual Report* (1864), p. 77.

tion led them to justify a record of infrequent prosecution:

... if in certain cases we have hesitated and ultimately decided not to sue for penalties, it has been from the feeling that our object would be but little advanced by the conviction of a person whose obstructive action was not so much due to personal antagonism to the law as to pressure put on him by the Board of Guardians to whom he is subordinated for all, or almost all purposes other than those of the Lunacy Acts.<sup>97</sup>

The inspectorate's response was to demand fresh legislation "to restrict, as a general rule, the admission of cases into the workhouse, unless they have passed through the asylum, and are certified by the medical superintendent as being harmless and chronic and suitable for removal". The Poor Law Board co-operated by issuing a circular stressing the duty of reporting to a magistrate "every case of an insane pauper deemed a lunatic".<sup>98</sup> The demands were made in vain. Local poor law authorities were determined to detain some classes of the insane in workhouses. All the Commissioners could hope for realistically was to be able to determine which class.<sup>99</sup>

The institution of the Metropolitan Asylums in 1867, by an order of the Poor Law Board, emphasized at once the Commissioners' basic dilemma and their ineffective powers. Intermediate establishments between workhouses and asylums proper, they "combined the evils and defects of both". Their primary purpose was to relieve curative establishments of incurables and mental defectives without risking the undesirable consequences of confinement in general workhouses. The point was often lost on union officials. County asylums were marginally cheaper than metropolitan asylums, after the 1874 capitation grant, but medical certification was not needed for admission to the latter, which made them more attractive repositories for troublesome paupers.<sup>100</sup> Widespread adoption of this poor law controlled provision was urged by the Local Government Board,<sup>101</sup> but by that date, 104 of the 688 workhouses in the country had built separate lunatic wards, and despite the continual complaint that "the establishment of lunatic wards in workhouses leads to a direct violation of the lunacy laws" the Commissioners' mode of inspection for such establishments tacitly recognized their real status by putting them on the same frequency of visitation as county asylums.<sup>102</sup>

## V

The Commissioners attracted criticism from two sources: the medical profession and pressure groups constituted to protect the liberty of the subject. The medical profession had, from the early nineteenth century, been dubious about centralized control and inspection in lunacy matters,<sup>103</sup> but the statutory medical complement of

<sup>97</sup> Commissioners in Lunacy, *Thirtieth Report*, p. 64.

<sup>98</sup> Poor Law Board, *Fifteenth Report* (1863), pp. 22, 35.

<sup>99</sup> Commissioners in Lunacy, *Twentieth Annual Report* (1866), p. 19; *Twenty-first Annual Report* (1867), p. 25; *Twenty-fourth Annual Report* (1870), p. 55.

<sup>100</sup> Mortimer Granville, *op. cit.*, note 60 above, p. 263; Jones *op. cit.*, note 1 above, pp. 160–161; Sir A. Powell, *The Metropolitan Asylums Board and its work 1867–1930*, London, The Board, 1930, p. 41.

<sup>101</sup> *Report from the Select Committee on the Lunacy Laws* (1877), qq. 294–47.

<sup>102</sup> Commissioners in Lunacy, *Twentieth Annual Report*, p. 19; *Thirtieth Annual Report*, p. 64.

<sup>103</sup> John Haslam, *Considerations on the moral management of insane persons*, London, 1817, pp. 2–3.

the Lunacy Commission allayed some fears. Both public and private sectors initially welcomed the Board, but movements towards administrative discretion were greeted hostilely. Thus, on their own initiative, the Commissioners assumed "the right to determine whether the documentation, upon which patients are admitted into asylums, are formal and correct, or otherwise, and . . . required many medical certificates to be amended . . . . The authority appears to be exercised in default of any sanction given by Act of Parliament . . . ." John Bucknill urged that it was "most desirable" that the Commissioners' "requisitions . . . should be strictly limited to and in obedience to the forms of the statute."<sup>104</sup>

In 1866, the *British and Foreign Medico-Chirurgical Review* attacked the entire system of central supervision:

The English Lunacy Commission sprang out of great abuses; it arose when men's feelings were strongly roused by the wicked and cruel treatment the insane suffered, and the public were glad to see such crying evils swept away, even though it were by a somewhat violent stretch of authority; but with those evils has passed the necessity for continuing a central despotism. Instead of resting satisfied with the powers they had, the constant aim of the Commissioners has been to add to it, and all the recent acts passed have been designed to enable them to crush some opposition, or to extend their power, to give them the right to enquire into somebody's business or to legalize some vexatious interference . . . . The tyranny of the Lunacy Board is so oppressive as affecting the management of private asylums that it has effectively extinguished all opposition and proprietors, however conscientious and upright, are compelled in self-defence to defer to the powers that be.

As regards the rules of public asylums the case is not very different; for the country gentlemen do not always find the yoke easy; they often, conscious of their ignorance, accept the dictum of a body who are always ready to suggest, and if their advice is not taken, can embarrass a committee by persevering opposition, and threaten them with the terrors of the Secretary of State.<sup>105</sup>

This confirmed the opinion of a medical defender of the Commission, John Arlidge, that "there appears to be in the English character such an aversion to centralization as to constitute a real impediment to systematic government,"<sup>106</sup> and showed up a difference between the public and private sectors of medical opinion. The former, despite quibbles over minutiae, were attuned to the principle of state control, provided medical prerogatives were recognized.<sup>107</sup> The private asylum doctors, however, who were regarded by the Commissioners more as businessmen than as alienists, were distrustful. The Commissioners to them were arbiters of a system of pains and penalties; and though, belatedly, public asylum men were drafted on to the Commission, no one from the private sector was appointed. Significantly, only two private asylum doctors signed the congratulatory address to Gaskell which the *Journal of Mental Science* published on his appointment.<sup>108</sup> Leonard Weatherley found the Commissioners arrogant, inconsistent, and tactless in their dealings with patients,<sup>109</sup> whilst L. S. F. Winslow, proprietor of the Sussex and Brandenburg Retreat, thought they were "eager and ready to do their duty, but . . . confused by the obscurity of the Lunacy Acts".<sup>110</sup>

<sup>104</sup> *J. ment. Sci.*, 1858, 4: 312–314.

<sup>105</sup> Quoted in *ibid.*, 1866, 12: 210.

<sup>106</sup> Arlidge, *op. cit.*, note 90 above, p. 187.

<sup>107</sup> *J. ment. Sci.*, 1866, 12: 213–214; *ibid.*, 1880/81, 24: 560.

<sup>108</sup> Parry-Jones, *op. cit.*, note 1 above, p. 90.

<sup>109</sup> Weatherley, *op. cit.*, note 82 above, pp. 55–66.

<sup>110</sup> Winslow, *op. cit.*, note 38 above, p. 42.

The second group of critics were more personalized in their attacks. The earliest organization formed to protect the English subject from wrongful confinement as a lunatic was Luke James Hansard's Alleged Lunatic's Friend Society (1845).<sup>111</sup> Its main targets were madhouse proprietors and it acknowledged the beneficial role of the central inspectorate.<sup>112</sup> During the 1880s, however, Louisa Lowe's Lunacy Law Reform Association directed its polemicism against both "mad-doctors" and the Commissioners, guardians of the "madness mongers". Cleaton, Wilkes, Williams, and Philips were attacked by name; Howard was attacked by implication.<sup>113</sup> The *New York Sunday Times* joined the hunt and succinctly expressed the substance of Lowe's rambling broadsides: "There can be no doubt that the sane, and especially sane women, are constantly incarcerated. The fact seems to be, that the Commissioners in Lunacy drive a profitable trade with the superintendents and madness mongers, by detaining patients after recovery."<sup>114</sup> The Board kept silent: neither corporate nor personal rebuttals of Lowe's allegations appeared.

There were, indeed, grounds for suspicion – of laxity if not of corruption. The idleness of the secretary, and the disingenuous reportage of superficial investigation in the Quail case (1845–46) were indicative of the Board's attempts to disguise its failures. Quail was a known mentally deranged quack who pestered the Board's office, but no one bothered to check on him – especially on his confessed holding of a feeble-minded woman for payment – until an independent physician alerted the Commissioners to the woman's ill-treatment some twelve months after Quail had presented himself to Lutwidge. The Commissioners' annual report implied they had no prior knowledge of the case, and their subsequent pursuit of Quail was presented as a success story.<sup>115</sup> Secretary Perceval displayed a startling degree of unreality in 1880, advising a female patient that the Board would not intervene to secure her release from a private asylum as her brother could effect her removal any time he wished. The brother had had her confined in the first place, in circumstances which were almost novelettish in their overtones of strong pecuniary motivation.<sup>116</sup> More alarmingly, in a locally notorious incident in Manchester, in 1873, Cleaton tendered a blatantly dishonest report on a local authority's illegal committal of a perfectly sane woman.<sup>117</sup> Parliamentary investigations in 1859 and 1877, prompted by public concern over

<sup>111</sup> Jones, *op. cit.*, note 1 above, p. 154; for comments on Victorian attitudes towards the dangers of illicit confinement: McCandless, *op. cit.*, note 3 above, pp. 366–370 and *passim*.

<sup>112</sup> Alleged Lunatic's Friend Society, *Annual Report*, London, 1851, p. 4. The Society was, however, displeased with the Commissioners' inefficacy in liberating the wrongly confined and with their deafness to the demands of the Society for legal changes: *ibid.*, pp. 7, 21 and *passim*.

<sup>113</sup> Louisa Lowe, *The Bastilles of England, or the lunacy laws at work*, London, Crookenden, 1883, pp. 91 ff.

<sup>114</sup> *Ibid.*, p. 101. Feminine vulnerability to illicit confinement was a topical issue at that time: E. P. W. Packard, *Modern persecution or insane asylums unveiled*, Hartford, Conn., 1873 (reprint: New York, Arno Press, 1973); Thomas S. Szasz, *The age of madness*, London, Routledge & Kegan Paul, 1975, pp. 53–81.

<sup>115</sup> PRO: MH/51/1, pp. 75–76; Commissioners in Lunacy, *First Report*, pp. 160–165; Mellett, *op. cit.*, pp. 420–421.

<sup>116</sup> Lowe, *op. cit.*, note 113 above, p. 15.

<sup>117</sup> [Anon.], *Serious charges by a magistrate and others against two Commissioners in Lunacy*, Manchester, [n.d.]; Lowe, *op. cit.*, note 113 above, pp. 90–101; *Report from the Select Committee on the Lunacy Laws* (1877), qq. 4900–03; *J. ment. Sci.*, 1874/75, 20: 339.

personal liberty, showed the Commissioners in their evidence to be smug rather than corrupt.<sup>118</sup> Wilkes, one of Lowe's targets, gave evidence to the first Committee which indicated a degree of tolerance damaging to the Board's image: it was, he asserted,

... extremely difficult to refuse the renewal of a licence because to say that no licence should be granted would have the effect of reducing many families to absolute beggary. . . . In many cases, you shrug your shoulders and say, 'What a sad place this is, and what a person is at the head of it,' but you cannot say to that person, 'though you have committed no offence, I will reduce you to beggary,' . . . . The truth must be told, and I must say we Commissioners have erred upon the side of lenity. We have endeavoured year by year to do things by persuasion till I have lost all patience . . . .<sup>119</sup>

## VI

Acceptance of central control was a product of experience and of need, in lunacy matters as elsewhere. There were, however, more points of dissimilarity than of likeness, in function and in constitution, between the Commissioners in Lunacy and, say, Factory, Health, or Poor Law inspectorates. The 1845 Board grew immediately out of the experiences of the Metropolitan Commissioners, which itself was very much the successor to the inspectorate of the Royal College of Physicians. Hence the principle of inspection was not new to Parris's period of Utilitarianism.<sup>120</sup> Both early inspectorates were toothless watchdogs for the Metropolis until 1842. It is instructive to contrast the Metropolitan Commissioners' position with that of Althorp's factory inspectorate, of whom it was complained that "the powers of the inspectors are already greater than were ever before committed to any individual in this country, and greater than ought to be entrusted to *any* individual in *any* country. In all matters not especially provided for by the Act, the inspector's *will is law without appeal* . . . ."<sup>121</sup> Their powers curbed in 1844, the factory inspectors yet developed a more potent discretion than was available to the Lunacy Commissioners from the following year.<sup>122</sup> Nor did the Lunacy Commission ever exercise – even within its Metropolitan domain – the kind of autonomous autocracy so feared in that other contemporary board at Gwydr House.<sup>123</sup>

The Lunacy Commissioners were, however, at least free from the antagonism between professional inspectors and bureaucrats which marred much of the history of the Public Health department.<sup>124</sup> The Metropolitan Commission had a one-third professional composition, and the national inspectorate statutorily possessed an equal number of physicians and barristers, all of whom were members of the central policy-

<sup>118</sup> Jones, op. cit., note 1 above, pp. 156–159; *Report from the Select Committee on Lunatics* (1859), qq. 354, 359, 366, 504, 507, 870, 919; (1860), q. 400; *Report from the Select Committee on the Lunacy Laws* (1877), qq. 11, 528; Edwin Hodder, *The life and work of the Seventh Earl of Shaftesbury*, popular ed., London, Cassell, 1892, p. 700.

<sup>119</sup> *Report from the Select Committee on Lunatics* (1859), qq. 101, 102, 301.

<sup>120</sup> Henry Parris, 'The nineteenth-century revolution in government: a reappraisal reappraised', *Hist. J.*, 1960, 3: 28–32.

<sup>121</sup> Robert Greg, *The factory question*, London, 1837, pp. 129–30.

<sup>122</sup> M. W. Thomas, 'The origins of administrative centralization', *Current Legal Problems*, 1950, 3: 224–234.

<sup>123</sup> Roberts, op. cit., note 4 above, pp. 109, 129.

<sup>124</sup> S. E. Finer, *The life and times of Sir Edwin Chadwick*, London, Methuen, 1952, *passim*.

making board, which at no time exceeded eleven.<sup>125</sup> Thus there was a difference once more between lunacy and factory inspectors: when the latter lost their quasi-judicial independence, they became tools of a central board; the Lunacy Commissioner always had a dual role, inspector and board member. This identity precluded the need for individuality displayed, for example, in the early implementation of the Passenger Acts, for, as Shaftesbury informed the Select Committee in 1859, the Board had known only one division since its inception.<sup>126</sup>

Before 1845, provincial inspection was in the hands of local magistrates exclusively, and in London in the hands of the Commissioners. Both agencies were charged with the licensing of private asylums and the visitation of private and public institutions. Licences could be withdrawn or refused where a house was legally defective; prosecutions could be brought for criminal actions committed in public asylums. With regard to county asylums, visiting committees had little power, except in so far as the appointment of the superintendent lay within the committee's gift. Since visitors were usually laymen, there was little likelihood of criticism unless a superintendent were overspending. Prior to 1845, provincial inspection was largely negative.<sup>127</sup> It remained so in great part afterwards, but there was at least supervision of the non-professional element, and scope for propaganda and persuasion.

The Commissioners operating on a national level had little discretion. Their hands were tied, even in regard to the immediate objects of their responsibility. Remedies for abuse had usually to be effected through other agencies, the poor law authorities, or the Home Secretary.<sup>128</sup> Hence the Board operated as much as an adviser or stimulator as an executive agency in its own right. Its efficient role was one of co-ordination, though its assigned role was superficially greater. Its purpose was dual: in the former role, *provision*; in the latter, *protection*. The latter, where the Commissioners enjoyed their fullest measure of independence and power, was a role most often acted out in relation to private asylums and single patients.<sup>129</sup> The Commissioners were responsible for all lunatics, wherever housed (except for Chancery lunatics),<sup>130</sup> but the vast proportion were paupers, detained in workhouses or county asylums, where the fate of the individual lunatic rested far more with local and central poor law authorities. Although they had statutory powers over pauper institutions, actual

<sup>125</sup> 9 Geo. IV c. 41 s. 2; 8 & 9 Vic. c. 100 s. 3.

<sup>126</sup> Oliver MacDonagh, *A pattern of government growth 1800–60. The Passenger Acts and their enforcement*, London, MacGibbon & Kee, 1961, pp. 91–114; *Report from the Select Committee on Lunatics* (1859), p. 835.

<sup>127</sup> For example, entries in the Magistrates' Visiting Book at Lancaster Moor Asylum during the 1830s indicate that visits were usually made by a single person, extraordinarily by three or four, and single-line remarks – "Visited the whole institution" or "All appears in good order" – show the extent of inspection: Lancashire Country Record Office, QAM/1/33/11 *passim*.

<sup>128</sup> For typical instances: Commissioners in Lunacy, *First Report*, pp. 251–259; PP (1847) 291 XLIX: *Further Report relative to Haydock Lodge Lunatic Asylum, passim*; *Eleventh Annual Report*, p. 16; *Supplement to Twelfth Annual Report*, p. 29; *Sixteenth Annual Report*, pp. 25–26; *Eighteenth Annual Report*, pp. 96–99; *Twenty-first Annual Report*, pp. 23–25; *Twenty-fourth Annual Report*, pp. 49–50.

<sup>129</sup> See above, notes 56, 57.

<sup>130</sup> Chancery lunatics were lunatics "so found" at a trial by jury initiated by relatives to protect family property. From 1845, special Commissioners – Masters in Lunacy – replaced juries in the determination of sanity or otherwise. Special Visitors in Lunacy, appointed by the Lord Chancellor's Office, supervised such lunatics.

enforcement of the law depended more on the goodwill and co-operation of others than on the strength of the Commissioners to enforce the law. In some ways, there was more need for real power over the private sector: the dangers of profiteering were ever present. From a political point of view, it was more expedient to grant wider powers in this area: anti-centralist opinion and assertive local autonomy might reject too strong a government interest in the spending of local rates, but public opinion was suitably outraged by press revelations of madhouse brutality. Outdated before it matured, the “public conscience” was a powerful force in shaping legislation – more so than the lessons learned from the Commissioners’ accumulated experience – and was, too, a conditioning factor in determining the scope of the Commissioners’ duties.<sup>131</sup>

The most favourable function of the Commissioners, in the eyes of the medical profession, was – despite all the professional posturing on the part of alienists – *evolved* rather than enjoined by law. The role of information bureau was more acceptable to supervisees than that of dictator, and in recognizing that experiences gained in one sphere might be of use in another, the Commission laid the foundation for its real importance in the development of Victorian mental health services. Admittedly, the issues occupying the Board’s attention were, for the most part, legal, and much free-handed advance on the part of asylums was short-circuited by insistence on the letter of the law. Yet there was a small degree of tacit approval for infringements of red-tape formalities where the spirit of the statutes was served, and the influence of the Commissioners in encouraging progress, by communication of “successful” curative programmes, by collecting and disseminating statistical information, and by generally bringing institutions into contact with mutual problems and potential solutions, was counterbalancing to the harm incident to their brand of petty bureaucracy.<sup>132</sup>

Inspection of mental institutions, except in the Metropolis, still lay largely in the hands of traditional agencies. Even after 1845, there was an unfortunate dualism: the Commissioners acted the magisterial role, as well as their own, in the London area. Although professional, the inspectorate was divided in function and power. To have any lasting effect on the magistracy, it must obtain Home Office support; to influence boards of guardians, it had to invoke the central poor law authority. The granting of licences remained in the hands of local justices. In effect, the Board, like the Emperor Augustus, seemed to possess “*auctoritas*” but not “*potestas*”. Because the former attribute could so prevail upon conscientious asylum staffs, visiting committees, and (less readily) other bureaucrats, there was a reality to the Commissioners’ function. The Board was dogmatic, though less so, perhaps, than the poor law and factory inspectorates. And it was humane – though no less theoretical – in its dogmatism. Larger theories of economy or of society were less important on an administrative level, though they were formative in shaping the Board’s conception of insanity and of the purpose of institutional provision.<sup>133</sup> The “*auctoritas*” of the Board was established by

<sup>131</sup> The role of public opinion in shaping legislation was noted by Sir Frederick Needham – especially in the making of the 1890 Consolidation Act: Weatherley, *op. cit.*, note 82 above, p. 10.

<sup>132</sup> *J. ment. Sci.*, 1866, 12: 213–214; *ibid.*, 1880/81, 26: 560.

<sup>133</sup> Scull, *op. cit.*, note 1 above, pp. 18–48; Mellett, *op. cit.*, pp. 7–108, 197–243.



its work methods. Often greeted hostilely as purveyors of red tape and inhibitors of progress, the Commissioners succeeded in gaining respect for themselves and even for some of their “*ex cathedra*” pronouncements. Antagonisms remained, especially with the private sector, which rightly saw the Commissioners as a threat to its existence. But even there the Board was allowed to be an efficient public relations agent for the asylum system, which still occasioned fear and mistrust in all sections of the population.

The medical profession might attack the Board for its apparently non-medical bias, and the Commissioners were themselves conscious of their legalistic function: Shaftesbury informed the 1859 Select Committee that “the business transacted at the Board is entirely civil in ninety nine cases out of one hundred. A purely medical case does not come before us once in twenty boards.”<sup>134</sup> This was not surprising: the intended function of the Board was legal. Its objects were institutions which legally deprived individuals of their liberty, and the persons of those so deprived. That those rights to liberty had been removed, ostensibly at least, on medical grounds, and that the institutions operated – again ostensibly – from medical principles, was recognized in the Board’s complement of physicians. But the function of the Board was not thus rendered medical. As Wilkes told the Select Committee of 1877, the Commissioners were not capable of judging sanity or insanity simply by conversing with patients, which was, however, their only possible contact.<sup>135</sup>

Acceptance of the Commissioners, like acceptance of other Victorian inspectorates, can be traced to a simple fact of life: as an inspector of schools pointedly remarked, “public opinion . . . though loudly denouncing centralization, is apt to clamour almost in the same breath for grandmotherly interference.”<sup>136</sup> The considered response of the *Lancet*’s Mortimer-Granville confirms this view. He acknowledged “. . . the permanent and increasing value of the services rendered to the cause of humanity, and indirectly to the interests of medical science by the Commissioners in Lunacy. We do not recognise the wisdom of all their recommendations . . . . But in the main . . . the body of public inspectors has been Lord Shaftesbury’s great claim to public gratitude . . . .”<sup>137</sup>

## VII

The Commissioners’ services were, in fact, far less indirect than Mortimer-Granville allowed. In the strategy of lunacy “reform” their generative role was crucial. In the process of “reform” the central factor was the idealization of an expedient – asylum confinement. Central to altered perspectives of madness, the asylum was, first and foremost, a social and legal construct, not a medical one.<sup>138</sup> The relationship between psychiatric opinion and the collective awareness of insanity, as mediated by the lunacy laws, and especially with reference to the pauper insane, suggests a modification of

<sup>134</sup> *Report from the Select Committee on Lunatics* (1859), q. 14.

<sup>135</sup> *Report from the Select Committee on the Lunacy Laws* (1877), q. 654.

<sup>136</sup> Herbert Preston-Jones, *Work and play of a Government Inspector*, London, William Blackwood, 1909, p. 211.

<sup>137</sup> Granville, *op. cit.*, note 60 above, p. 325.

<sup>138</sup> Mellett, *op. cit.*, pp. 32–108; Scull, *op. cit.*, note 1 above, pp. 13–48.

Sigerist's dictum that "medical science was at all times at least half a century ahead of the law . . . the law does not lead but follows".<sup>139</sup> In Britain, psychiatric progress was linked to the asylum: a dependence reflected in the initial styling of the alienists' professional organization, and highlighted by the stagnation of clinical progress in pauper asylums after 1845.<sup>140</sup>

Moreover, the asylum was an outgrowth of earlier institution forms which, in common with initial justification for interference with the insane, rested on the state's political power.<sup>141</sup> Since institutional provision preceded the systematization of medically grounded diagnostics and therapeutics, the asylum itself became a factor in the identification of the insane.<sup>142</sup> Because county asylums were financed publicly and the cost of maintaining pauper lunatics borne by local rates, nascent mental science was inextricably bound up with a complex of economic, social, and legal values.<sup>143</sup> A result of this was that the ideal of the asylum as a differentiated institution was realizable only in the private sector, whilst the county asylum, in a manner reminiscent of the seventeenth-century French general hospital, became a convenient receptacle for the aged and socially disruptive indigent.<sup>144</sup> The interplay of lunacy and poor laws determined individual patients, and so the law may be characterized as more of a midwife to Victorian psychiatry than a laggard handmaid.

This prompts a questioning of Kathleen Jones's contention that the lunacy "reform" movement was betrayed after 1845, and that "legalism" triumphed at the expense of "humanitarian" and "medical" channels of progress.<sup>145</sup> But in both practical and ideological terms the law was a most apt medium for delineating the asylum, since there was a dilemma of conflicting individual rights and community responsibilities built into the asylum system. As a formalized expression of community norms, the law was a convenient bridge and although, inevitably, it was bound to protect the interests of the ruling classes, within those classes the law had already

<sup>139</sup> Henry E. Sigerist, *Civilization and disease*, Ithaca, N.Y., Cornell University Press, 1943, p. 108.

<sup>140</sup> John Conolly, *On the construction and government of lunatic asylums and hospitals for the insane*, London, J. Churchill, 1847, p. 131; Samuel Gaskell, *Br. med. J.*, 1861, i: 268; Granville, op. cit., note 60 above, pp. 5–8, 125, 147, 216–219; LAB, *Report of the Superintendent of Lancaster Asylum* (1880), p. 18; *Report of the Superintendent of Prestwich Asylum* (1879), p. 69; Metropolitan Commissioners in Lunacy, *Report to the Lord Chancellor* (1844), pp. 113–114. Cf. Scull, op. cit., note 1 above, pp. 113–124, 186–204; Mellett, op. cit., pp. 56–85.

<sup>141</sup> Initial justification for secular interference with the insane rested on three sources of state political power: the police power (i.e., the right of the state to protect the peace and public welfare); the role of "parens patriae" derived from medieval kingship; and the powers of the state over the persons of the destitute which had been developed from the sixteenth century: Leonard Shelford, *A practical treatise on the law concerning lunatics, idiots and persons of unsound mind*, London, 1833, vol. 1, p. 9; Michel Foucault, *Madness and civilization. A history of insanity in the age of reason*, trans. by Richard Howard, London, Tavistock Publications, 1967, p. 7; Nicholas N. Kittrie, *The right to be different. Deviance and enforced therapy*, Baltimore, Md., and London, Johns Hopkins Press, 1971, pp. 11, 58–60.

<sup>142</sup> Cf. E. and J. Cummings, *Closed ranks*, Cambridge, Mass., Harvard University Press, 1957, pp. 101–102.

<sup>143</sup> Mellett, op. cit., pp. 56, 63–66, 70–73, 347–392.

<sup>144</sup> Granville, op. cit., note 60 above, pp. 75, 125, 218–219. Cf. George Rosen, 'Social attitudes to irrationality and madness in seventeenth and eighteenth century Europe', *J. Hist. Med.*, 1963, 18: 233, 237; Foucault, op. cit., note 141 above, pp. 39–41; Joshua H. Stallard, *Pauper lunatics and their treatment*, London, National Association for the Promotion of Social Science, 1870, p. 14.

<sup>145</sup> Jones, op. cit., note 1 above, p. 153.

been developed as a safeguard for individual liberties – this was the origin of lunacy “reform” in the first place, as attention had been directed initially to private madhouses. Concern for paupers developed later, and progress had always been in terms of increasingly efficient social controls. The law was thus doubly apposite.<sup>146</sup>

Apart from these considerations, asylum-based psychiatry was more community-orientated than patient-centred. Cure was behaviour modification and was perforce seen in culturally one-sided terms. For the pauper, then, Jones’s hypothetical alternative to “legalism” could not have been other than a means of cultural repression – mental science was hardly value-free.<sup>147</sup> In practice, cure rates in pauper asylums were little different in 1914 from what they had been in 1845,<sup>148</sup> and custodial provision rather than curative achievement became the criterion for assessing the “success” of the system. This success was in no small part engineered by the Lunacy Commissioners, for, as one hostile critic jibed, “asylums are the Commissioners’ panacea”.<sup>149</sup> And as asylums were root-and-branch of Victorian psychiatry, this meant that the Commissioners, as minders of “the prerogative of asylumdom”, were crucial in ordering the processes involved in the medicalization of insanity and, especially in the face of post-1860s “therapeutic nihilism”,<sup>150</sup> in legitimating the perpetuation of medical hegemony in the institutional response to madness.

#### BIOGRAPHICAL APPENDIX

*T. Clifford Allbutt* (1836–1925): Educated at St Peter’s, York, and Caius, Cambridge. Studied medicine in London and Paris. Consulting physician in Leeds (1861–69). Regius Professor of Physic, Cambridge (1892). Physician to Addenbrooke’s Hospital (1900). FRS (1880), KCB (1907), PC (1920). Editor of *A system of medicine* (1896–99). Prototype of Lydgate in George Eliot’s *Middlemarch*. Source: *Dictionary of National Biography* (hereinafter *DNB*).

*Charles Samuel Bagot* (1828–1906): Born in S. Australia. Educated at Trinity, Cambridge. Barrister, Inner Temple (1853). Secretary to Lord Chief Justice Selwyn (1868–69). Secretary to Lord Justice Hatherley (1870–72). Knighted in 1903. Source: *Who Was Who*.

*William George Campbell* (1810–81): Barrister, Middle Temple (1836). Honorary Commissioner in Lunacy from 1878 until death. Source: F. Boase, *Modern English biography of the nineteenth century* (Truro, 1892–1921) (hereinafter, Boase).

*John Davies Cleaton* (d. 1901): MRCS. Resident medical officer to West Riding Asylum to 1853, and to Rainhill (1853–58). Source: *Who Was Who*.

*Edward Marriott Cooke* (1852–1931): MD London, MRCS, AKC. Educated privately and at Cholmely’s School, Highgate. Medical education at King’s College Hospital. Medical

<sup>146</sup> ‘Suggestions of Sir George Onesiphorus Paul, Bart., to Earl Spencer’, printed as an appendix to the *Report of the Select Committee on the State of Criminal and Pauper Lunatics in England and Wales*, London, 1807; Scull, op. cit., note 1 above, pp. 45–48.

<sup>147</sup> Mellett, op. cit., pp. 197–243; Scull, op. cit., note 1 above, pp. 125–163.

<sup>148</sup> Cure rates in county asylums for 1906–15 averaged 34 per cent on admissions – roughly the same as for 1866–76: Weatherley, op. cit., note 82 above, p. 17. In 1844 the rate had been approximately 37 per cent in pauper-only asylums, and about 47 per cent in mixed asylums: John Thurnham, *Observations and essays on the statistics of insanity, including an inquiry into the causes influencing the results of treatment in establishments for the insane. To which are added the statistics of the Retreat, near York*, London, 1845, pp. 29, 137.

<sup>149</sup> Cited in *J. ment. Sci.*, 1866, 12: 21.

<sup>150</sup> Scull, op. cit., note 1 above, pp. 208–213.

superintendent to Worcestershire County Asylum and to Wiltshire County Asylum. KBE (1918). Source: *Who Was Who*.

*Sidney Coupland* (1849–1930): Educated at Hove House School, Brighton, and University College, London. MD (1874), FRCP (1880). Physician to the Middlesex Hospital (1879–96). Source: *Who Was Who*.

*John Forster* (1812–76): Son of a Newcastle cattle dealer. Educated at Newcastle Grammar School and University College, London. Barrister, Inner Temple (1843). Drama critic, *True Sun* (1832). Editor, *Foreign Quarterly Review* (1842–43), *Daily News* (1846), *Examiner* (1847–55). Prolific writer, moved in Dickens' circle. Works include: *Lives of the statesmen of the Commonwealth* (5 vols. 1836–39); *Life and adventures of Oliver Goldsmith* (1848); *Life of Charles Dickens* (1872). Winslow recollected him as "severe and blunt" but "sympathetic". Sources: Boase; T. Powell, *Pictures of living authors* (London, 1851); *Illustrated London News*, 1845, 7: p. 329; Richard Renton, *John Forster and his friendships* (London, 1921); L. S. F. Winslow, *Recollections of forty years* (London, 1910).

*William Frere* (1840–1900): Son of an Indian civil servant. Born at Poona. Educated at Harrow (where he won the first fencing prize awarded) and Trinity, Cambridge. Barrister, Lincoln's Inn (1865). Revising Barrister for North Wiltshire (1877). Sources: Boase; *Law Journal*, 15 December 1900, p. 690.

*Samuel Gaskell* (1807–96): Born in Warrington. Educated locally after his father's death left the family in reduced circumstances. Despite discouragement because of eye weakness, completed medical education at Manchester and Edinburgh, after initially being apprenticed to a Liverpool bookseller/publisher. Resident medical officer, Stockport Cholera Hospital to 1834. Apothecary, Manchester Royal Infirmary and Lunatic Asylum (1834–40). Medical superintendent, Lancaster Moor Asylum (1840–48), where he abolished mechanical restraint. Retired from active life after a street accident in 1865. Considered by contemporaries as excessively diligent and thorough, and possessed of great practical knowledge. Sources: Boase; *Times*, 27 March 1886; *J. ment. Sci.*, 1886, xxxii.

*Frank Hardinge Giffard* (1864–1908): Son of a county court judge. Educated at Merton, Oxford. Barrister, Inner Temple (1887). Private secretary to the Lord Chancellor (1886–92, 1895). Secretary to Lunacy Commissioners (1895–1900). Source: *Who Was Who*.

*John Hancock Hall*: no biographical details have been found.

*Greville Theophilus Howard* (1836–80): Second son of 17th Earl of Suffolk and Berkshire. Educated at Christ Church, Oxford. Barrister, Lincoln's Inn (1863). Source: Boase.

*John Robert Hume* (?1781–1857): MD, St Andrews (1816), LRCP (1819), FRCP (1836), DCL (Oxon) (1834). Physician to Wellington during the Peninsular War and on his return to England. Inspector General of Hospitals (1818–21). Private practice in London. Source: Boase.

*Robert Wilfred Skeffington Lutwidge* (1802–73): Born in London. Educated at St John's Cambridge. Barrister, Lincoln's Inn (1827). Metropolitan Commissioner in Lunacy (1842–45). Secretary to Lunacy Commissioners (1845–55). Member of Commission of Inquiry into the State of Lunatic Asylums in Ireland (1856). Remembered as a "kind old gentleman". Source: Boase; *Law Times* (1873), 4 p. 127; Winslow, op. cit.

*James William Mylne* (1800–55): Son of James Mylne, Professor of Moral Philosophy at Glasgow University. Educated at Glasgow Grammar School, Glasgow University and Balliol, Oxford. Barrister, Lincoln's Inn (1827). Metropolitan Commissioner in Lunacy (1832–45). Co-author, with Benjamin Keen, of *Reports of cases in the High Court of Chancery (1832–35)* (3 vols., 1834–37), and, with R. D. Craig, *ibid. (1835–48)* (5 vols., 1837–48). Sources: Boase; Joseph Foster, *Alumni Oxonienses 1715–1886* (London, 1887/88); I. Addison, *The Snell Exhibitioners* (Glasgow, 1901).

*Bureaucracy and mental illness: the Commissioners in Lunacy 1845–90*

**Robert Nairne** (1804–87): Educated at Edinburgh University and Trinity, Cambridge. MD (Cantab), FRCP (1838). Physician to St George's Hospital, London (1839). Private practice in London, with indifferent success prior to appointment to Lunacy Commission. Source: G. H. Brown, *Lives of the Fellows of the Royal College of Physicians* (London, 1955), vol. iv.

**Frederick Needham** (d. 1924): MD, MRCP. Educated at St Peter's, York and St Bartholomew's Hospital, London. Medical superintendent, York Lunatic Hospital (1858–74) and Barnwood Hospital for the Insane, Gloucester (1874–92). Source: *Who Was Who*.

**Charles Palmer Philips** (1822–95): Son of William Edward Philips, Governor of Prince of Wales Island. Educated at Eton and Christ Church, Oxford. Barrister, Lincoln's Inn (1846). Chief secretary to Lord Chancellor Chelmsford (1859). Revising barrister for City of London (1864). Secretary to Lunacy Commissioners (1864–72). Publications include: *The law concerning idiots* (1858) and *The law of copyright* (1863). Source: *Records of Lincoln's Inn* (London, 1896).

**James Cowles Prichard** (1786–1848): MD Edinburgh. Private practice in Bristol. Polymath with special interests in anthropology and insanity. Works include: *A treatise on insanity and other disorders affecting the mind* (1835) and *On the different forms of insanity in relation to jurisprudence* (1842). Source: Denis Leigh, *Historical development of British psychiatry* (Oxford, 1961), pp. 148 ff.

**Bryan Waller Proctor** (alias William Bryan Proctor) (1787–1874): Born in Leeds. Educated at Finchley and Harrow. Articled to a Wiltshire solicitor. Barrister, Gray's Inn (1831). Metropolitan Commissioner in Lunacy (1832–45). Honorary Commissioner until death. Friend of Leigh Hunt, Lamb, and Dickens. Poet: pseudonym Barry Cornwall. Works include: *Poetical works* (1822); *English songs* (1832); *Memoir on Lamb* (1866); and editions of Jonson and Shakespeare. Sources: Boase; T. H. Wade, *English poets* (London, 1883), vol. iv; Harriet Martineau, *Biographical sketches* (London, 1876).

**Thomas Lawes Rogers**: Detailed biography lacking. Medical superintendent to Rainhill Asylum (1858–88).

**Henry Herbert Southey** (1783–1865): Younger brother of Robert Southey. MD Edinburgh (1806), FRCP (1823), FRS (1825). Practices in Durham and London. Physician to Middlesex Hospital (1815–27). Physician to George IV (1823) and to Queen Adelaide (1830). Censor, RCP (1820, 1832) and Consiliarius (1836, 1840–42). Metropolitan Commissioner in Lunacy (1832–45). Gresham Professor of Physic (1834–65). Author of *Observations on pulmonary consumption* (1814). Sources: Boase; G. H. Brown and R. R. Traill, *Royal College of Physicians ... Lives of the Fellows*, vol. v.

**Reginald Southey** (1835–99): Youngest son of Henry Herbert Southey. Educated at Westminster and Christ Church, Oxford. MA (1860), MB (1861), MD (1866). Assistant physician, St Bartholomew's Hospital, London (1865) and physician (1868–83). MRCP (1860), FRCP (1866). Lecturer on Public Health and Medicine (1868–83), Gulstonian Lecturer (1867). Lumleian Lecturer (1881). Sources: Boase; *Times*, 14 November 1899; *Lancet*, 25 November 1899.

**Thomas Turner** (1793–1873): Medical education at Guy's and St Thomas's Hospitals, London, and in Paris. House surgeon, Manchester Infirmary (1817–20). A key figure in the establishment of the Manchester schools of medicine and surgery. Surgeon to Manchester Deaf and Dumb Institution (1825) and to Manchester Royal Infirmary (1830). Professor of Philosophy, Manchester Royal Institution (1843). FRCS (1843). Sources: *DNB; J. ment. Sci.*, 1873, xix.

**George Harold Urmson** (1851–1907): Educated at Eton and Oxford. Barrister, Lincoln's Inn (1876). Secretary to Lunacy Commissioners (1889–95). Source: *Who Was Who*.

*John Michael Augustus Wallis* (1844–97): Born in Waterford. MD Aberdeen (1875). Resident physician, Mercer's Hospital, Dublin. Medical superintendent, Hull Borough Asylum. Senior assistant physician, Durham County Asylum. Medical superintendent, Whittingham Asylum (1878–93). Sources: Boase: *Johnson's roll of graduates of the University of Aberdeen* (1906).

*James Wilkes* (1811–94): LSA (1834), MRCS (1835), FRCS (1854). Member of Commission of Inquiry into State of Lunatic Asylums in Ireland (1856). Source: Boase.

*William Rhys Williams* (1837–93): Educated at Merchant Taylors and St Thomas's Hospital. Assistant to a GP in Daventry. Assistant medical officer to Derby County Asylum and to Wyke House Asylum. Assistant medical officer to the Three Counties Asylum. Via patronage of Sir William Hood, he became assistant physician to Bethlem, and superintendent following the breakdown of his superior. Source: *J. ment. Sci.*, 1893, xxxix.

#### SUMMARY

The essay offers an analysis of the function and organization of the Commissioners in Lunacy from their inception to the passing of the Lunacy Consolidation Act of 1890. Adapting a model from John Harris's *British Government Inspection* (1955), I have provided a discussion of the manner in which the Commissioners interpreted and implemented the lunacy laws – concentrating on the routine of administration – and of the relationships between the Board and the medical profession and the poor law authorities. In establishing the Commissioners in Lunacy within the wider context of lunacy “reform” I suggest that the law, as mediated by the Board, was the key formative factor in delineating the conceptual and real dimensions of the asylum system, and that the Commissioners, therefore, were crucial in legitimating a medical model of insanity and in perpetuating medical hegemony of institutions whose primary purpose was social control.