A letter to the chairman of the committee appointed to inquire into the state of the pauper lunatics in the county of Middlesex : to consider the propriety of extending the provisions of 14 Geo. III., cap. 49. to pauper lunatics, and of the consolidation of all Acts relative to lunatics and to lunatic asylums, and of making further provision relative thereto / by a member of the committee.

A LETTER

TO THE

CHAIRMAN OF THE COMMITTEE

APPOINTED TO INQUIRE INTO THE STATE

OF THE

PAUPER LUNATICS

IN THE

COUNTY OF MIDDLESEX;

TO CONSIDER THE

PROPRIETY OF EXTENDING THE PROVISIONS OF 14 GEO. III., CAP. 49, TO PAUPER LUNATICS,

AND OF

THE CONSOLIDATION OF ALL ACTS RELATIVE TO LUNATICS AND TO LUNATIC ASYLUMS, AND OF MAKING FURTHER PROVISION RELATIVE THERETO.

BY A MEMBER OF THE COMMITTEE.

LONDON:

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LETTER.

London, March 22, 1828.

SIR,

THE two Bills you have introduced to amend the Laws relating to the Treatment and Care of Insane Persons have been already read twice, and have been once discussed in a Committee of the whole House, with no material opposition. Although I am sensible that many of your provisions are calculated to accomplish most necessary and important benefits, yet, as I have the misfortune not altogether to concur with you, and as no person has yet stated what, in my view, are the objections to which your measure is exposed, I hope I shall not be thought presumptuous for now communicating to you, in this form, a few notes, made on perusal of the bills.

These two bills are entitled, "A Bill to amend and consolidate the Laws relating to the Erection, Maintenance, and Regulation of County Lunatic Asylums, and to the Care and Maintenance of Lunatics, being Paupers or Criminals in England;" and "A Bill to regulate the Care and Treatment of Insane Persons." For convenience of reference I shall designate the first as Bill A—the other, as Bill B.

The County Asylums contemplated by the Bill A, and the Licensed Houses referred to by the Bill B, are both intended for the care and safe keeping of individuals similarly situated. There is, however, this intended difference between them. In the Bill B, the reception of private patients seems to be considered as forming the rule, and pauper patients the exception; whereas, in the Bill A, the reception of pauper patients is the rule, and that of private patients the exception. When the county asylum is more than sufficient for the accommodation of pauper and criminal lunatics, private patients are to be admitted; and where there is no county asylum, the pauper lunatics are to be sent to the licensed houses. It appears, then, the difference contemplated by these bills, refers not to the circumstances of the lunatics, but only to the proportions in which these different establishments will be occupied by pauper and private patients. It is, however, very possible, that these proportions would, in many instances, be reversed. From the greater vigilance and repute which may belong to county asylums, in populous towns and districts, they might be resorted to from all parts of the country; while, in some of the poorer or more distant counties, it might hardly be found expedient to establish county asylums, so long as the pauper lunatics could be received at less expense in private institutions. You are there-

fore to be understood, in both your bills, as legislating for the same classes of individuals: and it is, perhaps, to be regretted that the whole of your provisions should not have been comprised in one bill. In both bills, your aim is to throw the protection of the law around these persons; and there should be as much unity of principle as of purpose in your enactments. But I am afraid it will be the effect of your bills to subject these same classes to different regulations, determinable only by the accident of their being sent to a county asylum, or a private establishment. Important legal protections are afforded to private patients, in licensed houses, with which they are not provided in county asylums; and pauper patients and all others will be liable to become more insecure in county asylums than in licensed houses.

With respect to licensed houses, you propose that, in London and Westminster, and within Middlesex, the Secretary of State should appoint so many commissioners, of whom a certain number are to be physicians, who are to act as visitors; and that, in all other places, the Justices of the Peace should, at the Quarter Sessions, appoint certain other visitors, to act within their jurisdiction; and salaries in each case are to be appointed for the medical commissioners and visitors. These commissioners and visitors are required, so many times in every year, on such days and at such

hours in the day or night, and with or without such notice, and for such length of time as they shall think proper, to inspect these establishments, and to examine the persons confined therein, in such manner as they shall see fit. They are empowered to summon witnesses under penalty to attend before them, and to examine on oath. They are further required to make minutes in writing, which are to be embodied into a signed report, as to the state and condition of these houses, as to the care of the patients, and all such other particulars as they shall think deserving their notice. They are to transmit to the Secretary of State a full and complete report upon these points, distinguishing, moreover, such patients as have been found lunatic or of unsound mind, under a commission issued for that purpose by the Chancellor.

It is provided that, within three days, notice shall be given to the commissioners and visitors of the admission of every patient; that the admission shall be registered; and that the register shall be open to the inspection of any person bearing an order from a commissioner or justice of the peace. Persons may require to be informed whether any person is or has been confined in the house. Minute arrangements are made for the due medical superintendence of the patients. Every patient is to be visited; the state of their health and the condition of the

house is to be reported to the proprietor; a journal is to be kept, in which is to be entered the date of medical attendance, with observations, general, and respecting patients under coercion; the nature, degree, and duration of such coercion: the whole to be signed by the medical attendant, and to be regularly laid before the visiting commissioners or justices for their inspection. Provision is also made for religious assistance to the patients. These wise, humane, and necessary provisions are framed to meet particular abuses which have repeatedly been detailed in evidence, and proved to exist, as well in public and charitable institutions, as in private establishments; they are equally applicable to all insane persons, whether private or pauper patients,—whether confined in a licensed house or a county asylum. They must, every where, be read with approbation. Why, then, are they only to be law for licensed houses? Not one of them has found place in your regulations for county asylums.

No lunatic, not being a parish patient, is to be received into a licensed house without an order under the hand of the person who directs the confinement; in which order is to be stated the degree of relationship, or other circumstance of connection, between the latter and the insane person; the name, age, place of residence, former occupation, date of the commencement of illness,

and the asylum (if any) in which he has been previously confined, and whether he has been duly found a lunatic or of unsound mind, under a commission issued by the Chancellor. A certificate, signed by two physicians or surgeons, or licensed apothecaries, stating that the insane person is a proper person to be confined,—and the two separate days on which such person has been examined; three days being required to intervene between the respective examinations.

The evidence taken at different times before the Committee of the House of Commons, and the works of individuals who have turned their attention to the treatment of lunatics, abound with shocking instances of individuals improperly confined in madhouses; and when I come to examine the above provisions, I will explain why I think them insufficient. But let it be supposed they are in all respects eligible. How, then, can we approve the facility with which any person may be committed to a county asylum? Your bill only requires, for this, the certificate of one medical man, and an order of one visiting justice. If the evidence taken proves anything, it proves the great facility with which medical certificates are to be obtained. The whole security, indeed, must be looked for in the single justice, who possibly may be supine, indifferent, or deceived, or directly interested. If this is not an improper facility, why all the

restrictions in the other case? If such restrictions are necessary, why the relaxation which follows?

Again, with respect to the pauper lunatics;—for an overseer to place them in a county asylum, it is only necessary to obtain a written order, according to a form presented by the bill, from two justices, acting with medical assistance. But to place them in a licensed house, besides the order from the justices, he must have, also, a regular certificate from the medical person who was called to the assistance of the justice; or the certificate of admission may be signed by one medical practitioner, and the rector, vicar, or curate, and one of the overseers. There is here, though to a somewhat less extent, a similar inconsistency of principle. It is also remarkable that, in both these instances, the admission regulations are relaxed with respect to county asylums, which it is proposed to leave entirely without the securities provided for licensed houses in a well regulated system of visitation, and otherwise.

In the case of licensed houses, a transcript of such part of the report of the visitors or commissioners as refers to patients placed in the establishment under a Chancery commission, is to be sent periodically to the Chancellor. Thus, it would be detected if any individual, being, or alleged to be, so circumstanced, had been improperly placed

there. No proposition is made for this security with respect to county asylums.

Perhaps no one security against abuse can afford better ground of hope than a well regulated system of inspection by visitation. For this, however, we have seen your Bill A does not attempt to provide. It is true that what is called a committee of visitors is to be chosen out of the justices, and with an occasional addition of subscribers for the building, erection, and management of the asylum; and it is but justice that the general direction should be in the representatives of those who are assessed for the costs. But there is no reason why the personal comforts, legal rights, and moral and physical treatment of the patients should not be to the utmost secured by law, and subjected to the occasional inspection of magisterial and medical visitors, who would not perform the office under influence of those prepossessions or peculiar habits of mind almost necessarily engendered by frequent communication with the agents of the establishment. The visitors now appointed by both acts are to be chosen from the same constituent body. Why then should not the visitation provisions of Bill B., of which I have given an abstract, slightly modified, be made to apply to both descriptions of institutions. The same visitors might be appointed for the inspection of both under one expense. The same machinery would be put in action to prevent

abuses in both establishments. Uniformity in practice would be secured, not only in the same county, but throughout the whole country; and the name, circumstances, and situation of every lunatic patient in the kingdom would, at once, be brought, without additional expense, under the review of the proper authorities, and would be accessible to every interested party, whenever it was proper they should become so. We now recommend the erection of county asylums throughout England, and this is the only opportunity we can have for attaining this most valuable uniformity. At all events, I cannot foresee the difficulty of appointing duties to such visitors as are to be elected under Bill A, similar to those imposed on the other visitors.

It will hardly be urged, as an answer to my objections to Bill A, that the magistrates have the power to enact suitable regulations for themselves. It must be plain, that it is our first duty to secure to men so utterly helpless as lunatics, the utmost protection the law can afford. The attention of the public has been aroused by the recent exposure of a private establishment. But, in legislating, we should not forget the enormities which, on a former inquiry (1815—16), were proved, in a yet more shocking degree, to have disgraced public institutions, under the control and management of gentlemen, who, in rank, talent, respectability, and good feeling, were certainly

not inferior to those committees of magistrates, on whom your bill would devolve the uncontrolled conduct and management of the county asylums. The establishment at York was visited by magistrates, by gentlemen of rank and fortune, by the archbishop, before the horrors of its proceedings, and its secret dungeons, were discovered. Old Bethlem numbered among its governors names of the very first respectability, and was supposed to be well conducted, almost up to the hour when facts were disclosed that struck terror into the whole country. In the writings of that day we find that security for the future was anticipated, from the loud indignation that attended those disclosures. Yet, in no less than twelve years, scenes have been again revealed, worthy to rank with those to which I have been alluding. As these exposures become matter of history, generations arise who are ignorant of the facts connected with them, and to whom, therefore, they are no example.

The zeal, and spirit, and activity with which associations of men are first formed, though for the best of purposes, too often decline. There is commonly but a feeble succession; and often they die with the founder, if they survive as long. There is no security against danger, unless a system be invented that shall work itself; and to exclude discretion where you can, is a first condition of success. The tendency, on the part of the keepers

of an asylum, to abuse their trust, must always be counted upon. Their minds are corrupted by their great powers, and the scenes in which they live, while the temptations to abuse recur for ever. Experience shows, of all things, detection is most difficult and uncertain. The only chance of exemption from great abuse is in a system of inspection, frequent, vigilant, irregular, and inevitable. In county asylums, you have omitted to provide for this. If the magistrates fail to do it, who is responsible? No individual. The majority may not think fit to provide for due visitation. It is highly improbable they should. At least they may be as divided in their opinions as in their responsibility: and possibly there may be future cases, where abuses will, unknown, proceed, till some happy accident again occurs to explode the system.

I have now endeavoured to trace the dangers of the omissions in Bill B, and to mark the inconsistencies of the bills, the one with the other. If I am right in my views, the bills might be amended in the Committee; and such amendments would render the law far less complex than at present I think it likely to prove.

I come next to the considerations connected with the liabilities you would enact relative to the property of certain lunatics. They involve questions of great delicacy and importance. I have been told, the clause in the Bill A, to which

I shall first refer, has been taken verbatim from an act now to be repealed. But, new or old, I do not suppose that, after your attention has been directed to it, you will suffer your bill to remain disfigured by what seems, at least to me, absolutely rude and preposterous in principle. The justices, on committing an insane person to the asylum, are to inquire whether such person has "an estate *more* than sufficient to maintain his or her family;" in which case they are to order "the overseers or churchwardens of any parish or place where any goods, chattels, lands, or tenements of such person shall be, to seize and sell so much of the goods and chattels, or receive so much of the annual rent of the lands and tenements of such persons, as is necessary to pay the charges of removing, maintaining, and *curing* such insane person, accounting for the same at the next quarter sessions." Now, in the first place, suppose the lunatic should be incurable: it would then, by the wording of this clause, be required of the overseer or the justice to determine what would be the probable cost of "curing" an incurable lunatic, and to seize and sell accordingly. This would impose a grave responsibility even upon the colleges of surgeons and physicians united, and certainly pre-supposes uncommon skill in justices and overseers. I would, however, seriously bring to your notice the heavy objections to which this clause is liable. It is not

even binding on the *justice* to determine how, or in what proportion, the property is to be seized; it may rest with the officer of inferior rank, the overseer, to determine this. He would then be admitted to a formidable range of interference with the rights of private property: such room is allowed for the operation of sinister interests, that they must be called into action. But, suppose a case where a patient is even plausibly deemed incurable, the calculation of his expenses would then be made on his life; he recovers, and finds his property gone,—sold to a disadvantage; the estate charged with all expenses, and the proceeds, if any, sufficient only to maintain him in a degraded station of life. Yet this is comparatively a favorable supposition; no jobbing,—no cheating or trickery,—no petty or vexatious tyranny, is here taken into account. How many cases more cruel must immediately suggest themselves. Such misfortunes are truly lamentable, when really beyond the reach of the law's correction; but it would be intolerable that the law itself should promote them.

With respect to lunatics charged with offences, you would enact, that where the patient is possessed of "*sufficient* property" for his maintenance, it is to be taken as in the other instance. But, in the section quoted, it must appear to the justice, that the lunatic possesses "*more* property than is sufficient to maintain *his or her family*," before

the right of seizure and sale can accrue. Neither section lays down any rule by which the sufficiency or insufficiency of property for such purposes is to be ascertained. Nor are these purposes very clearly defined. Justices may as much differ from each other, as to what is sufficient to maintain the family of the patient, as would overseers with respect to the amount necessary for curing an incurable lunatic.

By both enactments, the *sufficiency* of the property of the lunatic for their respective purposes, is made a condition *precedent* to the seizure and sale:—in the one case, it must be *more* than sufficient to maintain his *family*;—in the other, *sufficient* to maintain *himself*.

It is almost impossible to say when, under these regulations, the right of the public would accrue. Suppose, for instance, the whole value of a criminal lunatic's property to be equal to the purchase of an annuity for his own life, amounting to one-half, or to any greater sum, short of the *full amount* necessary for his maintenance. Under the words "*sufficient* estate," could such *in*sufficient property be taken? My exceptions, however, to these enactments, as you will have seen, are not merely technical. No regulation is laid down as to whether the sum to be raised is to be annually levied, or whether the whole interest of the lunatic is at once to be sold; neither is it provided what is to be done with the surplus. These

suggestions may hardly convey an adequate idea of the difficulty of protecting the property of these individuals, and yet satisfying the demands of justice; but they must surely prove, that we shall be most remiss in our duty, if we evade the task, and leave individuals to fit themselves with rules and restrictions, while they are dealing with the property of the most helpless of human beings. These regulations take in all insane persons, who are not either actually paupers, or wealthy enough to encounter the expenses of a Statute of Lunacy. In short, they include all, except the highest and lowest classes of society; and if your bill pass, as at present, the law will place them on the horns of this awful dilemma—a Statute of Lunacy,—or, arbitrary disposal of property, by an individual.

No person is better acquainted than yourself with the numerous and atrocious instances that have transpired, of the improper commitment of individuals to madhouses; and I am persuaded you will concur with me, that there is no danger with respect to which the law should be more circumspect. The medical profession comprises every variety of character, from those who are the ornaments of their country as of their order, down to those who, in reference to this very point, have shown themselves venal, or negligent, or mischievously whimsical;—and, that the love of ease or the hopes of gain have

too often rendered the connections of lunatics both cruel and rapacious, is not less notorious. It seems, then, an obvious deduction, that these two classes of individuals ought not to be alone invested with power to commit an individual to a madhouse; and that, where their testimony or authority is received, it should be attended by adequate responsibility. Upon these simple principles I have examined the securities offered by your bills *. But, with respect to licensed houses, I regret to find you propose to vest this power in those two classes of individuals only, accompanied, as regards the medical man, with a mere shadow of responsibility;—as regards the other, the more likely of the two to have interested views — with none whatever.

I have already explained that I conceive the regulations for county asylums, when this power is lodged in one justice and one medical man, to be both insecure and inconsistent with the provisions of the Bill B. Yet, I think, if the provisions of both were made to coalesce, with certain other amendments, real and unobjectionable security might be attained. 1. The friend or relation of the lunatic should sanction with an oath the facts required to be stated in the "order." 2. The supposed lunatic ought to be taken *privately* before the civil magistrate of the parish or county,

* I do not recapitulate, having already had occasion to detail the provisions, p. 6.

and examined. 3. In addition to the written "certificate," the medical man should be examined upon oath, by the magistrate, as to the fact of insanity. 4. The order of the magistrate should accompany the lunatic to the asylum, and become the authority of the keeper for detaining the person of the lunatic, until ordered to be discharged by the authorities mentioned in the bills. By your bill, at present, no penalty attaches to a false statement of facts in the "order" of the friend or connection. The principle of examination by the magistrate is recognized in Bill A; and the pauper patient — the dangerous lunatic — the criminal lunatic, may all be submitted to such examination, before the doors of an asylum can be opened for their captivity; and yet, in a licensed house, a lunatic possessor of property, holding out temptations to unprincipled and designing connections, can be deposited in a mad house, without any other authority than an order from an irresponsible relative, and a certificate from two medical men, substantially, also, irresponsible. The whole country might be searched for medical men to answer a given purpose; but, by incorporating with them the magistrate of the county or parish, you require a third party, offering in himself, as well as in his combination, greater security than the others, the means of selection being more limited. I would likewise extend the responsi-

bility of the medical men. You make it a misdemeanour only where they give a certificate, without having twice seen and examined the lunatic; but satisfy this condition, and let his certificate be false in its statements, malicious in its intention, or injurious in its consequences, and you make it no offence, and appoint no penalty. Sure, a man who would give such a certificate, would observe a condition which in no way interfered with his purpose, and which, nevertheless, would acquit him of any offence. Under your Bill, therefore, they are, virtually, as irresponsible as are the other parties to the commitment, actually and avowedly. The medical certificate should be upon oath, and a form should be set out in the Act. The punishment of perjury would then attach to any false statements of fact in the certificate. A conviction should incapacitate the offender from practising. The offence relates to the professional capacity of the offender: so should the punishment.

There remains only one point more, to which I would solicit your attention. By Bill A, you provide, that a pauper lunatic, found in a parish where he is chargeable as casual poor, is to be passed to the parish where he has a legal settlement. You are, no doubt, aware that the poor rates are already enormously increased by the expenses of removing paupers from parish to parish; even in cases where, from the evidence and

explanations of the paupers, when brought before the magistrates as "casual poor," their places of legal settlement can be ascertained; and where, from their condition, they can be removed without danger, and at but little comparative expense. The case of pauper lunatics is, however, widely different. Their idiocy or lunacy would deprive the examining magistrate of the usual means of information, as to their real place of legal settlement; and it is not impossible that the cunning of lunatics might often lead them to mislead the parish officers, at a great expense, in search of the legal settlement. Such instances have occurred.

The passing of a law for the erection and regulation of lunatic asylums, will, it is to be hoped, cause establishments of this description to be formed in almost every county, with a general conformity of plan and regulation, and a near approximation towards each other in expense*. Where, then, the necessity of these passings and repassings—these fetchings and carryings of pauper lunatics? Why, upon the adjudication of the magistrate of the lunacy of the pauper, chargeable only as casual poor, should not such pauper be sent to the lunatic asylum, or licensed house, within the district, and notice thereof be sent to the officers of the parish to which he belongs? If

* I hope I have already succeeded in showing how this object may be materially promoted.

it can then be ascertained where is his place of legal settlement, he might be removed, by the order and at the expense of his own parish, to an asylum within his own district; or the overseer might be directed to pay the costs incurred by the parish in which the pauper was found, together with the necessary monthly expenses of his maintenance. If, at the time, the legal settlement of such pauper cannot be ascertained, the county in which he was found should defray the charges of maintenance; and if, upon the recovery of the patient or otherwise, the place of settlement becomes known, I would have all such charges recoverable from the parish. Under this regulation, the cruelty and inconvenience, and severe coercion, sometimes necessary with a violent patient, when travelling, might be spared.

I cannot but flatter myself the amendments I have ventured to suggest would promote the end you have in view; and should this happily prove to be the case, I shall feel proud to have contributed, in however trifling a degree, to a work with which your name will always be justly associated with most honorable distinction. I have the honor to be,

Sir,

Your most obedient, humble servant,

ONE OF THE COMMITTEE.

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