

“Imbecile and is Insane”: Legal fictions in the early years of the operation of the 1913 Mental Deficiency Act in Scotland.



Dr Margaret White, ST4 in Intellectual Disability Psychiatry, Community Learning Disability Team, Edinburgh.
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Abstract: The 1913 Mental Deficiency and Lunacy (Scotland) Act was the first legislative move in the drive towards institutionalisation of large numbers of people with intellectual disabilities in Scotland. However, Scotland lacked a dedicated infrastructure for institutionalising adults with intellectual disabilities at this time. This study therefore explored which institutions those people labelled as “mentally deficient” were admitted to in the early years after the 1913 Act.

Background: Prior to the 1913 Act, admissions were most likely to be to Asylums (under lunacy legislation, which covered those people who were “a lunatic, an insane person, an idiot, or a person of unsound mind”) or Poorhouses. The Act widened the scope of mental health legislation to encompass those who were “feeble-minded” (roughly equivalent to mild intellectual disability), and “moral imbeciles” (a term of contested meaning even at the time). It specified that those with intellectual disabilities who required institutional care should be admitted to specialised institutions solely for the “mentally deficient”. When the Act was passed, there were no such facilities for adults in Scotland. This study focussed on Edinburgh, where the first dedicated “mental deficiency” institution opened in 1924.

Midlothian and Peebles District Asylum



Methods: Annual reports of Scottish regulatory authorities and local Asylums were reviewed, along with newspaper records and secondary literature. This guided the use of material from the Lothian Health Services Archive, including the “Register of Defectives” for those certified under the 1913 Act, and material from the Royal Edinburgh Asylum and Midlothian and Peebles District Asylum.

West House, Royal Edinburgh Asylum



Results: The “Register of Defectives” records 54 certifications under the 1913 Act, of people with ages ranging from 4 to 68 (Mean age 22, median 19). Gender balance was nearly equal, with 27 males and 28 females. Of the 37 whose classification under the Act is noted, the most common category is “Imbecile”, with 22 classified as such.

Legal Fictions:

- “Boarder with Matron”: The destination of the certified person is often unclear from the Register. Some are clearly being boarded with guardians in the community, while others seem to have been resident at the institutions for children at Larbert or Baldovan. It is likely that some remained with their families, the certification being an administrative change rather than a change of residence. A number were noted as “Boarded with Miss Lawrie” or “Boarder with Matron, Craiglockhart Poorhouse”. Someone “boarding” in a poorhouse was not something that was legally enabled in the 1913 Act; boarding in the community was supposed to be in a family setting, with a maximum of four boarders.
- “... and is insane”: Admissions of people with diagnoses of “mental deficiency” can be traced in the admissions book of the Midlothian District Asylum, and in greater detail in the casebooks of the Royal Edinburgh Asylum. Some of those admitted with a “mental deficiency” diagnosis seem to have had a genuine co-diagnosis of a mental health condition. However, a number were noted as, for example “High Grade Defective and is Insane” in the admissions book, but in the casebook there is neither mention of “insanity” nor any symptoms that might suggest any mental health difficulty.

Conclusions: Fictitious diagnoses and designations were used to fit professional decisions about institutional care into the available legal framework. There is no evidence of any censure of this at the time. The 1913 Act has been subject to different interpretations, from being an Act that legitimated widespread institutionalisation of people with milder intellectual disabilities, to it being “a largely toothless paper tiger”.^{1,2} The results of this study lean towards the former interpretation. The use of legal fictions meant that some people were subject to lifelong institutionalisation before large institutions for adults were operational. Reviewing past legislation often informs debates on future legislation; however, if this review only looks at the text of statute and not actual practice, important information is lost.

Literature Cited:

1. Jackson, Mark. *The Borderland of Imbecility*. Manchester University Press, 2000.
2. Gründler, Jens. *Pathologisierungskonflikte. Britische Experten, Verwaltungspraktiker und Laien in der Auseinandersetzung um ‚mentally defective‘*. Werkstatt Geschichte, Heft 78, 39-56 (2018). Original quote “ein weitgehend zahnloser Papiertiger”, translation my own.

Lothian Health Services Archive material used: LHB7/35/11, LHB7/35/12, LHB7/51/104, LHB7/51/105, LHB7/51/106, LHB33/4/12, LHB36/7/1
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