Observations on an Act (5 and 6 Vict. c. 123) "for amending the law relating to private lunatic asylums in Ireland," &c.; &c.; : with comments ... addressed to the Right Honourable Sir Robert Peel, bart. / by William Harty.

OBSERVATIONS

ON

AN ACT

(5 & 6 VICT. c. 123),

"FOR AMENDING THE LAW RELATING TO PRIVATE LUNATIC ASYLUMS IN IRELAND," &c. &c.:

WITH COMMENTS,

DEMONSTRATIVE OF THE NECESSITY FOR AN IMMEDIATE REVISION OF THAT ACT, AND INDICATIVE OF THE PRINCIPLES UPON WHICH ALL SUCH LEGISLATIVE MEASURES SHOULD BE BASED.

ADDRESSED TO

THE RIGHT HONOURABLE SIR ROBERT PEEL, BART.,

&c. &c.

BY

WILLIAM HARTY, M.D.,

PHYSICIAN TO THE PRISONS OF DUBLIN, ETC. ETC.

"Amphora cœpit
Institui:—currente rotâ cur urceus exit?

DUBLIN:
PRINTED BY M. H. GILL.
1843.

For the Editor of the
Bosq. Med.c & Surg.l Journal
with the Author's Compts

"Cum tot sustineas et tanta negotia,

* * * *

——— In publica commoda peccem,
Si longo sermone morer tua tempora."

TO THE

RIGHT HON. SIR ROBERT PEEL, BART.,

&c. &c.

Sir,

Under the conviction that a subject, involving the well-being of society and the welfare of a numerous and unhappy class, could not prove uninteresting, or be viewed with indifference, it had been my intention to have addressed these pages to you long before the occurrence of an event, well calculated to give them an increased and painful interest—an *event*, of such a nature indeed, as to have aroused the warmest sympathies of the whole community, and excited in all its members an anxious desire that a point of judicial law, of all others, perhaps, the most difficult and delicate, should, after due deliberation, be definitively and practically settled in a court of justice. Having, in a Postcript to these pages, referred to that melancholy incident, I shall not here longer dwell on a theme so distressing, than while I express the hope that it may be the means of attracting renewed attention to a disease, whose increased and increasing prevalence de-

mands for public security further measures of a preventive character. Influenced by that hope, I beg to solicit your attention to an Irish Act of recent date and of hasty construction, which, with the aid and under the guidance of some practical experience, I have presumed to criticise, but which I despair of seeing efficiently amended, so long as the English Acts, its great prototypes, remain unmodified.

Having thus concisely stated my motive and objects, and being of opinion that the elegantly comprehensive compliment of the great Augustan Poet may most justly and appropriately be transferred to you, I shall, therefore, not trespass further on your time or patience than while I subscribe myself as being,

Sir,

Your most obedient

And very humble Servant,

William Harty.

February 4, 1843.

PRELIMINARY STATEMENT.

THIS Act for regulating private Lunatic Asylums, the first of its kind ever proposed for Ireland, does not appear to have received, either before or after its introduction to Parliament, that mature and deliberate consideration which the novelty of its enactments in this country, as well as the great importance and delicacy of the subject demanded. The proof of this assertion will be found in the history of the Act (as hereafter detailed), in the imperfection of its principle and machinery, and in the many errors and omissions with which it abounds(*a*). Whe-

(*a*) The impolicy of hasty legislation was never perhaps so strongly manifested as in the history of this Irish Act, and must suggest serious doubts of the propriety of permitting the introduction of measures to parliament at the eleventh hour of a long and weary session, either to be abandoned for want of time, or to be hurried through both Houses, at late hours and before empty benches, that, with all their imperfections on their heads, they may be in readiness to receive the royal assent on the closing day of the session. Such a mode of transacting Irish business in an Imperial Parliament is but badly calculated either to disarm the opponents of the legislative union, or to confirm its supporters in their firm determination, under all circumstances, to maintain that sole and strong connecting link between the two countries. Private bills are, by the standing rules of the House, strictly limited as to the time of their introduction:—why should not the same rule, within certain limits, be made applicable to public bills, so as to preclude them (except in cases of obvious emergency) from being considered in that session, unless printed and circulated within a given period from *its commencement.* Such a limitation would greatly facilitate judicious legislation, would give ample notice to all parties concerned, and by the reasonable opportunity thereby afforded for emendations, prevent (that which is such a discredit to the Statute Book) Acts upon Acts for amending the hasty and inconsiderate legislation of a preceding Session.

ther, with all these imputations on its character, it will be permitted to live its allotted term of three years, or whether it is likely to be amended in the interim, is more than I can presume to say; in either case I may be permitted to indulge the hope, that my labours and suggestions will not be altogether without benefit to its successor. But, though further legislation for the *insane rich* may for a time be deferred, it is incompatible with the humane and provident character of the British people and Government, longer to defer an adequate provision for the *insane poor* of Ireland. The details furnished in the reports of the Inspectors General on the state of the several district Lunatic Asylums in Ireland evince (with one exception, that of Belfast, where they reject all obviously incurable cases), a lamentable want of adequate accommodation for the reception of urgent and curable cases; and shew, at the same time, many of the gaols seriously incommoded by the number of lunatics detained therein from the deficiency of such accommodation(*a*).

Mr. White (one of the Inspectors General), whose long

(*a*) The three criminal prisons of Dublin furnish a glaring instance of the increasing prevalence of this evil. Before the assassination of Mr. Sneyd they seldom contained more than three or four lunatics; since that period, and before the enactment of 1 Vict. c. 27, magistrates became more liberal in committing them; and since that enactment from 80 to 100 of these poor beings have annually been consigned to my care in the city prisons, which at this moment contain upwards of sixty lunatics, epileptics, and idiots! For more than twelve years past the local inspector, the medical officers, and grand juries of the city, together with the governors of the Richmond Asylum, have been making the strongest representations to every successive Chief Secretary on the subject, but hitherto in vain, because serious expense must then have been incurred to remedy an evil, which, so far from diminishing since the establishment of district asylums, has grown with their growth, and has now attained such a height as must enforce attention on the part of those, who alone can apply a remedy. There is an admirable letter on this subject (in p. 55 of the Inspectors' General Report for 1841), from Mr. Robinson, Surgeon to the Armagh gaol, which, but for its length, I would gladly quote.

experience as Surgeon to the Richmond Lunatic Asylum renders him so competent a judge on this matter, gives warm and animated expression to his sentiments on both these subjects in various passages of his reports for the year 1841. When speaking of the asylum at Derry (having accommodation for 200 patients), he says, "the applications for admission are numerous and urgent;" and it is, in his opinion, a question deserving of immediate and serious consideration, how far existing arrangements are adequate to keep down an evil of such magnitude (as insanity), pervading the whole country, and whether it may not be necessary to provide additional accommodation for the prompt reception of cases of insanity in their incipient state, "when only they can be fairly considered curable." Speaking of the Cavan gaol, he says, "the usual complaints were here repeated respecting lunatics, and the injury inflicted upon that wretched class in consequence of the delays that occur in getting them prompt admission into the asylums." And elsewhere he observes, that the practice of keeping lunatics in gaol cannot be too strongly condemned as being fraught with the worst consequences to the unhappy sufferers themselves, and interfering materially with the discipline necessary to be maintained in penal establishments. Major Palmer, too, with the ample experience of twenty years as Inspector General, when speaking of the Richmond Lunatic Asylum (containing accommodation for 300 patients), says, "Of those no less than 150 are reported as incurable cases; and it appears to me that all such cases ought to be made the subject of peculiar regulation with a view to the general and permanent utility of the establishment. Incurable cases, considered as a class, ought to be removed either to an asylum exclusively appropriated to them, or to the poor-houses of their respective districts;" or, "should such an arrangement be found impracticable, I

see no alternative but the building of additional wings to the asylum for the reception of incurables." Speaking of the Limerick Lunatic Asylum, he says he found it crowded to excess, there being 54 over the number for whom proper accommodation was provided (300). Similar passages might be quoted from every report of these gentlemen respecting other asylums and gaols, and can leave no doubt on our minds that, notwithstanding the erection of so many capacious asylums throughout the country, there does not exist sufficient accommodation for the insane poor, and that one of the evils, for the removal of which these asylums were specially erected, now exists in an aggravated degree, to wit, the converting the prisons of the country into receptacles for lunatics. How is this double evil to be met, so that it be remedied speedily, efficiently, and economically? Should I venture to suggest a solution of this question, in conjunction with two others of a still more difficult character, the motive will, I trust, be admitted as my excuse for attempting to explore a field in which others, far more competent to the task, have failed of producing any very beneficial result.

I have already shown the prevalence of a double evil arising from the deficient accommodation of the district lunatic asylums, and the consequent pressure on the gaols in receiving the surplus cases. The remedy which relieves the first, necessarily removes the second, and for this reason we need make mention of the first only. In addition to this evil, however, there are two others, urgently demanding immediate legislative attention, and these are the present unsatisfactory state of the poor law, and the very defective condition of the medical charities in Ireland—subjects necessarily and naturally connected. Is there any possibility of remedying all three by one combined and economic regulation?—The funds for support of the destitute poor, and for relief of the sick and

insane poor, ought obviously be derived from the same source, and, with some little difference, they are so at present. The owners and occupiers of property support the destitute poor; the occupiers alone, through grand jury presentments, support the insane; while the sick poor are relieved out of funds partly voluntary and partly compulsory; the latter, through presentments levied on the occupiers, the former, through voluntary contributions, derived chiefly from the same class. This anomalous mode of contributing to the relief of the poor in their several states of distress, whether arising from destitution, from sickness, or insanity, should no longer exist; if it be right and proper that owners and occupiers should *in common* support the destitute poor, it is equally so that they should relieve the sick and insane poor. Let all these institutions, therefore be supported out of a common fund, supplied by owners and occupiers through the medium of the poor rates; let greater legislative discretion be exercised in the selection of guardians, fitted for the proper exercise of their functions, and let that extreme folly be no longer exhibited (as it has in many instances) of an over-anxious desire to keep down the amount of the poor rates, while by so doing a still greater expense is thrown on the same public in institutions supported through the medium of presentments, derived too, as these are, from a worse, because a more unequal, source of levy.

An enormous expenditure of public money has already been incurred for the erection of work-houses, residence within which is applied under the poor law as the sole test for ascertaining the destitution of their inmates. Under this test are received the infirm poor, destitute children, and able-bodied men and women, with their families, who cannot support themselves—a test expensive as it regards all, inadequate as it regards some, and un-

necessary as respects others. The able-bodied should be entirely excluded from the work-houses, and so strictly, too, that hired servants should be employed to do the work of the house. The members of that class should be subjected to the simple test (not of comfortable residence in a work-house) but of *labour at low wages*, such as would never tempt them to continue pensioners on public charity, when employment could be had elsewhere at a higher rate. My proposition, therefore, is simply this, that the destitute able-bodied poor, who, without some relief, would be reduced to beggary or crime, should, with their children, be relieved in "labour" institutions (conducted on the admirable and economic principles of the great Mendicity Establishment of Dublin), one of which, on a proper scale, should be directly connected with each work-house, usually situate in the most populous quarter of the union. This proposition is, in my humble judgment, no vital or serious departure from the essential principle of the poor law, but a powerful auxiliary thereto. It is not "out-door relief" which many have clamoured for, but which should never be conceded; and so many of these "labour" institutions may be established in each union as its wants and population demand. Let returns be made of the actual numbers in each work-house, distinguishing each class of the inmates, and separating the destitute or orphan children from those who have either able-bodied fathers or mothers, or both; and it will then be ascertained how large is the proportion of the latter or able-bodied class, who, with their children, are expensively and injuriously maintained in the work-houses(*a*).

(*a*) Dr. Maunsell, one of the Guardians of the South Dublin Union, presented a report to the Board on the 9th February, 1843, detailing some interesting facts illustrative of the return here suggested. The Report states that

Should this proposition be acceded to, and the work-houses (then to be called poor-houses) thereby limited to the reception of the aged, the infirm, and the destitute children, my further proposition would be, that the vacancy, created by the exclusion of the able-bodied and their families, should be occupied, *first*, by the incurable lunatics who now crowd the asylums, and incommode the prisons, to the detriment of both; and *secondly*, by the establishment of proper hospital accommodation within the poor-houses for the reception of such medical and surgical cases, as could not be properly attended in the habitations of the poor, and upon the plan adopted in the old House of Industry

on the 14th January the inmates in the work-house amounted to 2021, thus classified, viz.:

Infirm males	222	Able-bodied males	237
—— married females . . .	278	—— married females .	119
—— single ditto . . .	341	—— single ditto .	211
Lunatics, male and female . .	48	Total . .	567
Total . .	889		

Boys, from 2 to 15 years . . .	283
Girls, ditto ditto . . .	240
Infants	42
Total . . .	565

The Report does not specify how many of these children should be considered destitute, or how many of them belonged to the able-bodied men and women in the workhouse. The destitute do not probably constitute more than a fourth of the number, (565); so that if we deduct 165, as the proportion of the destitute children, we shall in that case have 567 able-bodied men and women, with 400 of their children, or nearly one-half of all the inmates of the workhouse, removeable from it on the establishment of a "labour institution." Dr. Maunsell calculates the cost per head of each inmate at three-shillings per week, a sum nearly double that of the expenditure in the Mendicity Institution. He also concurs in excluding the able-bodied altogether from the work-house, but would, in lieu thereof, only establish an occasional labour-rate whenever seasons of famine arose.—See Saunders' News-Letter, February 10, 1843.

in Dublin. To complete the arrangements for affording adequate medical relief to the poor, let an efficient dispensary be attached to *each* "Labour Institution," and let the physician and surgeon attached to the poorhouse, or at least one of them, be resident therein, and fairly remunerated for attending not only the sick in the poorhouse, but the lunatics, and the dispensary. The dispensaries of the other "Labour Institutions" to be attended by non-resident medical officers, living in the immediate neighbourhood, or within a moderate distance. Such arrangements as these would go far in accomplishing the great objects of a "Medical Charities Act," and other details might easily be suggested for the greater diffusion of dispensaries where required, and for establishing an efficient system of inspection. My Lord Eliot has complained of those who so vehemently "opposed his bill on the subject, and who never offered suggestions for its amendment, although invited to do so." I, for one, have relieved myself from the reproach, and now respectfully submit these suggestions for combining into one harmonious system the poor laws, the medical charities, and an adequate provision for the insane poor of Ireland, to the consideration of those who, by their position, are competent to give them effect(*a*).

(*a*) Before I close these remarks, I may, on behalf of the Irish rate-payers, be permitted to put forward their irresistible claim, under existing circumstances, to a Vagrancy Act, which, in fact, Dublin long possessed, but was deprived of by the conversion of the House of Industry into a workhouse. For ample proof of this position, see in the Annual Report of the Poor Law Commissioners for 1842, (Appendix D, No. 6, p. 368), a statement made to His Excellency the Lord Lieutenant by a deputation from the citizens of Dublin.

OBSERVATIONS

ON

THE 5 & 6 VICTORIA, c. 123,

AN ACT FOR AMENDING (UNTIL THE 1ST DAY OF AUGUST, 1845), ETC. THE LAW RELATING TO PRIVATE LUNATIC ASYLUMS IN IRELAND,

&c. &c. &c.

THE original bill, upon which this Act has been framed, contained forty-four clauses : the Act itself consists of fifty-three sections, of which not more than three can be said to partake of any originality of character, all the remaining sections being copied, with little alteration, from two English Acts on the same subject, the 2 & 3 Will. IV. c. 107, and the 5 & 6 Vict. c. 87. The schedules, too, annexed to the Act, are all, without exception, almost literal transcripts of those attached to the first English Act; and yet strange to say, there is scarcely one schedule without a blunder, or a single section without some glaring error, imperfection, or omission, except such of them as admitted of being copied from the English Acts without modification of any kind : whenever they required modification to accommodate them to the machinery of the Irish Act, they are sure to exhibit inconsistency in themselves, and to betray negligence or incapacity in the framer. Strange as this may seem, yet will it cease to be matter of wonder, when we review the history of the bill itself in its progress

through both houses. Towards the close of a long and laborious session, leave was granted to Mr. Solicitor-General for Ireland, and Lord Eliot, to bring in a bill on the subject into the House of Commons; it was ordered to be printed on the 13th July, 1842, and had already made some progress in Committee before a single copy of the bill had reached Ireland. In despite of every remonstrance against such hurried legislation in a matter of great delicacy and importance, in despite of every effort to stay the bill to the next Session of Parliament, that it might be rendered worthy of the subject, and adequate to the objects in view, the measure, such as it is, after undergoing some few modifications in the House of Commons, but without the change of a single syllable in the House of Lords (which indeed time did not permit), received the Royal assent on the 12th of August, the *last* day of that memorable Session.

Having failed in every effort, either to enlarge the principle of the bill, to amend its machinery, or to correct various imperfections in its details, one concession of some value, I must admit, was cheerfully made by my Lord Eliot, who, in the absence of the Solicitor-General for Ireland, had charge of the bill. His Lordship agreed to make it, as being in Ireland an experimental measure, triennial. And yet short as is the term, before the expiration of which a new bill must be introduced, a question may be raised (and after a perusal of the subsequent observations, will naturally be asked), whether another Session should be allowed to pass without some effort to rectify the errors, remove the imperfections, and supply the omissions, for which this act is specially distinguished; and which, while they render it difficult of execution, are, at the same time, calculated to bring discredit on British legislation. To enable us to return a suitable answer to

that question, and at the same time to prepare materials for the construction of a better measure, I propose, by a simple analysis of the Act, and a comparison thereof with its English prototypes, to point out its various errors and omissions; and then, by reviewing the machinery and principle of the Act, to show how imperfectly and inadequately they accomplish the several purposes such a measure should hold in contemplation. In this latter respect I regret to say that I do not consider the Irish Act *specially* faulty, inasmuch as the same objection lies against the narrow principle of its English predecessors: the errors and omissions, however, which it is my reluctant duty to point out, are peculiar to the Irish Act, and cannot fail of exciting our wonder, how a measure, framed as this is out of the ample materials supplied by the English Acts, could have been so erroneous and imperfect in its construction(*a*).

That this is no exaggerated judgment, I shall now proceed to demonstrate by exhibiting a few of the most remarkable traits in this Act: and *first* of its

(*a*) Before I proceed to this thankless office, I deem it but just to state that I attribute the defects of this measure, not to the distinguished individual who originated the bill, but to the person entrusted with the task of framing its clauses, and whose duty it was to revise it carefully in its progress through the House, and to take care that it was rendered consistent throughout with any amendments it might receive. Whoever was entrusted with that important duty, in this case by no means a difficult one, performed it so negligently that he may be said either not to have performed it at all, or to have been unequal to its performance. I have my Lord Eliot's authority for stating that this measure, the general expediency of which no one can question, originated with the Lord Chancellor for Ireland, to whom, therefore, the merit of the suggestion is justly due: the demerit of its execution lies at another's door; as from the hurried manner in which the Bill ultimately passed, it was impossible it could have been revised by that eminent lawyer, then detained in Ireland by his official duties, as one of the Lords Justices.

ERRORS AND OMISSIONS.

1. The preamble refers, of course, to the law requiring amendment, viz., to the 7 Geo. IV. c. 74, better known as the Prison Act, two sections of which (the 55th and 61st) embrace the whole of the then existing enactments, relative to the powers of the Inspectors General of Prisons to inspect all public and private Lunatic Asylums. The first of these sections only is noticed in the preamble, and is very properly amended by providing that the Inspectors General (who by this Act are constituted Inspectors of all such asylums), shall visit them *twice* at least in each year, in place of *once*(*a*). The other section (the 61st)

(*a*) This recognition of the Inspectors General, as the best official instruments for the inspection of Lunatic Asylums, was probably adopted on the two very valid grounds of economy and fitness, but on the latter ground more especially, as, from character and experience, they must have been deemed faithful and fitting agents for the execution of the trusts confided to them by this Act. Having been selected for the office upon such grounds, some weight ought, of course, to attach to their deliberate report upon an object of official duty, and accordingly, some weight must attach to their opinion, deliberately expressed in their Report to Parliament for the year 1841, as to the state and management of private Lunatic Asylums in Ireland. "There are," say the Inspectors General (p. 9), "ten private Lunatic Asylums in Ireland, kept for profit by individuals. We have inspected them all, and we do not believe *that any abuse exists in them.* The inmates appear to be kindly treated, without unnecessary restraint, and amply provided with the comforts required in their unhappy situation." When I pressed this report on my Lord Eliot's attention, coupled with the assertion, that no complaints of abuses had ever been made or substantiated against any Irish Asylum, whilst complaints without number had been made and proved against English establishments, before the English Acts had been passed, and whilst I urged these arguments as valid, not against the expediency of an Irish Act, which I admitted, but against the expediency of pressing the *immediate* enactment of a measure, containing a system of complicated regulations, which, under the pressure of business at the close of a long Session, must unavoidably prove both imperfect and erroneous: on that occcasion a gentleman who, as I am given to understand, officiates as Irish lawyer to the Irish Office, and who was present at the interview, ventured to assert that the

would seem to have been overlooked in the framing of this Act, which (to be complete within itself) ought to have re-enacted that section, by adding it to the 20th, as by it only are the Inspectors empowered to punish any resistance to their authority in procuring admission to all Lunatic Asylums.

Section 2nd prescribes the oath of secrecy to be taken by each Inspector General for the "discreet, impartial and faithful execution" of the important and delicate trusts confided to them by an Act which puts them in possession of many painful family secrets. And yet, strange to say, such was the haste with which the original bill was framed, that though the English Act (2 & 3 Will. IV. c. 107), from which it professed to be taken, contained three oaths of secrecy (one for the Commissioners, one for their clerk, and another for the clerk's assistant), the Irish bill contained no oath of secrecy for any one party, until its absence was pointed out by me. And even as the Act stands at present, though the Inspectors General, whose discretion might be relied on, are sworn, there is no power to administer an oath to their clerk, whose assistance, from the frequent and unavoidable absence of the Inspectors General in the discharge of their other official duties, cannot

annual visits to the asylums, required of the Inspectors General by the Prison Act, were *not* paid, and that, consequently, the totally unprotected state of Irish lunatics, thus left at the mercy of relations and mad doctors, called loudly for immediate legislation. Though this *gentleman's* assertion was totally untrue, and though I so declared it to be from my own positive knowledge to the contrary, yet was the measure persevered in during the short remnant of that Session, and we are thereby furnished with a pretty specimen of his handiwork. If the Inspectors General did *not* discharge their duty under the provisions of the Prison Act, after declaring to Parliament that they did so, they must be deemed unworthy of the trust reposed in them by the new Act; this natural inference was unheeded, and gentlemen, whose trustworthiness was thus unwarrantably impeached, because they had testified to the good character of Irish Asylums, were notwithstanding continued in an office, which they were alleged to have compromised and abused.

be dispensed with. Of the strict fidelity of the gentleman, who now officiates in that capacity, I entertain no doubt, and indeed feel confident that he acts in the discharge of his duty, under the same virtual influence, as if an oath had been administered to him. The fault is not his, it lies at the door of the framer of the bill, who, though he had the English Act before his eyes, and copied from it (at my suggestion) the oath now administered to the Inspectors General, did not see, or seeing, did not deem it necessary to insert one for their clerk.

Sections 3, 4, 5, and 6, relate to the annual licensing of every asylum "for the reception of two or more insane persons," and to the machinery by which it is to be accomplished (of which latter subject more hereafter). As I am now merely pointing out errors and omissions, suffice it here to say: first, that Justices of the Peace at Quarter Sessions are empowered to grant such licenses, "if they shall think fit," and "for one or both sexes, as they shall think fit," without appeal of any kind being given in case of refusal, as is given by section 25 of the first English Act already referred to; secondly, that the notice required by section 5 omits, *as a matter of no importance*, any declaration of the occupation or profession of the person applying for a license; and that this said notice, though taken from the English Act, omits the few material words, that "when given for any house which shall *not* have been previously licensed," it shall then be accompanied by a plan of such house: the omission of these few words subjects Irish proprietors to the unnecessary trouble and expense of a new plan every year.

Section 7 enacts, that the license "shall be signed by *two* or more Justices," while section 5 says, that it "shall be under the hands and seals of *three* or more."

Section 8 requires the Clerk of the Peace, "within

four clear days after the granting of every license, to transmit to the Inspectors General a true copy of such license, and *of the notice and plan* given to him previous to the application for such license." Compliance with this section is impossible within the time specified. The last English Act on the subject (5 & 6 Vict. c. 87, sect. 21), allows fourteen days for merely sending a copy of the license, without either notice or plan. The Irish Act, for more than treble duty to be done, contracted fourteen days into four! The Clerk of the Peace for the county Dublin was compelled to convert four days into more than four weeks, and in the execution of his duty had to incur considerable expense, not very clearly provided for by the Act, which (in section 9) empowers the Inspectors General to pay "all the fees and expenses *required to be disbursed* in the execution of this Act."

Sections 14 and 15 are taken *almost* verbatim from sections 27 and 28 of the 2 & 3 Will. IV., which enact, that no person shall be received into a licensed house without an order in writing from the person sending, and two medical certificates (even in the case of persons found lunatic by inquisition), according to special forms prescribed in the schedules. The differences between the English and Irish sections consist, in the interpolation of the word "or," in the 14th section, before the words "to be taken care of," and in the substitution of fourteen days in the 15th section, for seven in the English Act, without any obvious reason for either change. The material difference, however, between them consists in this, that the Irish section (14th) introduces the words "or detained" after "received," appearing thereby to embrace the cases of all those persons already in confinement before the Act came into operation; but the introduction of these words with that intention, however advisable it may have been,

was so carelessly followed out in the general wording of those sections as to render compliance therewith virtually impossible, as may best be illustrated by the subjoined letters :

"60, Eccles-street,
"*September* 20*th*, 1843.

"My Lord,—I was yesterday favoured with a letter from your Lordship's Private Secretary, in answer to mine of the 15th instant, soliciting an interview, relative both to the Private Lunatic Bill, and other matters of some public concern. In that letter I had requested your Lordship's special attention to the 14th section of the above Act, as some of my professional brethren felt embarrassed by its wording, and as they were anxious to ascertain, before the Act came into operation, the construction that would be put upon that section. The simple question they desire to ask is this, does that section require that 'orders and medical certificates' shall be had and forthcoming to warrant the continued detention of those lunatics, who *now*, and for many years past have been in confinement ; or are 'such orders and medical certificates' only necessary for those who shall be received into a licensed house *after* the commencement of the Act? The words 'or detained,' used in the first line of the section, and repeated in other parts of that section, would seem to imply that such orders and certificates will be required for those *now* in confinement, and who may still be 'detained,' after the commencement of the Act, whereas the context of that, and the succeeding sections, and of Schedule (B.), would appear to me quite incompatible with such an interpretation ; inasmuch as the 14th section directs, that such order shall be 'under the hand of the person by whose direction such insane person shall be *sent*' (whereas very many of them are dead), and that the medical certificates shall be 'in the manner directed by this Act,' which manner the 15th section specifies to be by two medical practitioners, each of whom 'shall have separately visited, and personally examined the patient to whom it relates, *not more than seven clear days previous to such confinement ;*' whereas *no such* certificates could be given

for patients who have already been for months or years in confinement. Schedule (B.), besides, distinctly specifies that *such orders* to be annexed to the medical certificates, are for 'authorizing the *reception* of an insane person.'

"An authoritative declaration on this point will be very satisfactory to all those gentlemen on whose behalf, as well as my own, I have already so often troubled your Lordship.

"I have the honour to be,

"Your Lordship's obedient Servant,

"WILLIAM HARTY.

"*Right Hon. Lord Eliot,*
&c. &c."

"DUBLIN CASTLE,
"*4th October*, 1842.

"SIR,—In reference to your letter of the 20th ult., respecting the construction of the late Act regulating private Lunatic Asylums in Ireland, I am directed by the Lord Lieutenant to state, that your letter having been referred to the law adviser, 'he is of opinion it will be necessary in all cases, after the Act shall have come into operation, that there should be in all cases such a medical certificate as is contemplated by the 14th section, and in all cases *where it is possible*, an order from the person by whose directions the lunatic shall have been sent.' And the point having been submitted to the Attorney and Solicitor General, they state, 'we have read this case, and considered it, and are clearly of opinion that the construction of the Act is what has been stated by the law adviser.'

"I am, Sir,

"Your obedient Servant,

"E. LUCAS.

"*Dr. Harty*, 60, *Eccles-street.*"

The opinion herein given is very decided, and no doubt can exist that it was the intention of the framer of the Act to embrace all those cases, though it has been so negligently expressed as to render a strict compliance there-

with impracticable, as in many cases of the detenus no order whatever can be had from dead men, and in *no* case of that description can medical certificates be given, dated "in manner directed by the Act," i. e. " not more than seven clear days previous to such confinement."

The same negligence is exhibited in the construction of the Schedule (C.) referred to in the 14th section, the enactment and the Schedule being inconsistent with each other, as is more particularly exemplified in the subjoined letter, in answer to No. 2.

" 60, Eccles-street,
" *October 5th*, 1842.

" Sir,—Having been favoured with your letter of yesterday's date, conveying to me the opinions of the law officers of the Crown respecting the proper construction of the 14th section of the Private Lunatic Asylums' Act, and being desirous at once to make arrangements for carrying that construction into effect, by procuring printed copies of Schedules B. C. and D. annexed to the Act, I have been met by two difficulties, respecting which I regret to be thus compelled to trouble you, before the orders for printing can be given. The character of Schedule C. is described in the last four lines of section 14, which requires that a special book shall be kept ('according to the form in Schedule C.'), in which an entry in writing shall be made 'of the true name of the patient, and also of the Christian and sirname, occupation, and place of abode of the person by whom such patient shall be brought." Now the Schedule C. referred to, as the form to be followed, contains columns for the occupation and place of abode of the patient, which are not required, and none for those of the person bringing the patient, which are required by the enactment, so that to make the Schedule consistent with the Act, the fourth column should stand second in order. Pray how are we to meet the difficulty without violating either the enactment or the Schedule?

" In Schedule D. there is also an obvious erratum in the wording of the second medical certificate, in which the words 'person-

ally visited' are used instead of '*separately* visited.' Are we at liberty to correct such an error?

"I have the honor to be, Sir,
"Your obedient Servant,
"W. HARTY."

"DUBLIN CASTLE,
"*October* 17*th*, 1842.

"SIR,—I am directed by the Lord Lieutenant to acknowledge the receipt of your letter of the 5th instant, as to certain points in the new Act relating to Lunatic Asylums, on which you are anxious to obtain the opinion of the law adviser of the Crown.

"And I have to acquaint you that the law officers do not think that this is a case in which they should give their opinion.

"I am, Sir,
"Your obedient Servant,
"E. LUCAS.

"*William Harty, Esq., M. D.*,
"60, *Eccles-street.*"

Having been thrown on my own resources by this answer, I was at length enabled to solve the whole difficulty, or at least, to explain it by reference to the English Act, whence the Schedule (C.) was copied, to which Schedule, in the English Act, an explanatory and directing note is attached, which the framer of the Irish bill overlooked, or at least, entirely omitted.

Section 16 exhibits similar negligence. It enacts, that "within the space of two clear days after any person shall have become an inmate of any licensed house," copies of the order and medical certificates shall be transmitted to the Inspectors; but it makes no provision whatever for obtaining either a list of the names of the detenus, or copies of their orders and medical certificates; so much so, that the Inspectors, in their circular to the proprietors of licensed houses, dated 14th December, 1842, are com-

pelled to request what the Act should have enabled them to command; thus they say, "as much confusion and difficulty would arise from our not being provided with a return of such patients as are under your care, *previous to*, and *at the time* of receiving your license, we will feel obliged by your sending us a list of such patients, with copies of such orders and medical certificates as you possess, or are enabled to procure for them." In the same section the Inspectors are required to enter, in a register of their own, all such returns so made to them, "within five clear days" after receiving them; with which injunction they can seldom comply within the time specified, without the aid of a clerk, as their official duties compel them to be frequently, and for weeks together, absent from Dublin. The aid of a clerk being thus rendered indispensable, why has not provision been made for swearing him, as well as the Inspectors General, to secrecy, all the delicate secrets of this department being thus unavoidably disclosed to an unsworn official.

Similar negligence has been exhibited in the phraseology of the 18th section, caused by framing it on a careless cutting down of the 33rd section of the English Act, and retaining the words, "such resident attendant;" no such person being referred to in the Irish section, though he is in the English. Neither is the Schedule (G.), referred to in this section, consistent with the enactment, which requires such tabular statement to be kept in *certain houses only*, and signed "once in every *fortnight*," whereas the Schedule (being taken verbatim from the English Act), requires the statement to be "weekly," and to be kept in "each," that is, in *every* "licensed house," which clearly was not the intention of the Irish Act, if words have a determinate meaning.

Section 19, however singular in the permission it grants,

is correct in its phraseology. Not so the Schedule (H.) to which it refers, and which, though copied from the English Act, abounds with blunders and omissions from beginning to end.

The section itself expressly empowers the Inspectors, "if they shall so think fit," to permit, that when "any house (not kept by a physician, surgeon, or apothecary), shall be licensed to receive less than eleven insane persons," it shall in that case be visited by the physician, surgeon, or apothecary, *once at least in four weeks, instead of once every fortnight;*" whereas in the Schedule, the words above quoted, as to the number of patients, are entirely omitted, and the permission is made general by substituting for them the words "when any house is licensed for the reception of insane persons, then it shall be lawful," &c. &c. But besides this strange deviation from the meaning and purport of the enacting section, the Schedule thrice repeats the words "once in every week," instead of "once in every fortnight;" and likewise states, in direct contradiction to the 4th and 5th sections of the Act, that "the Assistant Barrister for the county" (in place of the Justices), granted the license. It was, no doubt, so set down in the original bill, but the retention of the original form only shows, that after the amendment was adopted, the person whose duty it was to revise the bill, never once scrutinized the schedules, with a view of adapting them to the amendments.

Sections 20 to 27, inclusive, are all copied *verbatim*, from the English Acts; and as to their phraseology, are, with one exception, faultless. That exception consists in employing the word "omitting," in the 26th section, instead of the words, much more properly used in the Scotch Act (9 Geo. IV. c. 34), viz., "who shall refuse or neglect to produce such books, *when duly required;*" to

aggravate this difference, the fine in the Scotch Act for a refusal is but £5, whereas for the *omission* in the Irish Act, it is £20.

Section 29 refers to a "form set out in the Schedule hereto annexed," whereas no such form is to be found: the truth being, that whilst the bill was hurrying through the house, this, and other clauses, taken from the English Act, 5 & 6 Vict. c. 87 (then, too, in its passage through the house), were hastily added to it without due attention to their correctness. The form wanting in the Irish Act will be found as Schedule (A.) to 5 & 6 Vict. c. 87.

Sections 28, 33, 39, 40 and 48, will form the subject for special remark hereafter; and of section 42, I shall here only observe, that its phraseology is truly singular in an Act of Parliament, the language of the section being, that on the death or discharge of any patient as cured, certain documents, viz., the order and medical certificates, "*may be* delivered up to the Lord Chancellor, to be cancelled," and "thereupon the name of such patient *may be* wholly erased from the register;" but it adds, "that no such erasure of the name shall be made till after the expiration of twelve calendar months." Now in the English Act (2 & 3 Will. IV. c. 107, s. 50), it is not a "*may be*" as to the erasure of the name, but a positive "to be." The serious consideration, however, relative to the cancelling of these documents, and the erasure of the name, is this, that though a year *may* elapse before such cancelling, and that a year *must* elapse before the erasure of the name, yet those said documents *may be* required at the end of *two* or more years, for the defence of the proprietor of the Asylum against any action, or other proceeding, that may be brought or taken against him, inasmuch as no special limitation of such actions or proceedings would seem to be fixed by sections 47 and 48 of this Act, as in

reason there ought. I may as well here remark, that though this latter section (the 48th) be copied *almost* verbatim from the English section 58, there seems to be in both some absurdity, consequent on the misplacing of the words, "that the same was done in pursuance, and by the authority of this Act," But on this point I am not competent to pronounce an opinion.

Section 46 furnishes a singular specimen of the different dealings of what may be called the same law, towards English and Irish offenders; this section is one of the three *original* clauses in the bill, and though, with one exception, the shortest in the whole Act, yet it contrives to hand over every Irish offender, for the recovery of all pecuniary penalties imposed by the Act, to the mercy of every informer, as it enacts that such penalties "may be recovered by civil bill *by any person* who shall sue for the same;" whereas the 59th section of 2 & 3 Will. IV. c. 107, protects the English offender against all such interlopers, and directs that no action, or other proceedings, under the Act, shall be taken, except by order of the Commissioners or Justices, nor penalties sued for, except by the Clerk of the Commissioners, or the Clerk of the Peace.

But besides this egregious difference between the English and Irish Acts in that respect, this is further remarkable, that in the latter no provision whatever is made for the appropriation of the penalties, which, under the English Act (2 & 3 Will. IV. c. 107, s. 59), are, upon the order of two or more Justices of the Peace, to be "paid to the overseers of the poor of the parish," with a power of appeal to Quarter Sessions. The penalties, therefore, under the Irish Act would, I presume, go to the informer, though at the same time the Act does not render him competent as a witness. But further, though it enacts

that "the penalties may be recovered by civil bill, and by any person," it omits to say whether such proceeding shall be had before the Assistant Barrister, or the going Judge of Assize(*a*).

Section 49, which exempts public hospitals, or charitable institutions generally, from the operation of this Act, contains, however, a special, and very proper proviso, that "no person received or detained therein except as a pauper patient, shall be so received or detained without such order and medical certificates as are required for admission into houses licensed under the Act;" but from the haste with which this proviso was introduced as an amendment, there is no power given to the inspectors to require that returns shall be made to them of the persons either so received or detained, and without which returns they, the Inspectors General, cannot possibly have a perfect registry of lunatics, such as is contemplated by the Act.

Such, independently of sundry imperfections hereafter to be noticed, are some of the most remarkable errors and omissions in this Act, many of them so palpable, that they

(*a*) The rigour of the English law in the infliction of penalties is greatly mollified by the 46th section of the last English Act, 5 & 6 Vict. c. 87, which states that they shall be sued for in any of her Majesty's Courts of Record at Westminster, and empowers the Judge or Judges of such Court, if he or they, on consideration of the circumstances, shall deem it expedient so to do, to reduce the amount of such penalties to any sum, *not less than one-fourth* of the amount, to which the party shall have been liable. And it further enacts, that the sums so recovered shall be paid (not to the overseers of the poor, as was previously the case), but to the Clerk of the Metropolitan Commissioners, and form part of the monies in his hands for the purposes of the said Acts. Why should not the lenity, thus shown to English offenders under a law long in force against them, be extended to Irish proprietors, now for the first time brought under its provisions. It was a reproach against Irish legislation of old, that there was in Ireland "one law for the rich and another for the poor." May it not after this specimen be said, too, that there is one law for English culprits and another for Irish.

could not have been overlooked had the bill been revised with any care during its passage through the House. They are such errors as bring discredit on British legislation for Ireland, and exhibit in the strongest light the negligence of those intrusted with the all-important task of revision, for the purpose of preventing those inconsistencies, that will otherwise unavoidably occur in every bill, however well considered in the first instance, whenever any change takes place in its machinery, or other serious modification is made in any of its original clauses.

MACHINERY OF THE ACT.

I now proceed to consider the machinery adopted in this Act for granting licenses to the proprietors of private Lunatic Asylums. In considering this question and some others that follow, it should be held in recollection, that the Irish proprietors constitute a very different class of persons from those who in England are generally found occupying the same position.

I have before me two official returns, one made to Parliament in 1838, the other by the Metropolitan Commissioners in 1832, of the houses licensed throughout England and Wales. From the first return (embracing every district except the Metropolitan) it appears, that of 85 houses, containing nearly 3000 inmates, many are kept by women, and 30 only by members of the medical profession; and from the second return, embracing the Metropolitan district, it appears, that of 41 houses, containing upwards of 2000 inmates, six only were kept by physicians; whereas in Ireland all the proprietors of private Asylums are physicians, with two exceptions only, one being an apothecary, and the other a gentleman not professional.

Holding this important fact in recollection, let us examine the machinery through which, under this Act, licences are granted in Ireland "to keep houses for the reception of insane persons," and then consider whether it be either analogous to the English system, or conveniently adapted to the object in view.

Sections 3, 4, 5, 6, 7, 8, and 9, enact that no house shall hereafter be kept for the reception of two or more insane persons, unless same be licensed; that Justices of the Peace at Quarter Sessions shall have authority to grant such licences ("*if they shall think fit*"), for a time not exceeding thirteen calendar months, and for one or both sexes, "*as such Justices shall think fit;*" and that every person applying for a license shall give fourteen days' clear notice to the Clerk of the Peace, for the county or city as the case may be, and that such notice, besides stating sundry minute particulars, of more or less importance(*a*), shall be accompanied by a PLAN of the house, and a statement of the greatest number of patients proposed to be received into it: that every such annual license, when granted, shall be on a 10*s.* stamp, and that a further sum of 10*s.* per head must be paid to the Clerk of the Peace for every insane person *proposed* to be received into such house. The 8th section then provides, that said Clerk of the Peace shall, within four clear days after the granting of such license, transmit to the Inspectors General a *true copy* of such license, and of the Notice and PLAN given to him previous to the application for the same; and the 9th section directs him to hand over the monies paid for such licenses to the said Inspectors General, to be by

(*a*) Numerous as are the particulars to be set forth in the notice, it yet omits to require the very important information of what occupation or profession the applicant for the license is!

them disbursed in meeting the several expenses incurred in the execution of the Act.

I have made this summary of these seven sections, that the whole plan of licensing, established by the Act, may be under view, and may the more easily be compared with that which was proposed for adoption and rejected, not on its merits indeed, but chiefly for want of time to arrange the necessary details. Admitting the propriety of licensing such establishments, and of taxing them for the public benefit, this, at least, must be conceded, that the mode of doing so should be as little complicated as possible, that it should be rendered as little degrading as can be to the parties applying for the license, and that the parties granting it should be selected for their special competence to the office assigned them. Now what is the system adopted? Professional men, who have for years vested their property in these establishments, are required, for the security of that property, to apply annually for a license, like common publicans, to the Magistrates at Quarter Sessions, who *without appeal of any kind*, are empowered to refuse or grant the same, "if they shall think fit," and to decide whether it shall be for one or both sexes, "as such Justices shall think fit," and in case they shall grant the licenses so applied for, then the Clerk of the Peace shall, ere he issues the same, receive the tax payable thereon, which he is to hand over to the Inspectors General, to whom, within *four* clear days after the granting of every such license, he shall likewise send a *true copy* of such license, and of the notice and plan accompanying the application for same; while again, as part of this complicated system, the Inspectors General are, by the 22nd section, required "to transmit *forthwith* to the Clerk of the Peace a copy of every minute made by such Inspectors in the visiting book of each and every Asylum, which said minutes each Clerk of the Peace shall enter in

a book, to be laid before the Justices of the Peace, previously to the consideration of any renewal of the license to such house.

The whole of this machinery appears to me open to the three objections above stated: it is unnecessarily complicated, it is degrading to the parties applying, and the individuals selected do not constitute a tribunal the most competent to the office. In its defence it has been asserted that it follows the English precedent, and that we in Ireland have, therefore, no just cause of complaint. Now, I deny altogether the analogy of the precedent, and, on the contrary, maintain that the English system of licensing, if adopted in Ireland, would call for a totally different arrangement. The English system is double, inasmuch as there is one system for the Metropolitan district (embracing London, Westminster, Southwark, the whole of Middlesex, and a great part of the counties of Essex, Surrey, and Kent), and a different system for all the other counties. For the Metropolitan district the Lord Chancellor may appoint not less than fifteen, nor more than twenty Commissioners, of whom not less than six, nor more than seven, shall be physicians or surgeons, and four shall be barristers; five of these Commissioners constitute a quorum for granting licenses, and visiting within their district at least four times a year, and are also empowered to divide England and Wales (as has very judiciously been done in the last Act), "into districts convenient for visiting," so that the several licensed houses in each district may be visited "once at least in every six months" by not less than two Metropolitan Commissioners, "one of whom at least shall be a physician or surgeon, and one a barrister."

For the other counties, beyond the Metropolitan district, the Justices of the Peace, as in Ireland, are empowered to grant licenses, but to render them in some degree

competent for so doing, are further required to appoint three or more of their body, together with one or more physician, surgeon, or apothecary, to visit thrice a year every licensed house in their county. Now, the Irish Act adopts neither plan, but assigns the *whole* duty of *licensing* to the Justices of the Peace, and the *whole* duty of *inspecting* to the Inspectors General. To render the legislation for Ireland strictly analogous to that for England, there should be special Commissioners for the Metropolitan district around Dublin, with full powers of inspection; and in the other counties the Justices should grant licenses, and likewise appoint visitors, whose personal examination of the several licensed houses within their respective counties, would enable them and their brethren to decide on the propriety of renewing licenses. But, as Ireland contains comparatively very few private Lunatic Asylums, and as these are almost all congregated about Dublin and Cork, and as all, with one exception, are kept by members of the medical profession, a different plan, embracing all the advantages of the English systems, may, with the official aid of the Inspectors General, be advantageously adopted in Ireland. The following arrangement is, therefore, respectfully submitted as devoid of all complexity, as more economical, and at the same time, more efficient; as an arrangement, too, not at all degrading to professional proprietors, and supplying Commissioners infinitely more competent to the required duty than Justices of the Peace, at Quarter Sessions assembled, can possibly be.

The plan proposed is simply this, that the Inspectors General, together with the Presidents and Vice-Presidents of the Colleges of Physicians and Surgeons, and the Governor of the Apothecaries Company; and, in conjunction with them, a Master in Chancery, the Recorders of Dublin and Cork, and the Chairman of Kilmainham, be the Com-

missioners for granting licenses throughout Ireland, and for performing such other duties as are assigned to the Metropolitan Commissioners in England. These Commissioners to meet the first day of Michaelmas Term in each year, or the day previously, and at such other times as they shall deem expedient. By such an arrangement all the complexity and expense connected with the intervention of the Clerk of the Peace will be avoided, and the professional Commissioners, both medical and legal, cannot fail of an efficient and satisfactory discharge of their duties, when aided by the personal knowledge and experience necessarily acquired by the Inspectors General, who must, in the discharge of their official duties as Inspectors of Lunatic Asylums, become well acquainted with the character and conduct of the proprietors and with the state of their respective establishments. Such a tribunal could not be considered as derogatory by professional men when applying for licenses, as they consider the present arrangement to be, by which they are enforced annually to seek a license, like publicans at Quarter Sessions(*a*).

(*a*) Section 5 of the Act states, that "every person who shall apply, or intend to apply," for a license, shall give a certain notice to the Clerk of the Peace, but it omits to say how that application is to be made, whether by the applicant in person at Quarter Sessions, or by his attorney; or whether the notice so served on the Clerk of the Peace shall in itself be deemed "an application." For myself and a few others I must say, that being determined to view it in the latter light, and not to degrade ourselves or our profession by appearing amid publicans seeking a license at Quarter Sessions, we left the application to its fate, and were afterwards informed, that *immediately after* the publicans' licenses were disposed of, our names were, in like manner, called in Court, that we might appear. The courtesy of the Court dispensed with our presence on this occasion, and the licenses were granted. One very intelligent magistrate, in speaking to me of the scene, asked very naturally, what could they know of the matter? and another with some feeling observed that he could not but consider it degrading to respectable professional men thus to be paraded, like publicans,

Before I proceed to canvass the principle of the Act, it may not be amiss first to dispose of a few miscellaneous sections, some of which, besides their bearing on the principle and machinery of the measure, are not uninteresting in themselves. And first of section 28. This section invests each Inspector General, as the English Acts do the Metropolitan Commissioners (one of whom, however, must be a physician or surgeon, and the other a barrister), with the important and delicate power of liberating such persons as he, in conjunction with "the managing officer, and the medical officer of the nearest District Lunatic Asylum," shall, after two special visits, think to be "detained without sufficient cause;" in which case "they may give such orders as to them shall seem meet for the discharge of such persons, at such time as the circumstances of the case may seem to justify." So far there is a discreet caution exercised in the phraseology employed in conferring a power, perhaps the most delicate, and at times the most difficult, that could be conferred on men, even the most conscientious and experienced. Such, however, is the anxious desire for liberty entertained by *some* lunatics, and such the well-ascertained talent, dexterity, and cunning with which they will conceal, suppress, explain away, or deny their delusions, that the English Act (5 & 6 Vict.

before the county.—And here, on my own behalf, and on that of the medical profession, whose interests and character he has ever been foremost to uphold, I cannot omit this opportunity of expressing my grateful acknowledgments to Fitzstephen French, Esq., Member for Roscommon, for the efficient aid he afforded me in amending some objectionable clauses in the bill, and more especially for his energetic, though vain, endeavours to change the objectionable machinery for granting licenses. I must likewise express my obligations to Lord Eliot for the considerate attention he seemed disposed to pay to our remonstrances on that subject; but the rapid close of the Session, and other considerations, on which I am reluctant here to dwell, prevented his Lordship from then complying with our wishes.

c. 87, s. 16) interposes a wise proviso for guarding, to some extent, against any injudicious interference on the part of the Commissioners, (which proviso the Irish Act altogether omits): the proviso being that "it shall not be lawful for such Commissioners to order the discharge of any such person as aforesaid, without having previously (if the medical superintendent of the house shall have tendered himself for that purpose), examined such medical superintendent as to his opinion respecting the fitness of such person to be discharged." So far this is discreetly provided, but then the English section proceeds to enact, that "if, after so examining such medical superintendent, the Commissioners shall discharge such person, they shall within forty-eight hours *after making* any order for such discharge, transmit to the Metropolitan Commissioners in London, to be kept and registered, any statement in writing furnished to them by such medical superintendent, and containing his reasons against the discharge of such person." The fault I find with the latter arrangement is this, that it is of little use except in guarding the character of the superintendent in case of any erroneous decision on the part of the Commissioners; for which reason I think it would be wiser to enact, that if, in the case supposed, the medical superintendent so decidedly differed with the two Commissioners, as to give his reasons in writing against the discharge, and to protest against it, in that case the two Commissioners should be restricted from making any order for such discharge, until the matter had been first referred to the decision of the Commissioners at large(*a*).

(*a*) Every one conversant with the disease in question is well aware of the great difficulty often experienced by medical gentlemen in deciding two very nice points in its history, on both of which this Act legislates. There is often no small difficulty in deciding whether an individual (undoubtedly insane

With respect to the Irish Act, however, there is in it no check upon the exercise of this power of discharge, except what may be found in the prudent caution and acknowledged experience of the agents employed; but with regard to that agency some questions may be asked, which ought to be answered. Section 28 says that the Inspectors General, to be competent to the exercise of this power, must be accompanied by the managing officer, and the *principal* medical officer (if there be more than one(*a*)) of the nearest District Lunatic Asylum, and that they must all concur in any order for discharge, by attaching their signatures thereto. Now, section 39 enacts, that "it shall be lawful for the Inspectors respectively visiting

as subsequent facts demonstrate) be really of "unsound mind, and a proper person to be confined," and there is often still greater difficulty in determining whether or when an individual, convalescent either in appearance or reality, should be set at large. It may not be amiss to illustrate this latter point by a quotation or two from the evidence given by some of the Metropolitan Commissioners to a select Committee of the House of Commons, in 1815. "Supposing," says Dr. Richard Powell (for many years Secretary to the Commissioners), "we find the patient's conversation correct, we know better than to infer that he is well, and that his conduct will also be so." "Doubtful cases may require many hours, and repeated visits (for investigation), and if the Commissioners were to act from the impulse of the moment, or barely to judge from propriety of temporary conversations, they might let half the lunatics they see loose, though very unfit to be at large." One man, "whose conversation was exceedingly correct, though but a short time confined, was (from some irregularity in his commital), set at large: but he was insane, and very soon in confinement again: *his was insanity of conduct, not of conversation.*" "In one house," says Dr. Latham, "we examined, there were two women confined, whom I thought not to be insane; the keeper said they were, and that we were mistaken: *we* were *all* of opinion these women were improperly confined, and desired their friends would take them out. On our next visitation I had considerable curiosity to know what had become of these two people: one had drowned herself, and the other had hanged herself."!!

(*a*) There is no provision for empowering the junior Medical officer to act, in case of the absence or sickness of the principal. Under the wording of this section, the principal medical officer alone is competent.

as aforesaid, any House (that is at their ordinary as well as special visits) to require the attendance of such managing officer and medical officer to visit the same with them respectively." This no doubt renders it lawful for the Inspectors to require their attendance, but does it render it incumbent on them to obey such requisition, when they can allege that they have plenty to do in minding their own business, for which they are not too well paid; and can further allege that the Act neither compels them to obedience by a penalty, nor tempts them by a fee; for will it be believed, that though this same section (39) empowers the Inspectors (if they shall so think fit) to call in any neighbouring physician, surgeon, or *apothecary*(*a*), to accompany them at their ordinary visits,

(*a*) Ought the Inspectors to be empowered or sanctioned by an Act of Parliament to call on an apothecary to assist them in the professional visitation of houses kept by physicians or surgeons, as is the case almost universally in Ireland? Their good sense and good feeling would prevent them from doing so, but it ought the less on that account be "so set down." My Lord Eliot did me the honor of asking my opinion whether the medical certificates, required by the 15th section of this Act, should be admitted as valid under the signature of an apothecary. My answer to his Lordship's question was, that I would in that instance admit the intervention of an apothecary in signing *one* of the certificates, but for this simple reason merely, because it was, in many instances, a matter of the greatest difficulty to procure access for a physician or surgeon to the lunatic, in order to enable them to sign the necessary certificates, whereas the apothecary, from his more familiar intercourse with the family, could often obtain that access which would be denied to a stranger, or if granted, might excite dangerous suspicions in the mind of the lunatic. But in giving this qualified assent to the intervention of the apothecary in section 15, I, at the same time, decidedly objected to the introduction of his name into sections 18, 19, and 39, and into Schedule (H). I conceived his Lordship to have assented to my views on this question, though they were not carried into execution. But the English Act was deemed ample authority against the adoption of any suggestion, however reasonable, though in our remarks on the 33rd section, we shall find that the absence, or even the repeal, of an English enactment furnished no reason against its introduction into the Irish Act.

and to pay him for every such attendance a fee, not exceeding two guineas; and though the next section (the 40th) empowers the Lord Chancellor to appoint a barrister "for the purpose of assisting at such visitation or investigation, *with such reasonable fees and allowances for his trouble, and for his travelling and other expenses*, as the Lord Chancellor shall direct," yet does the same 39th section enact, (as the reward to be paid to "every such managing officer, and medical officer," for the time, trouble, and anxious responsibility involved in the duty required of them), that the Inspector "by whom their attendance shall have been required," shall pay, and have credit in his account for their "travelling expenses"(*a*). The lawyer is to be paid "reasonable fees and allowances for his trouble and *for his travelling and other expenses*," while the managing officer and medical officer, for similar trouble, equal loss of time, and far greater responsibility, are to be paid "their travelling expenses." Is this class legislation or is it not? Are these officers so much overpaid, or have they so little to do, that their time and professional skill are to be placed at the disposal of an Act of Parliament, without compensation of any kind? What statesman would dare to treat a lawyer so? or to require that an Assistant Barrister, because he was a public officer, should gratuitously discharge some other

(*a*) This is even worse usage than the profession (I mean the medical profession) has experienced at the hands of the Irish Poor-Law Commissioners, for they, *even they*, have sanctioned and permitted the country Guardians to pay their medical officer, who must visit the workhouse "every day, and oftener if necessary," and who must act as physician, surgeon, apothecary, and accoucheur, a magnanimous salary, varying from £30 to £50 a year, and in the metropolis, after a hard and discreditable struggle, have reluctantly consented that the salary should be raised to £100 per annum. Is the public benefited by this degradation of the medical profession? or is the cheapest article always the best, or in the end the most economical?

professional duty, unconnected with his office? and yet this is done in Ireland towards the surgeons of county Infirmaries.

Section 33 contains an enactment of little importance to the proprietors of Lunatic Asylums, but of great and serious consequence to the relations and medical advisers of the insane. This section provides, that "if any person shall apply to the said *Inspectors*" for information respecting any particular person, confined as insane, and that the *Inspectors* shall think such inquiry reasonable, they shall examine their register, and if "the person so inquired after is, or has within the last twelve months, been confined in any of such houses, then such *Inspectors* shall give in writing the name of the proprietor, or resident superintendent, and the situation of such house, "AND ALSO A COPY OF THE ORDER AND MEDICAL CERTIFICATES upon which such person was received into such house, (if such *Inspectors* shall so think fit"). Before I hazard any comment on the latter part of this enactment, let me first state, that, with the exception of the agents named for its execution, this whole section is copied verbatim from the 43rd section of the 2 & 3 Will. IV. c. 107, and with the further exception, that in place of the words within the parenthesis, which leave the matter to the discretion of the *Inspectors* conjointly (and not to one of them), the English Act says, "if required," these latter being words which made it imperative on the agents to give, "if required," a copy of the order and medical certificates. Now, in the original Irish bill, the words "if required" were employed as in the English Act, and were only changed upon my strong remonstrance against the impolicy and mischief of the provision, a *remonstrance*, the propriety of which is fully manifested by the omission, and consequent repeal, of all the words after "the situa-

tion of such house," in the 24th section of the English Act of last Session (5 & 6 Vict. c. 87). And yet, though all this was pointed out, and though it might reasonably be inferred from this omission, that unpleasant consequences had, in England, been found to arise from the original enactment, yet was it deemed inexpedient in this instance to follow the English precedent of omission, and the whole passage was retained in the Irish Act, with the exception of the very objectionable words "if required." To evince the mischief that may arise from the passage retained, it can be only necessary to say, that there is no one point respecting which excitable lunatics are more anxiously inquisitive than to know upon whose authority they have been placed in confinement, and if such curiosity were to be indulged, what husband, wife, mother, brother, or sister, or other near relative, would willingly sign an order for admission, however necessary to the welfare of the lunatic, if that lunatic could afterwards obtain official and undeniable evidence of such signature; or what confidential medical adviser of the family would promptly sign the necessary certificate, if by so doing he was to be exposed to the subsequent risk, not only of losing that confidence, but of incurring the hatred of the lunatic. Had not the section been so modified as to leave the matter discretional with the *Inspectors*, few relatives or medical friends would, except in the extremest emergency, subject themselves to the unpleasant, and often dangerous; consequences of such knowledge on the part of the lunatic. Before this Act was in existence, I had both known and heard of many such disagreeable consequences, and since the Act came into operation, some instances have come to my knowledge, in which near relatives have refused *singly* to sign an order for admission, and others in which the me-

dical advisers have hesitated to sign the certificates, though convinced of the insanity of the party(*a*).

(*a*) The following letter from a medical friend, with which I was favoured while this sheet was at press, will contribute to illustrate some of these positions.

"*Dublin, January 12th*, 1843.

"DEAR SIR,—Being aware that you purpose calling the attention of the Government to the great inconvenience arising, in some cases, from the late Act of Parliament for the regulation of private Lunatic Asylums, I beg leave to communicate to you *my* experience of its injurious operation, in an instance that lately came under my observation. The person I allude to, although of respectable connexions, has no property, and has been several times put in the way of honorable and lucrative employment, but has as often marred his prospects by the extravagance and absurdity of his conduct. His monomania consists in a most overweening estimate of his personal attractions and mental qualities, and on these grounds he has built various wild speculations, with such positive certainty, as often to persuade himself they were actually realized; and by relating to others a plausible and connected tissue of falsehoods, has succeeded in many instances, in getting large sums of money and credit, so that he has been obliged more than once to take the benefit of the Insolvent Debtors' Act. But it is the use he makes of the money so obtained, that more especially marks his insanity. He is seized at times with the most irresistible desire for rapid motion, and will hurry about in all directions on hired cars, without any definite purpose. He also keeps himself constantly stimulated by ardent spirits, and latterly (since all his other devices to obtain money have been exhausted), he has pawned every article of furniture and clothing belonging to himself, his wife, and children, to gratify these propensities, and so utterly perverted is his moral sense, that no argument can convince him he is wrong in so doing. Now, my dear Sir, can there be a case in which personal liberty is more abused than by this unfortunate gentleman, or one in which a temporary suspension of excitement would be more beneficial? Indeed the benefit of it has been *proved* with respect to him, for on a former occasion his family placed him for three months in a private Lunatic Asylum, and from that period until very lately, he kept within the bounds of decency, influenced probably by the fear of renewed restraint; but as soon as he read in the newspapers Mr. Hayden's attempt to prosecute you, he became stimulated to follow his example towards the person who had himself in charge; he addicted himself to all his old evil habits, and defied his family to arrest him, saying that the *new Act of Parliament* (which he carried about him as his pocket pistol) *was his protection.* He saw that the provisions of that Act require that two medical men must *separately* see and examine the patient within *seven* days of his capture, and he relied on

The only other section of this Act upon which I deem it necessary to make any special comment is the 47th,

his own watchfulness to elude their visits, and on his power of commanding himself (which insane persons often possess to an extraordinary degree,) if he should be confronted by them. The Act afforded him another safeguard, which was found by the family of the person in question, a serious difficulty in the way of getting the requisite certificates. It seems the names of all the parties concerned in such a transaction *may* be given up, if the person supposing himself to be aggrieved should demand it. Now, every medical man, who had an opportunity of knowing the patient's character and conduct, had not the least hesitation in declaring him insane, and a proper subject for restraint; but they know he might be released after a very superficial cure, and they then dreaded the effects of his revenge, for he is of a most vindictive temper. Although fully alive to the danger thus incurred, I at once gave my own certificate; but it was some time before a second could be procured, and when it was at length obtained, and the other necessary signatures appended to the declaration of insanity, an attempt was made to take him, but he unfortunately was aware of the design, and entrenched himself in his house, which he never left *till the seven days during which the certificates were in force had expired;* thus proving the mischievous tendency of *that* clause also. He is now enjoying the boasted liberty of the subject, exposed to cold and hunger and nakedness, and his affectionate and heart-broken family dare not give him money or clothing, while he is master of his own actions, as he would immediately abuse them, by purchasing drink, and posting about the country on cars.

"I have now, as briefly as I could, stated *some* of the circumstances which have come under my notice, tending to show the inconveniences arising to the public from the late Act, and so striking do I think them, that I should have myself drawn the attention of the authorities to the subject, if it had not fortunately fallen into your hands, and I shall be happy if my testimony can add any weight to so good a cause for remonstrance.

"I remain, my dear Sir,

"Faithfully yours,

"M. D.

"P. S. In the endeavour to make my statement as concise as possible, I omitted to mention among the inconveniences consequent upon some clauses in the Act, a difficulty experienced by the family of the lunatic, and arising from the same feeling which influenced some of the medical gentlemen applied to. The question having of necessity arisen, which of his family was to sign the order for his admission into an Asylum, the difficulty could only be surmounted by *three* of them agreeing to do that office *conjointly*, which each *singly* hesitated to do.

which appears to my weak judgment, however defensible in law, to be utterly indefensible in equity. It virtually enacts, that though a proprietor of a licensed house for the reception of lunatics, or the resident superintendent (both of whom may, under the existing law, be females, or if males, need not be members of the medical profession) shall in the strictest manner comply with all the provisions of that law and shall, in compliance therewith, receive a patient "upon such order, and upon such medical certificates, as are required by the Act, yet that such compliance with the law shall furnish him with "no new justification for so confining" such patient, but that he shall be obliged to justify himself against all legal proceedings that may be taken against him, "according to the course of the common law, in the same manner *as if this Act had not been made*."

All this strictness, tis true, might very fairly and properly be exercised as against the *professional* proprietor or superintendent, who from such their professional knowledge and experience, ought to be fully competent to judge (or as competent, at least, if not more so, than the subscribers to the medical certificates), of the sound or unsound state of the patient's mind, and who ought, therefore, be held strictly responsible at law for confining such patient; but when the law admits that there exists such a disease as insanity, and that those actually labouring under its influence, may, or ought for their own benefit and the public security, be properly confined, and for an indefinite time deprived of personal liberty; when the same law enacts, that for such private and public benefit, asylums, licensed according to prescribed forms, and taxed for the purpose, may be kept by persons unprofessional and incompetent to judge of insa-

nity in difficult or doubtful cases; into which asylums, however, they must not receive any person without an express order from some friend or relative, and without two medical certificates of the unsound mind of the party, and of the propriety of confining him:—is it, I ask, right or just under such circumstances, that such unprofessional persons should not be held justified by their strict compliance with the law, or should they be liable to legal penalties (except for ill-treating the patient), unless when proceedings were first had and taken successfully against the party or parties signing the order for admission; the case of husband or wife alone being excepted. This my view of the subject is borne out, to a certain extent, by the following equitable proviso contained in a bill which was before the House of Commons, in 1817. This bill, after reciting a clause precisely similar to the 47th section, adds this proviso, "that no physician, surgeon, or apothecary, authorized to grant certificates as aforesaid, shall be subject or liable to any indictment, information, or action, for having given such certificates; and no keeper of any house licensed under this Act, shall be subject or liable to any indictment, information, or action, for having admitted, harboured, entertained, or confined any person or persons, as lunatic, by authority of such certificates, *until* the person by whose directions the person in question shall be confined, shall have been first convicted of having unlawfully, and without reason, directed or caused such confinement," &c. &c. This proviso, it is true, does not appear to have been adopted in any subsequent Act on this subject, and it is besides defective in protecting, or appearing to protect, the subscribers of the medical certificates *in all cases*, whether same were subscribed *bonâ* vel *malâ* fide.

Before I conclude the observations which have been

drawn from me by the strange accumulation of errors, and omissions in various clauses of this Act, I regret to exhibit another singular anomaly in the wording of the license granted under the 7th section, according to the form in Schedule (A). Now this form virtually grants the license to the superintendent of the house, and not to the proprietor, in case he does "not intend to reside therein himself." And yet sections 11 and 12, which make due provision for the death or incapacity of any licensed proprietor, make none whatever for the death, resignation, or dismissal of the superintendent, to whom alone the license would appear to be granted, in case of the non-residence of the proprietor. In the absence of such provision, what, I would ask, will be the legal position of such non-resident proprietor in case his superintendent should die or resign his office, or in case the proprietor should choose to dismiss him for misconduct, or other sufficient reason, before the expiration of the license? or against which of them can legal penalties be sought or recovered?—But this is not all: for, as if there was some fatality attendant upon every schedule in the Irish Act (though copied almost verbatim from the English), this same schedule (A) does not follow the enacting provisions of either section 7 or 5, each of which establishes a different regulation for it. Section 7, which alone refers to the schedule, says, it "shall be signed by *two* or more Justices," whereas section 5 says the license "shall be under the hands and *seals* of *three* or more." Now the schedule adopts neither plan, but is prepared for *three* signatures, but without seals!!!

PRINCIPLE OF THE ACT.

From the great length to which I have been led by these critical annotations, I feel myself precluded from dwelling as I could wish, upon the all-important ques-

tion, not of the principle of this Act merely, but of the principles which should regulate every legislative measure for the care, cure, and custody of the insane. To do such a subject adequate justice, would require a volume, whereas at present I can do little more than supply an index, and that too a very concise and imperfect one. In order effectively to canvass the principle of this measure, and the methods taken for carrying out that principle, it would be expedient to establish, if possible, some standard by which it may be measured, and thereby endeavour to indicate the great principles upon which all such legislative measures should be based. The statesman, to be competent to the task of legislating on such a subject, should be well conversant with the leading features of a disease presenting itself to our view under such diversified forms, or should at least sedulously seek for sound practical information from those who possess it. It happens unfortunately, however, that all past legislation on the subject has in England been based on strong, and, in some instances, well-merited suspicion of the acts and motives of those possessed of that practical knowledge, and has, in almost every instance, been preceded by some popular clamour and prejudice(*a*). Hence, hasty and stringent legislation, carried, no doubt, under the influence of motives the most benevolent, but which, while enforcing regulations for guarding against one evil, too frequently incurs the risk of falling into another, of perhaps equal magnitude.

(*a*) To illustrate these positions, it is only necessary to refer to the evidence taken before select committees of Parliament, and to an able, though most vituperative Article, in No. 84 of the *Quarterly Review* for 1830, immediately preceding the enactment of the 2 & 3 Wm. IV. c. 107. No man (unless otherwise well informed on the subject) could, after a perusal of that article, calmly legislate on the subject of insanity. I regret much my present inability to furnish some illustative passages from both these sources.

The great objects held in view in English legislation, and now adopted in Ireland, for the regulation of private lunatic asylums, are: 1st, That in order to be known, they shall all be licensed: 2ndly, That the names and designations of all their inmates should be known, and shall therefore, under heavy penalties, be returned forthwith to certain official agents: 3rdly, That no inmates shall be received without certain required documents, already characterized: 4thly, That a regular registry shall by these means be had of all the inmates of every private asylum, who pay for their own support (as all do in Ireland, though not in England), as also of all who may escape, be discharged, or die: 5thly, That a regular inspection and visitation shall be had, twice *at the least* in every year, of every licensed house, of every room therein, and of every inmate, with power to the parties visiting, to liberate any person they may think "detained without sufficient cause," and to institute the strictest inquiry as to the general treatment and management of all; with the further power of recommending (should they deem it expedient), that the license of any house should be revoked. From this recapitulation, it is clear that the leading principles of the existing legislation consist, 1*st*, in prohibiting the admission of any person, sane or insane, into an asylum, without certain strict and defined preliminary forms: *2ndly*, in guarding, by very strict inspection, against the improper detention of any inmate, either after having been committed "without sufficient cause," or after having become convalescent: and *3rdly*, in taking care that while confined, they shall be humanely and judiciously treated.

It is impossible to object to any one of these principles; though much of their beneficial influence must depend on the extent to which they are carried, and on the

mode in which they are enforced. Thus, while with respect to the first, it is highly expedient, both for the protection of the sane man, and for the security of the proprietor of an asylum, that certain preliminary forms shall be complied with before the latter can legally receive an inmate; it should, on the other hand, be held in recollection that those forms may be so unnecessarily stringent, as to throw serious impediments in the way of submitting to proper care those who are really insane, *impediments*, often operating to the great injury of the person and property of the lunatic, and to the incalculable annoyance of his family and friends. Now if there be any one position more clearly established than all others in the history of *every* disease, but more particularly of insanity, it is this, that upon the *early* intervention of medical treatment, will mainly depend the prospect of a speedy and permanent cure. What is it that chiefly fills the mad-houses of the United Kingdom with such hordes of incurable lunatics (both rich and poor),—what, but the long and over-cautious delay in removing them from the causes productive of increased excitement, and the not subjecting them to medical treatment, until perhaps the brain had already become permanently disorganized?—Hence it is, that for the sake of the lunatics themselves (independently of the dangerous consequences to the community from their being left too long in unrestrained liberty), efficient measures of preventive coercion should be adopted, ere extreme violence, or extreme depression, shall have manifested themselves in acts either of homicide or of self-destruction, or of both combined(*a*). Hence it is that, while

(*a*) Who can forget the sad assassination of Mr. Perceval, in the lobby of the House of Commons, and that "great outrage upon justice" which followed it, the too rapid trial and hurried execution of the unhappy lunatic, who was

we efficiently protect the sane man against wanton incarceration, for which the law provides ample remedies, we should, as we value the best interests of the lunatic and the welfare of society, so far from throwing difficulties in the way of his capture, facilitate it by all reasonable means. Hence it is, that in the preliminary documents required by sections 14 and 15, for the admission of a lunatic, I object, 1st, to the short period of seven days allowed for the antedating of the medical certificates, the inconvenience arising from which has already been pointed out; and 2ndly, to the necessity imposed on the two medical certifiers to visit the lunatic *separately*, the great difficulty (from the suspicions of the lunatic having been excited) usually being to procure access for the second; and we may feel assured, that the existing law is, and will be better known by her Majesty's lunatic subjects, than by those who are sane. But if there be difficulty and delay in procuring the medical certificates, there is often likewise great hesitation on the part of a *single* relative or friend to sign the order for admission, while two or three conjointly would not hesitate to do so: for this reason therefore, I would suggest that section 14 be amended by introducing into it the words "or persons," so that it should then run thus (whenever the order of admission is spoken of) as the "order of the person *or persons*

"committed, tried, condemned, executed and dissected" (as Lord Brougham has remarked), all within one week from the time that he fired the shot:—or who in Dublin can forget the deplorable fate of Mr. Sneyd, slain at mid-day in one of its most crowded streets, by a monomaniac, whose brother feared to swear an information that he carried loaded arms about him. But without dwelling on these notorious facts, who can read a newspaper without meeting some distressing detail of suicidal and homicidal insanity, too often occurring in the father or mother of a family, and who, after destroying their children, have finished the scene by destroying themselves. The danger from insane depression, in itself great, is still further increased by the little fear it excites, compared with that produced by maniacal excitement.

by whose direction such insane person shall be sent," &c.(*a*).

All these concessions for the benefit of real lunatics may the more readily be made, inasmuch as the true and great protection for the sane man against malicious incarceration in an asylum, or for the man, who having been insane, is still unnecessarily detained therein, must consist in the proper and efficient administration of the visitatorial power of the Inspectors.—The law now provides that this visitation shall take place *twice at least*, in every year; there can be no objection to the repeated exercise of such a power, even once a month, *provided* it be exercised (as it ought to be, and I trust will be) with that prudence and discretion, which a little experience will prove to be so necessary in dealing with patients progressing to convalescence, whose recovery may easily be either retarded or prevented by injudicious interference. But no inspection, how minute soever it may be, and however frequently repeated, can be efficient in securing the third great object of legislation, without the intervention of another agency, heretofore so strangely

(*a*) If I might hazard the mention of another legislative provision for facilitating the capture and due custody of dangerous lunatics amongst the richer members of society, where difficulties not easily surmounted often present themselves, I would suggest that, though Magistrates are empowered to proceed in a summary way with insane *persons* in Ireland, under the 1 Vict. c. 27, and do not hesitate under the Act freely to exercise their power in committing the insane *poor* to the common gaol, they are not, but should be distinctly empowered to interfere, and grant the aid of the Police, against richer and more dangerous lunatics, *whenever* informations, indicating sufficient grounds for such interference, shall be sworn before them by the "person or persons who shall have signed the order" for the lunatic's admission into an asylum, and also by one of the Medical Certifiers. Magistrates are too much afraid of actions, to be willing, without some such specific enactment, to interfere among the rich, even in cases of the most extreme urgency, and ought therefore, for the public benefit, to be relieved from doubt and responsibility.

overlooked. That third great object is, that such lunatics as are necessarily confined, shall be treated humanely and judiciously. What efficient security can the occasional visits of an inspector give for the attainment of this object? "I have been young, and now am old" enough to remember both Prisons and Lunatic Asylums under the old as well as under the new systems of inspection and superintendence. For more than thirty years I have been Physician to all the criminal prisons of Dublin; during the whole of which period, besides the occasional visits of the Inspectors General, the local Inspector was required to visit each prison *twice a week* at least, and on these occasions, to see every department and inmate of the gaol. Did these frequent visits of the Inspectors prevent or abolish the many notorious abuses that prevailed, and prevailed too in many instances to their knowledge, and with their reprobation? They did not, nor could they succeed in the great objects calling for their interference, until the character of the gaoler was elevated, until a superior class of men was selected for that office, and salaries attached thereto, such as gentlemen could accept. Then indeed commenced the reformation; so that now, and for many years past, the Prisons of Dublin and of the country at large are no longer the vile and abominable nurseries of vice and crime that they had been, and such as I had long known them(*a*).

(*a*) A strong instance of the truth of this position is furnished by the history of the Sheriffs' Prison, lately abolished by Act of Parliament. That prison had been specially erected for the purpose of getting rid of the gross abuses proved before a Select Committee of the Irish House of Commons to have long existed in the "Black Dog," and in the sponging houses of Dublin. Most of these abuses, however, were transferred to the New Sheriffs' Prison, and were maintained therein, despite of every inspection, by the low-characteered keepers placed *at low wages* over it, and who therefore contrived to enrich themselves by fostering profitable abuses. Some of these abuses became so

My proposition then is simply this:—that an Act of Parliament shall no longer treat it as a matter of indifference (as both the English and Irish Acts do) of what "profession or occupation" the person is, who applies for a license to keep a Lunatic Asylum, but that, on the contrary, it shall require certain qualifications for that office, as it does for others of less importance. In this instance, the obvious qualification is, that one at least of the proprietors of each house (if there be more than one proprietor) shall be a regularly qualified member of the Medical Profession, and if there be but a single proprietor, that he shall be so qualified. An Asylum is, or ought to be, an Hospital for patients curable and incurable: the former require for their recovery the most vigilant medical superintendence, and the latter are frequently liable to corporeal disease, connected with, and independent of their insane state: and yet neither English nor Irish Acts of Parliament require even to know what the profession or previous occupation of the proprietors of a Lunatic Asylum may be, but, on the contrary, in many of their enactments, suppose them totally unconnected with the medical profession. Indeed, so

enormous, that after repeated efforts for their suppression or abatement, I was enforced, more than twenty years since, to lay a complaint, supported by sundry affidavits, before the late Lord Chief Justice Downes, who was so horrified by the details, that he directed the then Attorney General to file a criminal information against the keeper. This step, however, was not taken, as the Attorney General (the late Mr. Saurin) found, on investigation, that though the criminal acts could be brought home to the brother of the keeper, they could not satisfactorily be proved against the keeper himself. Lord Downes, however, did not fail effectively to interfere, in consequence of which the keeper was dismissed by the next Sheriffs, and a *gentleman* appointed in his place, to whom, by an Act soon after passed (7 Geo. IV. c. 74), a salary of £500 per annum was assigned, in lieu of all rents and fees. The gross abuses previously existing ceased soon after his appointment.

little does the statute law seem to consider medical superintendence essential to the insane, that, though the English Act requires a resident medical attendant when the number of insane in any one Asylum amounts to 100, it yet permits, as does the Irish Act (sect. 19) where the number does not exceed 10 in any house (not kept by a Physician, Surgeon, or Apothecary), that then the Inspectors "may direct and permit (if they shall so think fit) that such house shall be visited by the Physician, Surgeon, or Apothecary, *once at least, in four weeks*, instead of *once* every fortnight"!! as if it were unreasonable to require the latter, *as too frequent* for ten patients. With such a permission thus recognized, the legislature should at least have provided that all the inmates should be incurable, and that no curable case should be received into such a house(*a*). There is proof in abundance to be found, scat-

(*a*) That such inconsiderate legislation should exist, may be a matter of wonder, but will cease to be so, when we reflect upon the kind of evidence often given before a select Committee, and received by them, almost without comment. A Mr. Edward Wakefield, a land agent (and such a lunatic reformer too, as to have enticed an inmate of an Asylum whom *he* deemed sane out of its precincts, then induced him to take an action against the proprietor, and on a non-suit, was thereby instrumental in consigning him to gaol for the costs, he being unequivocally insane, as was subsequently proved): this gentleman (Mr. Wakefield) having been prominently examined before the Committee of 1815, is of opinion that medical men, and more especially the College of Physicians ("being a part of the profession particularly objectionable," because they do not include Scotch degrees), are the most unfit of any class of men to act as Inspectors and Comptrollers of Mad-houses, because, "from every inquiry he has made, he is satisfied that medicine has little or no effect upon the disease, and that the only reason for their selection, is the confidence placed in their being able to apply a remedy to the malady." This wiseacre is borne out by another, who does not believe that "insanity is an injury to the mental faculties at all," and is also to some extent supported by the strange evidence of Dr. Thomas Monro, who having admitted the *periodical* bleedings, purgings, and vomitings of Bethlem Hospital, and having been asked whether it was in the scope of medical knowledge to discover any other effica-

tered through the volumes of evidence taken before select Committees of the House of Commons, of the sad medical

cious means of cure, answered, that "he really did not depend a vast deal on medicine: it is more by management than medicine that such patients are cured, but it is necessary to give medicines at particular times: the disease is not cured by medicine in his opinion;" and "if I am obliged to make that public, I must do so"!!! And yet, what do Dr. Weir and the Medical Commissioners for Lunatics say on the same subject (as must every man who knows the disease, and the treatment required in its diversified forms). "I conceive medical treatment to be of the greatest importance," says Dr. Weir, "from a conviction that mental disease invariably proceeds from corporeal derangement of the system." "The number of patients in one house, not kept by a professional person," says Dr. Powell, "was 486, of whom about three-fourths were paupers," "and yet," adds Sir Lucas Pepys, "we have found very little attention paid to the cure of the patients." The Surgeon himself, who attended the inmates of that House, admitted that he "never understood he was to pay any attention to their mental disorders; merely to their corporeal complaints:" and with respect to coercion and moral treatment, he could say nothing, "because he had not seen any thing at all done with an intent to cure the insane persons." The proprietor himself admitted the same facts, and stated that "unless the friends of the patient send a medical attendant, no course of medicine is given, or attention whatever is paid, with reference to the cure of his insanity." And yet, though the Select Committee in their Report specially enforced on the House "the want of medical assistance as applied to the malady, as a point worthy of the most serious attention," they came to no satisfactory conclusion as to the best means of remedying such an evil, which, with the other abuses almost necessarily prevalent in crowded *private* Asylums for paupers, can only be effectually redressed by the general establishment of Provincial, or District Asylums, such as now exist in Ireland, though, unhappily, not to an adequate extent. With respect to such Establishments (from which all persons with means competent to their own support should carefully be excluded), one great object should ever be held in view, if we desire to derive full benefit from them, and that object is, that there shall always exist such ample accommodation for every legitimate claimant for admission, that none such shall, if possible, be even for a day rejected. Want of due accommodation for fever patients in hospitals diffuses the contagion, and greatly increases besides the danger of the sick, whereas delay in the prompt admission of curable lunatics, though it diffuses no contagion, and seldom produces death, yet converts a curable into an incurable disease, and thereby largely augments the permanent staff of lunatics. From this cause chiefly, it arises that there has been such an increase among the insane poor of Ireland, and hence it is, that at this moment (in despite of

neglect that had been experienced in some of the most extensive Asylums in England, kept by persons not professional; and, as to other species of neglect and ill-treatment, where, in any public or private Asylum, could there occur such a lamentable case as that, lately commented on with such just severity by the Lord Chancellor for Ireland, of a lunatic kept chained and naked in the outhouse of a person, to whose care he had been consigned by his committee. On that occasion his Lordship, besides announcing a valuable order made on the emergency(*a*), is reported to have said that he was "afraid the evil exists to a considerable extent (but the report does not state whether with private individuals, or in *lunatic Asylums*), and that he had felt great difficulty with respect to the lunatics in this country." "This," said his Lordship, "has been remedied by an Act (5 & 6 Vict. c. 123), which I had great pleasure in forwarding to the best of my power;" as "it will, I am persuaded, not only tend to the benefit of lunatics, but also to the advancement of medical science in this country in the treatment of lunatics, by giving encouragement to Lunatic Asylums, and by giving confidence to persons having the care of lunatics, as to the manner in which these Asylums will be conducted." Such, I doubt not, were his Lordship's intentions in the transfer of the English law to Ireland; and in carrying such desirable objects as these into exe-

every remonstrance for years past), there are upwards of 60 lunatics confined in the three criminal prisons of Dublin, from want of adequate accommodation in the District Asylum. "Hitherto the disease has constantly outrun the accommodation: let the accommodation for once outrun the disease," and then, by the aid of this and other measures, the plague may at length be stayed.

(*a*) This order might be rendered still more valuable and important to the comfort of the lunatic, did it require the committee to state where, and upon what terms the lunatic was accommodated, so that a comparison might be instituted between those terms, and the maintenance allowed by the Court.

cution, it is only to be regretted that more time was not allowed for considering the subject in all its bearings, and that more care was not exhibited in framing and applying the clauses to Ireland, than their hurried transit through both Houses of Parliament admitted. As a new measure, however, must ere long be introduced, due care will of course be taken to rectify the errors, supply the omissions, and remove the imperfections of its predecessor(*a*): in that case, my labours will, perhaps, not be found altogether valueless, and it will prove no small satisfaction to me hereafter, should they contribute in any degree to a more correct knowledge and appreciation of the true position of a large class of unhappy beings, who, though placed more or less out of the pale of society, should on that account be deemed the greater objects of its tenderest care.

Whenever a new measure shall be in preparation, there are, besides the suggestions already offered, three other points not undeserving of some consideration, and which I now therefore beg to submit to the better judgment of others. The *first* point refers to the case of lunatics, who, while encumbered perhaps with a large family, are at the same time possessed of such small property, as renders them unfit subjects for the expenses of a commission, even though that property be so circumstanced

(*a*) I had fancied that, after a strict scrutiny of this Act, few, if any of its important omissions had escaped my observation. But I was in error;—for, having lately had occasion to give notice, under the 17th section, of the re-capture of a patient who had effected his escape, I found that the Irish Act had omitted to copy from the English Act (5 & 6 Vict. c. 87, sec. 27) the following material passage:—"And such notice shall state when such person was so received or brought back, and all the circumstances connected therewith, and *whether with or without a fresh certificate.*"—There is, and ought to be, some difference between a re-capture made at the end of a week, and after the expiration of six or twelve months.

as to render it unavailing to the parties, except through the act of the lunatic; as when his money is vested in the funds, or in rents, without a power of attorney to a third party to act for him. In such cases, might not some simple provision be made, by which such property should come under the control of some officer of the Court of Chancery, to be disbursed by him in the support of the lunatic and his family?—The other points, which I cannot advance without some hesitation, refer to two classes of patients, heretofore not unfrequently admitted into our Lunatic Asylums;—one class consists of *voluntary* patients, some of whom, having perhaps already experienced the benefits of a residence therein, voluntarily seek re-admission under the dread of an approaching paroxysm, and others afflicted by diseases analogous, and in some degree approaching to insanity (such as catalepsy), several of whom, even females, have voluntarily sought admission, in their anxious desire to be cured. Are these to be rejected, unless they produce medical certificates that they "are unsound in mind, and proper to be confined," or might not a private, yet official communication to the Inspectors of the fact, be deemed sufficient in such instances?

The last matter for consideration is one of far greater delicacy, and, unfortunately, of far more frequent occurrence. From that very frequency and from the notoriety of its cause, there are few persons who are not well aware of the existance of the disease known by the name of *Delirium tremens*, and that its great source is habitual tippling:—it is to be met with among high and low, rich and poor, males and females, young and old: it is not insanity, properly so called, yet, during the existence of the paroxysm it is not far removed from it, though it manifests itself more in illusions of the senses, than delusions of the mind. Few

medical men would hesitate to say that the person actually labouring under it is "proper to be confined," though many might hesitate to add that he is (except morally) of "unsound mind;" therefore there would be difficulty in procuring the necessary medical certificates, and were they even procured, few proprietors will, in the present state of the law, venture to receive such inmates into their Asylums, though such repositories are (with few exceptions) the fittest receptacles for them, both as regards the management of their actual disease, and the removal of its cause. But the great difficulty of the case does not terminate with the mere reception of such inmates, inasmuch as the actual paroxysm, under proper management, is not of long duration:—in one, two, or three weeks, the patients may appear perfectly convalescent, and yet, if then discharged and left unrestrained, will, almost to a certainty, relapse; and after undergoing repeated attacks, will, sooner or later, terminate a miserable existence, after having inflicted disgrace, perhaps brought ruin on their families. Can a legal sanction be *safely* given for the reception of such inmates, and for their subsequent detention for a reasonable time, until the vigour of mind and body be in some degree re-established, such as might enable them to resist the morbid impulse to spirituous potations? But even supposing that object attained, it does not accomplish all that could be desired, inasmuch as it does not enable us to counteract the disease, until it is fully formed and has developed itself in an attack of delirium tremens. Who that knows the state of society but must be aware of the many melancholy instances of the most perseveringly depraved taste for spirituous liquors in the fathers and mothers of families, or in their adult children, and from indulging in which they cannot be debarred day or night, whilst servants

have access to them. Can no *legitimate* check be imposed on such habits, until they shall have terminated in positive mania, or in delirium tremens, or would it be safe to legislate for such evils? *Heretofore* I have never hesitated to incur the responsibility of receiving into my Asylum unequivocal cases of this description, in which no other remedy could be of any avail; but I have never so interfered, without previously requiring that all the friends and relatives on *both* sides (in case of wife or husband) should meet, and after agreeing to the sad necessity of adopting such a measure, subscribe a letter requesting that I would receive the party into my Asylum, for a space of time varying from *three* to *six* months, and that no suspicion should attach, I have in all such cases ever made it a rule to receive the party on the *lowest* terms of the establishment, though often well able to pay the highest. Now, however, under existing regulations, such humane and beneficial interference can no longer be hazarded, and the evil must go unchecked, unless the legislative body shall venture, under a rigid system of inspection, and at little consequent risk of abuse, accomplish a great good.

P. S.—*Jan.* 27, 1843.—I cannot close these observations on this interesting branch of medical jurisprudence, without adverting to the melancholy intelligence, this day received, of Mr. Drummond's much-lamented death at the hands of an assassin. Whether that assassin was sane or insane, is a question already universally mooted; a *question*, which, however great our horror at the deed, will no doubt be decided by a British Judge and Jury, calmly and deliberately, and "without any such outrage on justice" as occurred in Bellingham's case (see pages 37 and 8).—There is such a singular identity in some of the circumstances attending

the assassination of Mr. Perceval, Mr. Sneyd, and Mr. Drummond, together with all apparent absence of any *personal* or *special* motive, as would lead to a suspicion at least, that the assassins were acting under a similar impulse. But though it were even admitted that all three were insane, does it thence follow that their insanity was of such degree and character, as should render them irresponsible for their acts, and consequently exempt them from punishment? This is a question of the deepest importance, and one which has never yet been fairly met and decided by a British Court of Justice, as it ought to be on the first legitimate opportunity.—That opportunity has now most probably presented itself.

W. H.

THE END.