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Hood, William Charles, 1824-1870.
Royal College of Surgeons of England

Publication/Creation

London : John Churchill, 1860.

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CRIMINAL LUNATICS.

A LETTER

TO THE

CHAIRMAN OF THE COMMISSIONERS IN LUNACY.

BY

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LONDON:
JOHN CHURCHILL, NEW BURLINGTON STREET.

1860.

LONDON:
WILLIAM BROWN AND CO., PRINTERS,
40 & 41, OLD BROAD STREET.

TO THE

RIGHT HON. THE EARL OF SHAFTESBURY.

My Lord,

As it is probable some measure with reference to the care and management of the Insane will shortly be submitted to Parliament, I venture to lay before your Lordship, as Chairman of the Commissioners in Lunacy, the following observations with respect to the condition and treatment of Criminal Lunatics.

The term "criminal lunatic" is at present indiscriminately employed in relation to two distinct classes of offenders, namely, those who, having been exempted from judicial punishment on the ground of insanity, are thereupon ordered to be detained in safe custody during Her Majesty's pleasure, and those who have become of unsound mind while undergoing punishment for offences committed when sane, and who ought therefore to be termed "*insane convicts*," or "*insane prisoners*." Such are the inmates of the Government part of Bethlehem Hospital, who will in a short time be removed to the State Lunatic Asylum now in course of erection. The criminal lunatic may

be a man of education and refinement brought by the deep affliction of insanity to his present position, or he may be a debased character, a hardened villain, who becomes insane while undergoing the punishment which his crimes have deserved, or he may even be an impostor, feigning insanity to escape prison discipline.

Until lately the provision for each criminal lunatic in Bethlehem was the same : the same accommodation, fare, clothing, and association awaited one and all, the means for classification in the Government wards of the hospital being very imperfect. Recently, however, much has been done to alleviate the hardships of the better classes, by appropriating to their use a considerable part of the general building not immediately required for other patients ; but much still remains to be done which cannot be accomplished here. In the State Lunatic Asylum the evils of the present system may be remedied by means of a better classification of the patients, to some extent, in separate establishments at a considerable distance from each other, and by providing greater opportunities for occupation and healthy exercise.

The insane, or pretended insane, convicts or prisoners may be dealt with in an asylum, but buildings of more than ordinary strength must be provided for them, and more than ordinary vigilance in their superintendence will be indispensable. It is also well known that every impostor amongst them will poison the minds of all with whom he is associated, and if he is sent back to prison will speedily return, followed by others whom he has induced to act with equal duplicity. It is to

the mode in which the first class, those acquitted on the ground of insanity, ought in future to be treated, that I wish chiefly to solicit your Lordship's attention.

It is the privilege of every English subject to be held responsible to the laws of his country only so long as he remains of sound mind ; and the history of a very few years suffices to prove in how many instances offenders tried for crimes repugnant to public safety, morality, or decency, are acquitted on the ground of insanity. In the present state of the law a verdict of this kind involves an award of "safe custody during Her Majesty's pleasure," and a removal as a criminal lunatic under a warrant of Her Majesty to a lunatic asylum. This warrant, however, prescribes no limit whatever to the term of confinement which is to continue during Her Majesty's pleasure, and the return of sanity in no sense implies or necessitates the restoration to liberty.

Some of those who are thus sentenced are guilty of slight offences, others of grave crimes, even murder or attempt to murder. The jurisdiction of the Commissioners in Lunacy might with great advantage be enlarged as regards persons of the former class, namely, those convicted of assault, want of securities, and such like ; and could they be empowered to discharge them on their restoration to reason, on the guarantee of relations or friends that they should be prevented from again disturbing the public peace, a simplicity of procedure would be insured in admirable contrast with the present tedious system.

The method in which the latter class should be

treated, involving, as it does, much anxiety and great responsibility, is a subject which requires the utmost care and thought. Is it safe as regards the public, is it right as regards the individual, that the man who under the influence of insanity has deliberately or impulsively committed an homicidal act, should be again a free and irresponsible agent permitted to wander at will, unrestrained as regards his actions and temptations, and with an aggravated tendency to insanity, if not to crime? The loss of liberty for life is a frightful doom, but is it not better that this should be endured by one than that thousands should be exposed to danger and live in dread? It is true that every patient is not desirous of being discharged—to some, returning sanity brings with it a remorse far more painful to endure than any imprisonment, and the recollection of the past inclines the individual to be thankful for a harbour of safety, and to be anxious to escape from public gaze, and probably the finger of scorn; but to others, returning sanity brings no such reflections, and sanity is hardly established before dissatisfaction at the continued confinement is loudly expressed, hardship and injustice complained of, and, if personal applications for liberty are not effectual, friends, relatives, and members of Parliament are enlisted in an attempt to wrench from the Home Secretary the clemency of the Crown. There is a small class among these who may, perhaps, with a degree of safety be liberated after a sufficient lapse of time—namely, those who have committed infanticide under the influence of puerperal mania, after the period of

childbearing has passed, and the restoration to liberty of such is now, Ibelieve, more frequently sanctioned by the Home Secretary of State than was usual before the subject was so ably treated by Lord St. Leonards. It is for those who come under a different category that some legislative measure is chiefly required, which should define under what circumstances, and to what extent, if at all, they may be discharged. I mean firstly those, who under the influence of mental disease have committed or attempted murder, or other grave offences, and who are liable to such sudden ebullition of homicidal mania that no laws can bind them, and no companion or friend be safe from their attack; and secondly, those who have feigned insanity to escape conviction, and who, through the exertions of astute counsel supported by *ex-parte* medical evidence, have been acquitted of murder, or attempted murder, or other grave offences, on the ground of insanity, but who, nevertheless, through a series of months or years, while subject to the close surveillance of an asylum, evince no symptom of a disordered mind.

It seems hardly right that either of these classes of criminal lunatics should again have unconditional liberty, and is it not desirable that Parliament should legislate on the subject? Restriction need not necessarily involve perpetual confinement in a lunatic asylum, and I would suggest that provision should be made for greater liberty in cases of long continuance to those who are well-conducted, so that their future residence should be rendered less prison-like. Much of the grievance, especially among the orderly and

educated classes, when restored to sanity, arises from the association with the insane and with the uneducated; and this feeling is increased by the prohibition of all exercise beyond the walls of the asylum, the requisite compulsory submission to the rules of the institution, and the almost entire disseverance of all family associations and intercourse. These grievances might, to some extent, be mitigated, by providing for the well-conducted a place of safety, in which some of the comforts and liberties of home are substituted for the discipline of an asylum, and where they would not be shocked by constant association with less favourable cases. Hitherto it has been found impossible successfully to carry out two different systems of treatment in the same establishment.

Leniency of discipline in one department will unavoidably creep into another, in which strict order should be vigorously maintained; and in any asylum in which all classes of criminal patients are maintained, whether State, public, or private, however kind and considerate the manager may be, the routine necessary for the well-being of the whole institution must irritate the feelings of those who feel conscious, erroneously or otherwise, that, apart from the loss of personal freedom, no restraint is requisite, or ought to be imposed upon them. With the exception of cases of infanticide committed in a state of puerperal mania, it is difficult to draw any distinction in acts of dangerous personal violence, if committed during mental aberration; for, in addition to our knowledge that the liability to relapse in the disease is more than fifty per

cent., and the lesson taught by experience, that the reappearance of the disease brings with it the same impulses that have already led to crime, it is not to be forgotten that the restored lunatic, if discharged, re-enters the world as an irresponsible agent; the thoroughly established and undoubted previous attack affording him a passport through any future entanglement, *because* it will be sufficient to induce any jury to give the culprit the benefit of doubt as to his knowledge and appreciation of right and wrong. Few juries would convict a prisoner in whose previous career, residence of months or years in a lunatic asylum is registered, especially if worked upon by the arguments of a skilful counsel.

It is obvious, as the law is at present, there may be a few cases among lunatics acquitted on the ground of insanity, even for offences of a somewhat serious character, which call for a milder course than perpetual confinement, whose release, under the direction of some competent authority, may be permitted, after a sufficient probation in an asylum, on the guarantee of their friends for future safety.

A striking illustration of the inconvenience arising from the course usually pursued towards such offenders is afforded, by a case which was tried before Baron Martin, at the Durham Assizes, on the 6th of March, 1858:—

Thomas Johnson, a sailor, charged with having feloniously, maliciously, and advisedly, endeavoured to seduce divers persons in Her Majesty's 9th Regiment of Foot, from their duty and allegiance to Her

Majesty, Mr. Gifford, the counsel, elicited in his cross-examination of one of the witnesses, a statement of his belief that the prisoner was insane at the time he committed the offence. After some legal questions were settled, the judge intimated that the jury must either find the prisoner guilty, or acquit him on the ground of insanity, and suggested that it would be better that the plea of insanity should be withdrawn, as under a verdict of this kind, the prisoner might be confined for life. This recommendation was adopted, and the prisoner, on being found guilty of the offence, was sentenced to one month's imprisonment. Had it not been for the thoughtful and kind interposition of the judge, under the present law, Thomas Johnson would, in all probability, have been detained as a criminal lunatic for life, instead of a prisoner for one month; since no Secretary of State would have ordered his discharge from a lunatic asylum, unless he was first certified to be of sound mind: a result not to be expected, as the prisoner had been all his life a weak and silly man. Considerations of humanity and economy should alike prevent imprisonment for life under such circumstances, for while it is an exaggerated punishment for the offender, it is also unfair that the tax imposed for his support in the State asylum should be thus unnecessarily borne by the country.

The question arises, how is this to be altered? I would suggest, whenever insanity is set up as a defence, the trial of the prisoner for the offence with which he is charged, whatever may be the stage at

which it has arrived, should be postponed, until the state of the prisoner's mind at the time has been made the subject of inquiry, at the same or some following session or assize, as the case may be, and as then shall be directed before an ordinary jury, whose verdict of insanity, if such it shall be, shall in all cases be recorded by the Court as an answer to the previous indictment. It seems, indeed, altogether inconsistent and contradictory to allow a prisoner to allege that he did not commit the offence for which he is charged, and that when he did commit it he was of unsound mind; yet both these grounds of defence are admissible under the plea of Not Guilty.

Several advantages would ensue by thus making it essential that insanity, as a defence, should be offered in a distinct and independent shape, such as is suggested; and it must be obvious that some such provision is necessary, for when a man's mental capacity to take care of and manage his property is to be tested, a special jury is summoned under the Great Seal, and some of the most delicate points of psychological science are carefully examined and weighed; but in a case of far more momentous character than the loss of property, when, indeed, human life is at stake, the same jury which has been impanelled to try a case of simple larceny, is often called upon to decide whether a prisoner is or is not so far incapable of distinguishing right from wrong as to warrant an acquittal on the ground of insanity—the prosecutor having in general no previous notice that insanity will be set up as a defence, and, consequently, being

wholly unprepared with witnesses to rebut the evidence by which it is attempted to be established. Again: it seems proper that some statutory provision should be made whereby those prisoners who become insane before trial, or are found upon arraignment to be of unsound mind, might, upon recovery, be duly tried, and disposed of according to law, without leaving the responsibility of advising prolonged imprisonment or immediate discharge to the Secretary of State for the Home Department.

The following case will perhaps show the necessity for some such enactment:—D. D. was indicted for murder at the Worcester Assizes, 1852, and being found insane at the time of arraignment, was without delay removed to a lunatic asylum. In the summer of 1856, having recovered from the mental disease, he claimed to be tried for the offence with which he was charged, and, being found guilty of manslaughter, was sentenced to two years' imprisonment. This term of punishment he underwent, and at the end of the period was discharged. Had insanity been successfully set up as his defence, either on the first or second occasion, his loss of liberty for life would, in all probability, have been the penalty, but by the course he adopted, the annual expense of his maintenance for many years is saved to Government, and the severity of a life-long confinement is avoided. Such a course as that now suggested would also lead to the detection of many cases of feigned insanity, and so far release the asylum from the custody of men, such as in many instances are now detained therein,

the greater part of whose lives has been spent in prison, whose moral characters are infamous and debased, and who would gladly sacrifice the life of any officer or attendant, to give a colour to that pretended insanity which has been too successfully assumed. The following will suffice to show the necessity for some provision to meet such cases:—J. F., while awaiting transportation, as a convict in Millbank Prison, in the year 1849, murdered one of the warders; on his trial he was acquitted on the ground of insanity, and being ordered to be detained during Her Majesty's pleasure, was removed to Bethlehem Hospital. His conduct in the hospital has been uniformly bad, and if any of his wishes are opposed, he threatens either attendants or fellow-patients with violence, and has twice nearly murdered those who were placed over him. He sets all his attendants at defiance, and takes the earliest opportunity to induce any fresh inmate to follow his example. He has spent most of his life in prison, and is known to be a worthless and depraved man. Not having shown any symptoms of the mental disease on which ground he obtained his acquittal, repeated applications were made by the authorities of Bethlehem Hospital to the Home Office for his return to prison. These resulted in an order to transfer him to Millbank; but after remaining there three months, the Governor of the prison obtained a warrant for his return to the hospital, not because he was insane, *but because being neither a prisoner nor convict*, the authorities had no power to detain him in a prison, consequently he continues

an inmate of an institution in which gentleness and kindness are of the utmost importance for the well-being of the patients; and although his character is depraved, his example pernicious, and his antecedents exhibiting him as a savage murderer, and the worst possible type of humanity, his acquittal and subsequent sentence to be confined during Her Majesty's pleasure, prohibit his detention in prison, while his conduct requires that the general *morale* of the hospital shall be invaded and deteriorated by a stern discipline, very similar to that of a criminal gaol, which is indispensable in such cases.

J. P., an expert thief, well known to the police authorities of London and the west of England, was associated with a gang of similar characters in the metropolis during the summer of 1857, and, being seized with delirium tremens, was taken charge of and placed in the Westminster Workhouse: he there committed murder, for which he was tried and acquitted on the ground of insanity. A warrant of Her Majesty provided for his safe custody, and he was removed to Bethlehem Hospital. At the time of his reception he was sane, and has shown no symptom of insanity up to the present date. He is still an inmate, but an ordinary lunatic asylum is no place for such a character, who, on eleven previous convictions for felony, had been as many times confined in prison. His vicious tendencies are unimpressible by either advice or kindness; yet though perfectly sane, the doors of every prison are closed against him, and he must remain a tenant of the lunatic asylum, where

he produces constant anxiety to those who have the charge of him.

C. B. W., in February, 1856, murdered a gentleman in Bedford-row. Medical evidence was produced at his trial which proved that he was, and had been for a considerable period of unsound mind, but he was, nevertheless, found guilty of murder and sentenced to penal servitude for life. From Millbank Prison, where his insanity was undisputed, he was removed to Bethlehem Hospital, and the character of his disease leaves little doubt but that he will continue all his life a proper inmate of a lunatic asylum.

If these three cases did not prove all that is necessary, more could be adduced. In the *first two* the men having been, though doubtless guilty of murder, simply ordered to be detained during Her Majesty's pleasure, are for the remainder of their lives, unless restored to freedom, to remain in a lunatic asylum, whatever may be their mental condition or moral character, unless restored to freedom by the Secretary of State, who can deal with them only in this manner. The *third* will have the care and treatment of the asylum so long as his mental disease continues, but should he become sane, the Secretary of State has the power either to remove him from the country, or should his vicious tendencies continue, he may without any legal difficulty be transferred to a prison, where the arrangements are in harmony with the character of the inmates.

These inconveniences might be easily remedied, if instead of acquitting a prisoner on the ground of

insanity, "the crime being proved," he be ordered to be kept "in safe custody until discharged as the law directs;" for by this course his liberation or his residence in a prison or lunatic asylum would be regulated by his antecedents, as well as his mental state, and general conduct.

During the seven years from 1852 to 1858, inclusive, 120 prisoners charged with murder, attempt to murder, or personal violence, have been acquitted on the ground of insanity, of whom 79 were received into the criminal establishment of Bethlehem Hospital. In several cases no symptom of insanity has been evinced during the period of residence in the asylum. This statement must, it is anticipated, invite the question, If not insane, why were they acquitted? The answer to this inquiry must be that the jury acted upon the evidence of the medical witnesses, who had formed erroneous opinions of the cases. If this be a fair conclusion, we are led to inquire whether the evidence of medical witnesses, "experts," as they may be in insanity, is always sure guidance to a jury. It is believed that the majority of the medical profession object both to the mode in which evidence is now procured and now given in criminal cases; the solicitors for the prosecution and defence seek medical testimony not to elicit the truth, but to obtain a verdict for their respective clients. Physician is pitted against physician, and surgeon against surgeon, while "specialists" (a modern and very undesirable *sobriquet*) are supposed to bring with them the clenching evidence produced by concentrated study or particular

aptitude, and all this difficulty is increased by cross-examination, which endeavours to reduce to the narrow limits of a mathematical problem the reasons for ever-changing pathological conditions.

In criminal cases where the plea of insanity is to be advanced, the medical practitioner, unless he has been previously in attendance upon the prisoner, has seldom a sufficient opportunity of testing the mental condition of the accused. A few hours, perhaps less, are all that is allotted, and he is hurried into the witness-box to state before a learned judge, an astute and adverse counsel, and a perplexed jury, the ground of the opinion he has formed, usually involving some of the most delicate questions of psychological science.

If the opportunities for arriving at an opinion were increased, the remedy would be to some degree provided; but, *nolens volens*, the evidence sought from him, except by cross-examination, is only such as will benefit the case of the counsel who examines him in chief. I could instance cases of great difficulty, and in a question in which very few men were capable of giving an opinion at all, in which particular medical men were retained, not for the purpose of giving evidence, but in order to prevent their experience and knowledge being made available by the opposite side; as a large retaining fee is often given to an eminent counsel, only to exclude the possibility of his taking part with the opponent. Sometimes the public are satisfied, sometimes irritated, at the result. Two cases, selected from a number, will perhaps explain this. Had the jury and the public been able at the

time of the trials to look into the future of the respective cases, the verdict in the one case would not have been unjustly impugned ; and, in the other, better opportunity would have been afforded to the medical gentlemen who were called upon to give opinions.

M. B. was tried at Guildford in August, 1854, for the murder of six children ; the principal medical witness, who had had great experience in cases of lunacy, and obtained a considerable popularity as connected with the treatment of mental disease, stated, that in his opinion the prisoner was of unsound mind, and entered into a scientific explanation of the evidence of insanity. The accuracy of this opinion was not challenged by the prosecution ; nevertheless, the jury consulted two hours before they could agree to acquit the prisoner of legal responsibility, by a verdict which was afterwards severely commented upon by the press, and ill-received by the public. Time, however, has proved the accuracy of the medical diagnosis ; the most incredulous juryman would be now convinced, and the greatest stickler for retributive justice would admit, could they now see the unfortunate woman, that instead of the gallows being cheated of a victim, her execution would have been a faint echo of her crime. It appeared upon the trial, that only twenty-four hours before she killed her children she was in a composed and rational state of mind. The jury very properly hesitated before accepting a statement that twenty-four hours could work so frightful a mental change ; but had the trial been postponed, the oppor-

tunities for increased medical surveillance would have given the medical testimony greater weight, and would have prevented that erroneous impression which was formed by the public. There can be no doubt but that the prisoner was most justly acquitted, for the disease, of which this frightful tragedy was the manifestation, had then commenced.

J. A. was tried at York, in December, 1858, for murder. Three medical witnesses of considerable reputation formed an opinion, after two hours' interview with the prisoner, whom they had never seen before, that he was insane, and an irresponsible agent. It is not necessary to go into the evidence given, undoubtedly, with all the solemnity and consideration that the case deserved; but the conclusion arrived at by those gentlemen in so short a space of time, and which influenced the jury in their verdict, was opposed to the prisoner's previous life, and most diametrically at variance with his mental state and general conduct from the close of the trial to the present date. He is a shrewd, designing, bad man; and had either of those medical gentlemen who gave their evidence had a prolonged opportunity of testing his real character, they neither could nor would have sanctioned, by the weight of their testimony, a plea of insanity—which was unfounded in reality, and unjust and dangerous to society.

While referring to the disadvantage of granting unconditional freedom to any who have committed murder, I might perhaps have strengthened my statement of the liability to relapse, by recording the

experience of the past twelvemonth; but it is unnecessary, as the unsatisfactory career of some who have been thus discharged has been already brought under your Lordship's notice.

The following is a summary of the suggestions with respect to changes in the law which I venture to submit for your Lordship's consideration.

1stly.—That the several statutes relating to criminal lunatics be repealed, and that a new statute be passed re-enacting the valuable parts of each, and enacting new clauses to meet the requirements, for which no sufficient provision has yet been made.

2ndly.—That the following, or others of similar tendency, be clauses in the proposed new Act:—

1st.—That if any person, while imprisoned in any prison or other place of confinement, under any sentence of death, transportation or imprisonment, or under a charge of any offence, or for not finding bail for good behaviour, or to keep the peace, or to answer a criminal charge, or in consequence of any summary conviction or order by any justice or justices of the peace, or under any civil process, shall appear to be insane, it shall be lawful for any *two* justices of the peace of the county, city, borough, or place where such person is imprisoned, to inquire, with the aid of two physicians or surgeons, or one physician and one surgeon, as to the insanity of such person.

2nd.—And if it shall be duly certified by such justices, and such physicians or surgeons, or physician and surgeon, that such person is insane, it shall be lawful for one of Her Majesty's principal Secretaries

of State, upon receipt of such certificate, to direct by warrant under his hand, that such person shall be removed to such county lunatic asylum, or other proper receptacle for insane persons, as the said Secretary of State may judge proper and appoint; and every person so removed under this Act, or already removed, or in custody under any former Act relating to insane prisoners, whether repealed or not, shall remain under confinement in such county asylum, or other proper receptacle as aforesaid, or in any other county lunatic asylum, or other proper receptacle as to which such persons may be removed, or may have been already removed, or in which he may be in custody by virtue of any like order, until it shall be duly certified to one of Her Majesty's principal Secretaries of State by two physicians or surgeons, or one physician and one surgeon, that such person has become of sound mind.

Whereupon the said Secretary of State is hereby authorised, if such persons shall still remain subject to be continued in custody, to issue his warrant to the keeper or other person having the care of any such asylum or receptacle as aforesaid, directing that such person shall be removed back from thence to the prison or other place of confinement from whence he or she shall have been taken, or if the period of imprisonment or custody of such person shall have expired, that he or she shall be discharged.

3rd. If any prisoner shall appear on arraignment or during trial to be insane, or if on the trial of any prisoner evidence be given that such prisoner was

insane at the time the offence with which he or she is charged was committed, it shall be lawful for the court before which such prisoner is arraigned, or being tried, to postpone such trial if it see fit, and to direct that at the same or some following assize or session, the state of the prisoner's mind be made the subject of separate inquiry before a petty jury; independent medical testimony in every such case being directed by the court to be provided by summons of one or more medical men. And in the event of the prisoner being found by the jury on such separate inquiry, to be insane when arraigned, or during trial, or when the offence with which he or she is charged was committed, as the case may be, then in every such case the prisoner shall be sent to the county asylum or other proper receptacle for insane persons, and be dealt with as is hereinabove provided for persons duly certified to be insane while imprisoned in any prison or other place of confinement.

Provided always, that in the event of the prisoner being found by the jury on such separate inquiry to be insane when arraigned, or during trial, it shall then be further submitted to such jury to inquire and find whether such prisoner was or was not insane at the time when the offence was committed.

And provided always, that no prisoner under sentence of death, transportation, or penal servitude, or charged with any offence for which, if found guilty, he might be sentenced to death, transportation, or penal servitude, shall be sent to a county asylum.

And provided always, that when it shall be duly

certified to one of Her Majesty's principal Secretaries of State by two physicians or surgeons, or one physician and one surgeon, that any prisoner found by jury on such separate inquiry, as aforesaid, to be insane when arraigned or during trial, or when the offence with which he or she is charged was committed, has become of sound mind, it shall be lawful for the said Secretary of State to issue his warrant to the person having the care of the asylum or receptacle as aforesaid, in which such prisoner is confined, directing that such prisoner shall be removed back to the prison from which he or she shall have been taken when found insane as aforesaid, and at the following or some subsequent session or assize, as the court shall direct, such prisoner shall be tried for the offence with which he or she is charged. And if found *guilty* of the offence but *insane at the time of committing it*, the certificate by the proper officer of the court of the finding of the jury on such separate inquiry, as aforesaid, that such prisoner was insane at the time the offence was committed, being admissible in court in full proof of the fact certified, then, and in every such case, the court shall record the sentence that would have been passed if the prisoner had been found guilty of the offence, and not insane at the time of committing it. And when said sentence would have been passed for a definite period, and the prisoner shall have been confined in an asylum, or other receptacle, as aforesaid, for at least as long a period in consequence of having been found insane on a separate inquiry, as aforesaid, then and in every such

case it shall be lawful for the said Secretary of State to direct that such prisoner shall be immediately discharged ; and when the prisoner shall not have been confined in an asylum or other receptacle, as aforesaid, for so long a period as the period of sentence, then, and in every such case, it shall be lawful for the said Secretary of State to direct by warrant under his hand, that such prisoner shall be removed to such prison or to such asylum or receptacle, as aforesaid, there to be confined for so long a period as shall, together with the period during which he has already been confined in an asylum or other receptacle, as aforesaid, make up a period not less than the period of the sentence.*

And provided always, that all and every the prisoners now in any asylum or receptacle for insane persons, as hereinbefore stated, under the provisions of any of the statutes hereby repealed, shall remain in such asylum or receptacle, and shall be dealt with as if placed in such asylum or receptacle under the provisions of this Act.

4th. And be it enacted, that in all such cases as aforesaid, unless one of Her Majesty's principal Secretaries of State shall otherwise direct, it shall be lawful for such two justices, or any other two justices of the

* *Under this arrangement, prisoners of this kind found guilty, not being insane at the time of committing the offence, and being recovered at the time of trial for the offence, will be sentenced as prisoners found guilty not having been insane ; and prisoners of this kind found guilty of murder or any offence for which the sentence of death or imprisonment for life would have been passed, will remain in confinement in a prison, asylum, or other proper receptacle for life.*

peace of the county, city, borough, or place where such person is imprisoned, to inquire into and ascertain, by the best evidence or information that can be obtained under the circumstances, of the personal legal disability of such insane person, the place of the last legal settlement, and the pecuniary circumstances of such person.

And if it shall not appear that he or she is not possessed of sufficient property which can be applied to his or her maintenance, it shall be lawful for such two justices, by order under their hands, to direct the overseers of the parish where they adjudge him or her to be lawfully settled, or in case such parish be comprised in a union declared by the Poor-law Commissioners, or shall be under the management of a board of guardians established by the Poor-law Commissioners, then the guardians of such union, or of such parish (as the case may be), to pay on behalf of such parish, in the case of any person removed under this Act, all reasonable charges for inquiring into such person's insanity, and for conveying him or her to such county lunatic asylum or receptacle for insane persons, and to pay such weekly sum as they or any two justices shall, by writing under their hands, from time to time direct, for his or her maintenance in such asylum or receptacle in which he or she shall be confined; and in the case of any person removed under any former Act relating to insane prisoners, to pay such weekly sum as they or any two such justices as aforesaid shall, by writing under their hands, from time to time direct, for his or her maintenance in the

asylum or receptacle in which he or she is confined.

And when the place of settlement cannot be ascertained, such order shall be made upon the treasurer of the county, city, borough, or place where such person shall have been imprisoned.

But if it shall appear, upon inquiry, to the said or any other two justices of the county, city, borough, or place where such person is imprisoned, that any such person is possessed of property, such property shall be applied for or towards the expenses incurred or to be hereafter incurred on his or her behalf; and they shall from time to time, by order under their hands, direct the overseers of any parish, where any money or securities for money, goods, chattels, lands, or tenements of such person shall be, to seize so much of the said money, or to seize and sell so much of the said goods and chattels, or receive so much of the annual rent of the lands or tenements of such person as may be necessary to pay the charges, if any, of inquiring into such person's insanity and of removal, and also the charges of maintenance, clothing, medicine, and care of any such insane person, accounting for the same at the next special petty sessions of the division, city, or borough in which such order shall have been made, such charges having been first proved to the satisfaction of such justices, and the amount thereof being set forth in such order.*

* *The reason for this is, that at present criminal lunatics in county asylums are so paid for by parishes or county treasurers, and there appears no reason why the practice should not apply to all.*

5th.—Provided always, and be it enacted, that if any person shall feel aggrieved by any order of any justices as aforesaid, such person may appeal to the justices of the peace at the next quarter sessions of the peace to be holden in and for the county, city, borough, or place, where the matter of appeal shall have arisen, the person so appealing having given to the justices against whose order such appeal shall be made, *ten days' notice* of his or her intention to make such appeal; and the said justices at such sessions are hereby authorized and required to hear and determine the matter of such appeal in a summary way, and to make such determination as they shall think proper, and shall and may also award such further satisfaction to the party injured, or such costs to either of the parties, as they shall judge reasonable and proper; and every such determination shall be final and conclusive to all intents and purposes whatsoever, and no *certiorari* shall be allowed.

6th.—Provided also, and be it enacted, that the overseers of the parish in which the justices shall adjudge any insane person to be settled, or in case such parish be comprised in a union, or be under the management of a board of guardians, then either the guardians of such union or parish (as the case may be), or the overseers of such parish, may appeal against such order to the general quarter sessions of the peace to be holden for the county, city, borough, or place, where such order shall be made, in like manner and under like restrictions and regulations, as against any order of removal,

giving reasonable notice thereof to the clerk of the peace of such county, city, borough, or place, who shall be respondent in such appeal, which appeal the justices of the peace assembled at the said general quarter sessions are hereby authorised and empowered to hear and determine in the same manner as appeals against orders of removal are now heard and determined.

I am grateful for your Lordship's kind permission to place this statement of some of the evils of the present system before you, being sure that the best remedies, if any are possible, will result from your knowledge of the case, and trusting that the subject will lose nothing in your Lordship's hands from the imperfect manner in which it has been brought under your consideration.

I have the honour to be,

My Lord,

Your Lordship's obedient Servant,

W. CHARLES HOOD.

Bethlehem Royal Hospital,

24*th April*, 1860.

William Brown & Co., Printers, 40 & 41, Old Broad-street.