

## THE INSTITUTIONAL WORKSHOP.

### THE SECRECY OF THE PROCEEDINGS AT "COMMITTEES."

A VERY absurd position of affairs has come to light at Belper. The representatives of the Belper Urban District Council upon the Belper Isolation Hospital Committee have got across with their colleagues, and have resigned. We do not now propose to enter into the questions of hospital discipline which have led to such differences among the members of this committee. What we wish to draw attention to is the assumption, which we think is a totally wrong assumption, that the proceedings of such a committee as that which is constituted by law for the management of an isolation hospital are to be considered as confidential.

At the meeting of the District Council the public can attend, and reporters can be present, but the proceedings of committee are to be regarded as private. In explaining his reasons for resigning Mr. Strutt, who is chairman of the Belper Urban District Council, said that he felt in rather a difficult position, because what had taken place was done in committee. "This was," he said, "of course, private, but at the same time he thought some explanation was due from him to the Council," and then ensued a long discussion in which nothing was stated openly, all was about certain things which had been done, certain votes which had been taken, certain events which had happened, but no definite statement was made as to what things, what votes, &c., they were talking about. All because the proceedings at a committee are confidential. Now this seems to us to be altogether wrong. When a District or other Council appoints a committee to carry out certain specific duties the proceedings of that committee are confidential, but that is because the report is given in to the Council, and the Council as a whole is in the end responsible to those by whom it is elected for all its doings, and even for the doings of each of its committees.

But the Hospital Committee by which an isolation hospital is managed may consist of a number of members, appointed by the several Councils which together form the hospital district. Its powers are defined by Act of Parliament, and its proceedings cannot be revised or annulled by any one of the various Councils whose representatives sit upon it.

The secrecy which shields the proceedings of a committee of a Board or Council is proper enough, seeing that the whole Board or Council is responsible for every one of its acts; but the proceedings of a Hospital Committee, which is appointed by several Councils, and for the acts of which no individual Council is responsible, should undoubtedly be open to the fullest publicity, otherwise they are absolutely relieved from criticism and from the pressure of public opinion—which perhaps accounts for some of their vagaries. The suggestion that the proceedings of such a body are confidential is a mere bogie, arising from the name "committee," a name for which those who drafted the Isolation Hospitals Act are alone responsible, and one which is in

the Act entirely divorced from its ordinary meaning. If this body had been called a Hospital Board no one would ever have thought of its proceedings any more than those of the Metropolitan Asylums Board being held to be confidential.

### LEGAL INTELLIGENCE.

#### APHASIA AND TESTAMENTARY CAPACITY.

A VERY curious will case involving the question of the testamentary capacity of a person suffering from aphasia was decided in the Probate Division of the High Court on the 12th inst. Probate was claimed of the will of the late Marion Edith Moore, who died on August 26th, 1899, the will being dated August 4th of the same year. Against this it was alleged that the will was not duly executed, and was not in accordance with the deceased's instructions, and further that the deceased was not of sound disposing mind. It appeared from the statement made by counsel that the deceased had a stroke of paralysis in July, 1898, which left her the victim of aphasia, and her medical attendant soon afterwards intimated to her that it would be desirable for her to make her will, giving it as his opinion that although his patient had lost the power of coining her thoughts into words her wishes could be satisfactorily ascertained, and he suggested that a number of cards with the various items of her property indicated upon them should be given to the patient together with another pack with the names of her several relatives.

Dr. James Edmunds gave evidence that he attended Miss Moore on July 10th last. She was then suffering from a slight stroke of paralysis and her speech was affected. She knew him perfectly from the first, and could express her assent or dissent, although she was unable to name things, having lost the power of coining her thoughts into words. After consultation with Dr. Lionel Beale he suggested that she ought to make her will, and she assented. He then suggested the arrangement with the cards, using two packs, one containing the items of her property and the other the names of all her relatives. According to the *Times* report evidence was given that "The solicitor put down a card bearing the name of the Ballycolby estate, and the testatrix after looking through her 'pack of relatives' played a name. The solicitor then turned the 'trick.' The rest of the property was then similarly disposed of." In regard to the choice of an executor she did not approve of any of the names, but ultimately threw down a card bearing the name of Mr. John Arthur Moore, the plaintiff in this case. The following day, the will having been prepared in accordance with the pairing of the cards, she executed it by making her mark. She was able to read the newspapers and to say her prayers; her mind was quite clear. The only difficulty there was in ascertaining her wishes was as to names which were not on the cards. She, however, appeared quite satisfied with the names she had before her.

Evidence was further given to the effect that no names of friends—none but those of relatives—appeared on the cards. In giving judgment the President said that, although the case was a peculiar one, nothing could have been more fair and skilful than the manner of ascertaining her real wishes. Had it appeared, however, that all her relatives had not been named on the cards, and had there been anything to lead the Court to suppose that all her wishes had not been carried out, the matter might have been different. It was



quite true that in this case it would seem that the testatrix gave indications as to her wish to have two executors, though she was unable to communicate to her solicitor who the second should be. However, when the will was read over to her, as it was carefully afterwards, she showed no sign of any disapproval, which she undoubtedly could have done had she wished to. The will would therefore be admitted to probate.

The interest of this case lies in the fact that the will was admitted to probate, even though the "cards" contained only a selection of names, the names, that is, of relatives only, and did not contain the names of friends or of all possible or probable legatees, such as institutions, to which she might have wished to leave a bequest; and, secondly, that there admittedly had been a difficulty which had not been surmounted in regard to the selection of the executor. Both these difficulties seem, from the language of the judge, to have been held to have been overcome by the fact that when the will was read over she expressed no disapproval. But in regard to this point, which is a very important one, it must be remembered that the Judge added that she certainly could have expressed such disapproval if she wished to do so. It must never be assumed that absence of disapproval means consent in the drawing up of the will of an aphasic. Writing on this subject in "Allbutt's System of Medicine," Dr. Savage says: "Lawyers and some juries have got a vague, general idea that a person may have speech defect without any real intellectual loss, and it will be useless to refer to aphasia as a sign of mental defect if a fairly reasonable will be propounded. There is, in my opinion, always some mental failure with the aphasia, but this varies very greatly. . . . On the other hand, lawyers may attempt to endeavour to establish capacity when a testator affected with aphasia can express himself as satisfied with what is read to him; yet in many cases consent is only automatic; a mere 'yes' to a question does not necessarily import understanding."

It often happens that aphasia may be only part of the outward expression of some disorder of the brain which itself produces testamentary incapacity, but so far as the aphasia itself is concerned it may be considered that everything depends upon the evidence first of understanding and second of power of expressing assent or the opposite with certainty.

In this case it would appear that the condition was one of "simple" motor aphasia, the power of word formation being interfered with, while the ingoing word-tracks, whether by eye or ear, were practically open. The matter then was fairly plain sailing when once it was proved that she was able to understand spoken and written language and to express assent.

Sir William Bateman, in his work on aphasia, has laid it down that "aphasia does not necessarily entail testamentary incapacity; in fact, wills or other legal documents should, as a rule, be recognised as valid when the parties understand fully what is put before them and can express assent or dissent with certainty, whether by articulate, written, or gesture language."

Perhaps we may add that even to those whose mind and power of expression are absolutely untouched it may be far from easy, in fact it may be impossible so to recall at the moment the names of all the persons to whom it may be wished to leave some token of regard. Wills, indeed, are probably but rarely perfect instruments, but, as Dr. Savage says, the present bent of an English jury is to find for any will, not in itself unreasonable, if it expresses the wishes of the testator approximately, hence the possibility of an omission, even though such omission might be owing to the method adopted, was not held to invalidate the will in view of the fact that when the will had been drawn up and read to her the testatrix had understood it and assented to it.

## HOSPITAL MEETINGS, &C.

### LONDON FEVER HOSPITAL.

LORD BALFOUR OF BURLEIGH presided at the annual meeting of the London Fever Hospital, held at the Hotel Victoria on Friday last, 16th inst. The statement of accounts, presented by Mr. Hamer, the chairman of the Finance Committee, showed ordinary receipts, £11,273; extraordinary £2,910; ordinary expenditure, £10,716; and extraordinary £2,655. From the report of the committee, read by Dr. Phillips, it appeared that 700 patients were treated during 1899, 24 in excess of those in the previous year; 503 were cases of scarlet fever—126 more than last year—of whom six died; 32 were of measles, all being cured; rubella, 33 cases, all cured; diphtheria, 89 cases, 11 of whom died. Owing to want of accommodation only two cases of enteric fever were admitted; both recovered. Thirty-eight patients were sent into the hospital under certificates of infectious disease who were not so suffering. Among the officials of the institution four nurses contracted scarlet fever, two diphtheria, one German measles; the ambulance porter also contracted scarlet fever; all recovered. Throughout the year the Governors were compelled to refuse admission to many applicants on account of want of room. The Committee of Visitors of the Prince of Wales's Fund visited the hospital during the year, and reported that "the old wards of the hospital are in an unsatisfactory condition and the sanitary blocks antiquated." The visitors were of opinion that the old part of the hospital will have to be reconstructed and brought up to date. With this the committee of the hospital had been in entire agreement for a long time past; indeed, one block of buildings had been unoccupied for some time in consequence of its dilapidated state. The report expressed the hope that in the coming year funds might be obtained for demolishing the old wing of the hospital and rebuilding it at once according to the plan adopted some years since as part of the scheme for the gradual rebuilding of the hospital. Regret was expressed at the death of Sir Richard Thorne-Thorne, one of the vice-presidents of the institution, who was formerly one of their assistant physicians. Captain W. W. Ross, an old member of the committee, had also died during the year.

The CHAIRMAN said the past year had not been one of great pressure, there being no special epidemic at a particular time, but they had treated more patients than in 1898, and not only had their daily average of 75 beds occupied been considerably larger than last year, but the duration of the occupation of the beds had been longer, and as a consequence the drain on the funds of the hospital had been more serious. This was due to the fact that in 1898 they had a larger proportion of measles, the sojourn in cases of scarlet fever and diphtheria being, of course, longer. Since 1802, when the hospital was founded, nearly 90,000 cases had been treated, mostly of scarlet fever and diphtheria. During the year they had had to refuse cases owing to lack of accommodation, but of these by far the larger number were cases of typhoid, because these could be treated in the wards of general hospitals. Their annual subscriptions, amounting to £4,546, showed a small increase of £65 on the previous year; but their donations were only £1,587—a falling off of £713. This was a matter that had been engaging the earnest attention of the committee, because they looked to this source for the reconstruction of the hospital and the building of the convalescent home. Their subscriptions were all swallowed up by working expenses, and unless they got an income from donations and legacies they could not afford to build. The Prince of Wales's Committee had commented on the state of repair in which part of the hospital was, and they were only too anxious to deal with it. But, without making any complaint, he would like to point out that during the last three years their income from dona-