

**Lecture on psychiatric institutions, the Austrian law of Curatel and separate asylums for drunkenness / by Herr Director Schlangenhausen.**

**Contributors**

Schlangenhausen.

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# LECTURE

ON

Psychiatric Institutions, the Austrian Law of Curatel  
and separate Asylums for Drunkenness

BY

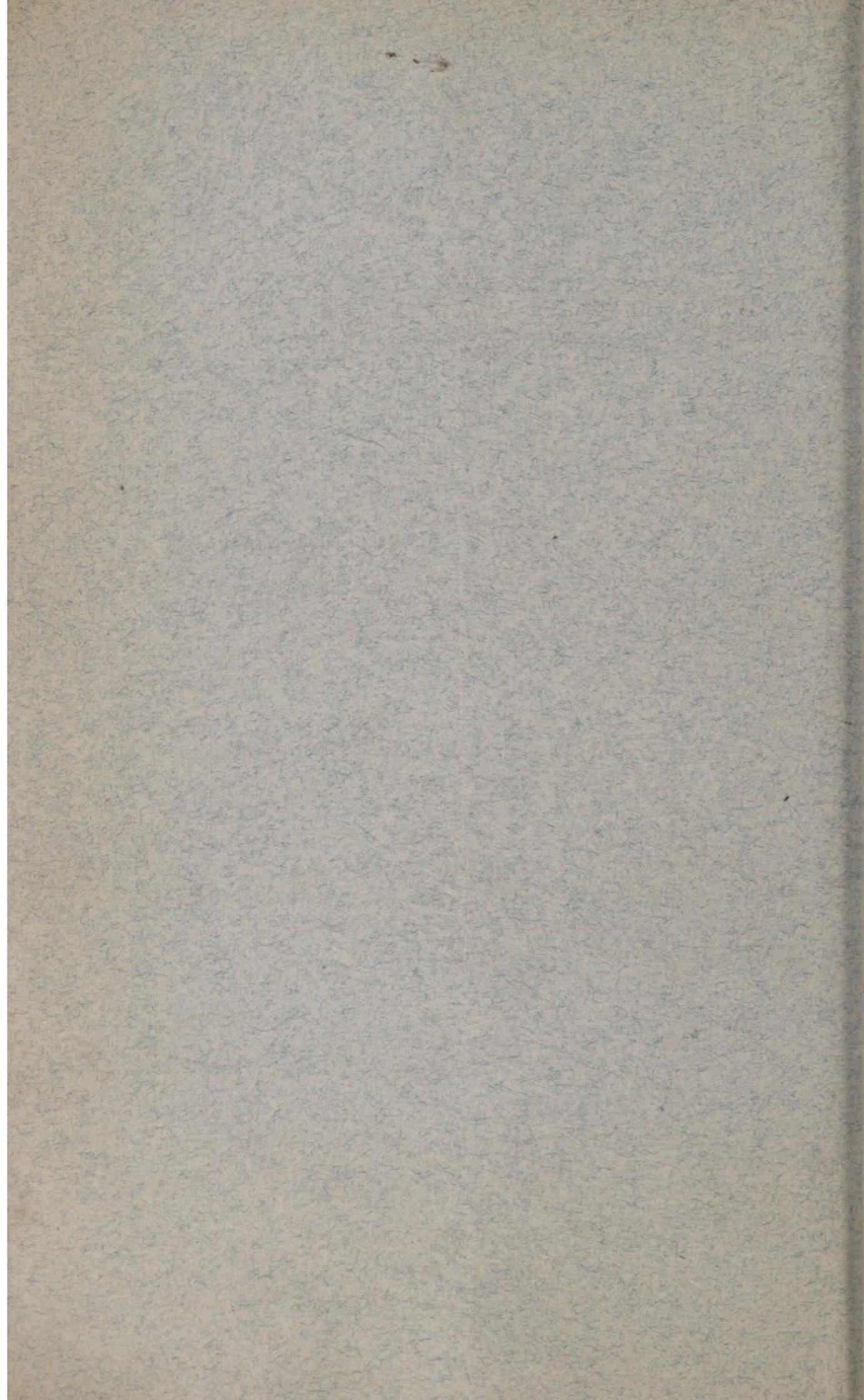
HERR DIRECTOR SCHLANGENHAUSEN

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at 3. p. m.*

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Strand*



# LECTURE

ON

*PSYCHIATRIC INSTITUTIONS,  
THE AUSTRIAN LAW OF CURATEL, AND  
SEPARATE ASYLUMS FOR DRUNKENNESS.*

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EVERY State, and especially rich and highly civilised England, is entitled and bound to make proper provision for the treatment of insane citizens, for their care, and also for the administration of their property. 'A number of cases have lately attracted public attention, either owing to too little protection having been afforded to the sufferers, and to the property of the sufferers, or from the circumstance that these cases have come in conflict with the penal laws, and that all this has been recognised too late after the certification of the patient ; and it is now contemplated so to change, improve and reform the English lunacy laws that cases as above mentioned may very rarely occur, or, let us rather say, may no longer occur.

The enormous number of patients annually requiring treatment in asylums—according to the last statistics, 96,000 in English asylums alone—and the annual increase of insanity in English asylums, amounting to about 2000, together with the unusual increase of *habitual drunkards* (of whom Lord Francis Bacon says, "All the crimes in the world do not destroy so many persons and so much property as drunkenness"), who are treated, although they ought not to be treated, in asylums for the insane, make it abundantly clear that measures must be taken to mitigate these social evils ; and all these circumstances make it necessary to apply now the Austrian law of Curatel, which is very similar to the German *Entmündigungs-verfahren*, i.e., Proceedings in Curatorship.

In the first part of my lecture to-day, I shall explain the Austrian law of Curatel and its practical application to the treatment of patients. In the second part of my lecture, I shall call your attention to the care and possible cure of habitual drunkards, and I shall also endeavour to show in what manner, and by what means, the continual increase of insanity—statistically proved to exist in every civilised country in the world—can be held in check.

### I.

Although the Austrian Curatel system is by no means without defects, I will not criticise those defects to-day; but will merely mention that it is infinitely preferable to the system of lunacy at present sanctioned by law in England. In accordance with the Austrian law of Curatel every person, rich or poor, without distinction of social position, who is suspected of being afflicted with mental disturbance, must, either at the instance of the nearest relatives or of the parish authorities, if such person is being treated at home, or, on the application of the medical superintendent of an asylum, if such person is already in an asylum—be examined by a state commission, consisting of a legal adviser and two specialists in lunacy, in respect to the condition of his mind. I am anxious to accentuate the fact that these two doctors must be specially educated physicians, and must be sworn. If any person be declared irresponsible owing to mental disturbance, on the scientific report of this commission, the court appoints a curator or administrator for such person; and this curator must represent the curatee in all circumstances of life, and must uphold the curatee's rights. If the reasons for appointing the curator are no longer valid, and the person in question recovers his sanity, the Curatel can be annulled on the application of the curator, in accordance with the official report of two specialists in lunacy.

According to my fullest conviction, only physicians

who have received a scientific education in a Psychiatric Institution (i.e. Klinik) and have there practically and, by personal intercourse with insane persons, learned to distinguish between the different forms of insanity, are competent to form a satisfactory and conclusive opinion and to hand in a suitable scientific report in any particular case; but laymen under no circumstances whatsoever can do this, and they must be regarded in the same light as physicians who have not received a special psychiatric education.

Before proceeding to develop the subject, I will ask permission to quote the following paragraphs of the Austrian civil code in accordance with which the Curatel procedure is carried into effect.

Paragraph 21. "Those who are incapable of properly looking after their own affairs on account of . . . mental weakness . . . are placed under the special protection of the law. Among such are included children . . . minors . . . maniacs, lunatics, and idiots who are either wholly or partially incapable of appreciating the consequences of their actions; further, those who, having been declared "spendthrifts" by a magistrate, have been deprived of the administration of their property."

Paragraph 269. Concerning Curatel. "The court has to appoint a curator or administrator, for persons who do not look after their own affairs, and who are unable to defend their rights if such persons are not in the tutelage of their parents or guardians."

Paragraph 270. "This applies to the case of . . . adults who are affected with madness or idiotcy, to declared spendthrifts, deaf-mutes and convicts."

Paragraph 273. "(b) Madmen and idiots. (c) Spendthrifts. Only those are considered lunatics or idiots who are judicially declared to be such after a minute examination of their conduct, and after consultation with the medical officers appointed by the court."

As in the case of minors and deaf-mutes, all persons in

Austria suffering from mental disorders, whether inside or outside of asylums, are under the protection of the law. It is scarcely necessary for me to add that habitual drunkards and persons suffering from brain diseases of some other kind—as, for instance, aphasia, apoplectic attacks, &c.—if declared “irresponsible” on the reports of specialists, are subject to the same procedure.

I will now give the details of the Austrian Curatel procedure from the article published in the ‘Strassburger Anzeiger’ of February last, translated by Mr. Charles Heneage:—

“The Royal Imperial District Court, within the jurisdiction of which the person about to be examined has last resided, must receive notice of the condition of the person in question either from the authorities of the parish where such person considered to be suffering from a mental disorder resides, or from the superintendent of an asylum for insane persons in which such person has been received on the certificate of a government physician or on the certificate of a ‘Psychiatrische Klinik.’ The competent tribunal having received this information, then proceeds to inquire into the state of mind of the person under examination; and calls for the testimony of witnesses capable of giving the necessary evidence respecting the behaviour and mental condition of such person. This inquiry is carried out by a commission appointed by the court, and consisting of a government legal commissioner, of two sworn scientifically educated government doctors, and of a protocolist (secretary to the commission). The written report of the two government doctors must, of course, be drawn up in accordance with the laws of science, and their decision determines whether, and in what manner, the inquiry shall proceed. These medical experts are empowered to inspect all documents in the case; they are entitled to sift and put to the test the evidence of witnesses; they can, if they choose, require an interval of time, short or long, to elapse, in order to examine, as they think fit, the person under

observation, before finally sending in their written report. When the examination has been concluded, and the legal commissioner has appended to the medical report any observations which he may think proper to make, the papers are sent on to the upper court—the Royal Imperial ‘Landesgericht’ or ‘Kreisgericht’; and this court decides whether the Curatel shall be applied in the case, or not. In the first instance, the district court, within the jurisdiction of which the person examined has last resided, appoints the curator. Certain legal proceedings with a view to oppose the application of the Curatel can be taken within a fixed period in the Royal Imperial Upper Provincial Court, or in the Royal Imperial Supreme Court.”

The judicial declaration must be published.

“The necessary procedure for the annulling of the Curatel on the recovery of the sufferer will not be further discussed in this place. Legal ordinances also determine the procedure; and the annulling of the Curatel is carried into effect in a similar manner to the application of the Curatel, namely, on the written reports of two scientifically educated experts.

“Of course, in individual cases, the procedure necessary for the application or annulling of the Curatel may undergo some slight modifications, the details of which would be too lengthy to mention here; but it may be safely stated that practically the whole procedure is, comparatively speaking, quickly carried into effect; and the main point appears to be that scientifically educated physicians are called upon to state in a written report, scientifically drawn up, whether they consider the person under examination to be insane or not; and in the latter case such person—in the event of previous confinement in an asylum—must be immediately discharged and restored to the full enjoyment of civil rights.”

In the former case, should the person under examination be considered insane, his interests are watched over

by the curator, and his property administered by the curator on behalf of the patient, and also on behalf of the patient's family or next-of-kin.

Some preparatory conditions are necessary for the introduction into Great Britain and Ireland of a similar procedure in the interests and for the welfare of all irresponsible persons (i.e., persons of unsound mind and habitual drunkards).

1. The creation of a central authority for the entire system of lunacy applicable to the three kingdoms (England, Scotland and Ireland); and

2. The construction of psychiatric institutions.

I entirely agree with my esteemed friend, Mr. Charles Heneage, in respect to these two national requirements.

1. In respect to the creation of a central authority for the entire system of lunacy in Great Britain and Ireland, I may say that a similar creation for Germany and Austria respectively has always been a "pium desiderium" of all my colleagues and myself; and this central authority should be under the ministry of health, if such a ministry existed; otherwise it should be under the Home Office. Details respecting its sphere of operations cannot be settled beforehand, but I think that its vocation would be that of the highest authority in lunacy matters, namely, to make proposals for the information of Parliament in the matter of lunacy legislation, to advise the ministry in lunacy matters, to regulate the construction and development of psychiatric institutions, &c. In view of the large amount of insane persons in England, inside and outside of the 150 or more asylums, and in the proposed asylums for drunkards, the sphere of operations of this central authority will clearly be very extensive.

2. Construction of psychiatric clinics, or psychiatric *institutions*, as Mr. Heneage calls them.

Such psychiatric institutions form in Austria, Germany, Switzerland and Russia an integral part of the universities, and are, in common with medical, chirurgical, oculistical

and gynæcological clinics, the schools in which young medical students and young doctors are educated in their speciality, i.e. psychiatry. In certain countries every student is compelled to attend such a clinic for one or two semesters. In other countries doctors, who are seeking a State appointment, or who desire to be employed as State specialists, must prove that they have attended such an institution. Only doctors who have been educated in such institutions are employed by the State in civil and criminal psychiatric cases. To them belongs the duty of examining patients in Curatel procedure, and these doctors supply the demand for assistant doctors in asylums for the insane.

In describing a psychiatric institution I must not omit to mention an arrangement which in Austria has proved itself to be equally advantageous for the students of the institution and for the public. I mean the *Observation Department*. Before a person suspected of suffering from mental disturbance, or a sufferer from brain disease with insane symptoms, can be placed in an asylum—and only cases of pronounced insanity certified to by State physicians can come direct into an asylum—the patient comes into the *Observation Department*, which forms a part of the psychiatric institution. There the patients are properly watched, scientifically judged and treated, and in short cases of insanity speedily discharged, or they are transferred to asylums to be detained for shorter or longer periods, and, unhappily, often for life. Thus the student or young doctor sees in the psychiatric institution fresh cases of insanity as they occur to every doctor in the course of his practice; he learns how to examine patients suffering from mental disorders, he associates with them, he learns how to distinguish patients suffering from bodily ailments with insane symptoms from really insane patients; and all these experiences, amongst which are the pathologically anatomical examinations of insane persons who have died in the Institution, and all these studies form the scientific basis of the doctor's education for all those who are de-

sirous to educate themselves as specialists in psychiatry and whom the State requires for the examination and certifying of insanity.

If now at the conclusion of this part of my lecture I recapitulate briefly, my proposals may perhaps be formulated as follows :—

1. Creation of a central authority for lunacy affairs in Great Britain and Ireland.
2. Construction by the State of psychiatric institutions with *Observation Departments* for the education of doctors in psychiatry.
3. Introduction of a procedure similar to the Austrian Curatel procedure for the protection of the subject and for the protection of the property of all irresponsible persons—whether insane persons or habitual drunkards.

## II.

Just as divers mental maladies, which science now recognises as such, were regarded about a century ago as moral delinquencies, and the unhappy sufferers rendered responsible for the same, there exists now a similar view amongst the public, and, unfortunately too, amongst doctors, respecting alcoholism. The expression alcoholism is a wide conception including a great variety of different forms, and for that reason, it is difficult to regard all drunkards from one and the same point of view.

First of all, it is necessary to distinguish between two very distinct categories of drunkards. The one category consists of persons who drink too much, without really knowing that they do so, and who perish at a comparatively early age from chronic alcohol poisoning. With these persons neither the specialist in lunacy nor the police have anything to do. The second category consists of persons who are described by all their associates as drunkards, and the principal feature of whose existence is a characteristic tendency to ever-increasing moral depravation.

These persons suffer frequently from acute delirium ; they show epileptoidic symptoms, exceptional physical conditions, and in such conditions become criminals ; and are again and again placed in asylums for the insane. These are the habitual drunkards with whom we have further to occupy ourselves to-day. I will not forget to mention here the category of drunkards where alcoholism is the primary cause, or is an adjunct of mental disease. These drunkards are always treated in asylums for the insane.

Statistics in England prove that 25 per cent. of all insane persons—of course all pure cases of alcoholism are included—owe their origin to abuse of alcohol. In other European countries the percentage stands still higher ; for instance, in Lower Austria Director Gauster reckons 40 per cent. The ideal eradication of the abuse of alcohol, almost the greatest evil of our century, would only be possible if the sale of all spirituous liquors were entirely forbidden by the State. The following is the opinion of Professor Finkelnburg in his work, 'Ueber die Aufgaben des Staates zur Bekämpfung der Trunksucht,' Magdeburg, 1891 :—

“ The most drastic preventive measure would be to forbid absolutely the sale of spirituous liquors, wholesale or retail, except for medical or technical purposes ; in other words, treating alcohol as a poison ; and such a measure from the standpoint of hygiene, as well as of public morality, would be the only ideal proper one.”

The sale of poison is forbidden by the State. Science has proved that alcohol is poison for the human organism ; but this poison, rich and poor can possess themselves of without restraint.

As the abuse of alcohol is not likely to cease so soon, it behoves us to think of measures to check this abuse as much as possible ; and, apart from prohibitory laws, such as those which exist in some of the States of America (United States), or in Sweden and Norway, I think that this might be done in two ways.

1. The State should energetically support all temper-

ance associations formed, either from religious or from other motives, as, for instance, in America, the order of the Good Templars, which has begun to have a firm footing in England, Switzerland and Germany; and, above all, doctors, and especially educated persons, should show a good example, should practise abstinence as regards alcohol—and, if possible, be total abstainers. On August 20-22 last an association of abstaining doctors was formed at the International Congress at Basel. May this association, with the largest possible number of members, spread itself over the entire civilised world!

2. A further measure for the purpose of checking drunkenness and of strengthening the drunkard's power of resistance against alcohol, consists in the construction of asylums for drunkards. In the construction of such asylums, the United States and the British colonies have notoriously taken the lead; and Switzerland, Sweden and Norway have followed the example of the above-mentioned countries. In 1870, Dr. Donald Dalrymple introduced into Parliament a bill to amend the laws of lunacy, and to provide for the management of habitual drunkards; but it was not until 1879 that the Inebriates Act, promoted by Lord Shaftesbury and Dr. Cameron, came into force for ten years, and was continued in 1888. I should also mention *en passant* that there were in the year 1892 in England, seven licensed private asylums for drunkards, containing altogether 56 men and 51 women, in which habitual drunkards could be received on their own application. In Australia a model legislation exists for the prevention of drunkenness; and there the reception of patients is both voluntary and compulsory. Dr. Norman Kerr has reviewed the legislation for drunkards, and the system of asylums in the English colonies. In Austria, as well as in Germany and France, the construction of asylums for drunkards is contemplated; and last year in Austria a bill for this purpose was introduced into Parliament. Founded principally on the basis

of voluntary admission, the attempt is now being made by legal procedure to place habitual drunkards in asylums by compulsion ; and an admirable law for this purpose exists in the Canton St. Gall in Switzerland—so admirable that I cannot refrain from producing the text here:—

LAW CONCERNING THE TREATMENT OF HABITUAL DRUNKARDS  
PASSED ON THE 21ST MAY, 1891.

The Grand Council of the Canton St. Gall enacts the following law with reference to the necessity of taking legal measures against alcoholism, and in execution of the 12th Article of the Constitution of the 16th November, 1890.

*Art. 1.*—Habitual drunkards can be provided for in an asylum for drunkards.

*Art. 2.*—The usual period of detention is from nine to eighteen months. In cases of relapse a longer time may be required.

*Art. 3.*—Persons are placed in asylums for drunkards :

*a.* On their own application ;

*b.* On the demand of the magistrates.

If the expense of the detention is to be paid for out of the poor rates, the demand of the magistrates requires the concurrence of the Poor Law Commissioners.

*Art. 4.*—The magistrates decide respecting the reception of drunkards either on their own conclusions or at the demand of other authorities, or of a relative or of a guardian.

*Art. 5.*—The reception of a drunkard into an asylum can only be decided on the grounds of an official medical report confirming the state of alcoholism, and the necessity of detention for the cure of the same.

*Art. 6.*—The magisterial decision must be communicated to the person by the parish authorities in order that he may defend himself ; and in order to carry this decision into effect the consent of a government councillor (Regierungsrath) is required. This government official is himself also entitled to order the detention of a person in such cases where the detention is urgently required and the magistrates refuse to sanction such detention.

*Art. 7.*—The property of the person detained is made liable for the cost of his detention. In the case of a pauper, and in cases where the relatives cannot be charged with the costs of

detention, the said costs must be defrayed out of the poor rates. The State contributes, if necessary, towards the cost of detention, and in special cases during such detention towards the maintenance of the family.

*Art. 8.*—A month before the period of detention expires the asylum must send in a report to those authorities who have sent the patient to them ; and the period of detention fixed by Article 2 can be prolonged in case the cure is not complete.

*Art. 9.*—A guardian can be appointed *ad interim* during the period of detention in the asylum if it is proved by an official medical report that the patient's will has been weakened by alcoholic indulgence.

*Art. 10.*—The government councillor is charged with the execution of this law.

That habitual drunkards do not belong to asylums for the insane has been frequently discussed by specialists ; and I should like to quote here on this subject the sterling words of Dr. Tilkowsky, Director of the Vienna Lunatic Asylum, who for years has spoken and written in favour of asylums for drunkards in Austria. These are his words :—

“ Much sadder are the experiences which a doctor has in cases of habitual drunkards who have been detained a long time in an asylum for the insane. There is no greater evil for an asylum for the insane than that which springs from the accumulation of such heterogeneous elements. It is only necessary to point out the moral deterioration of drunkards in contrast with their mental lucidity, to see in this mixture the source of every inconvenience, namely, the continual discontent which they evince for everything in the asylum, the terror which they exercise over the patients and the attendants, and their unwillingness to comply with discipline—briefly, their tendency to all kinds of excesses. The ‘ free ’ treatment—the fairest flower in modern lunacy administration, that valuable and sacred acquisition of the nineteenth century—is in danger of being reduced *ad absurdum* by the accumulation of drunkards in asylums for the insane.”

As a proof that English specialists also view with favour the construction of asylums for drunkards, I will quote here the words of Mr. Thomas Drapes from his clever polemical article in the 'Fortnightly Review' of October last, which are as follows: "Let the legislature pass an Act (long clamoured for) for the compulsory incarceration of habitual drunkards." In another passage Dr. Drapes says:—"It is monstrous that Englishmen, with their slavish veneration for the idol of individual liberty, should tolerate such an abuse of liberty and give free hand to their maniacs, not only to squander their substance and ruin their families, but to bequeath to their unhappy offspring their own miserable vices and tendencies to disease."

The following is what I wrote in my article on "Habitual Drunkards" in the 'Strassburger Anzeiger' of February last:—

"Into these asylums persons will be received whom the ordinary measures provided by the legislature have failed to keep from drink; such persons, in fact, who, by reason of their shattered and failing constitutions, and in consequence of their ever-increasing mental and moral decay and degeneracy, and owing to the danger to others arising from their irritability and tendency to violence, and finally on account of the baneful influence which they exercise in all family and household matters, have made existence impossible for themselves in the outer world."

The Curatel procedure should be brought into force in accordance with the proposed Bill in Austria against such drunkards as would be placed in separate asylums for drunkards, especially if they possessed property, just the same as in the case of insane persons; and these habitual drunkards should remain from one to two years in an asylum until they were thoroughly cured; and in case of a relapse, they should be detained over again for a like period until cured.

Forel, director of a lunatic asylum in Switzerland, has, in a work (1892), 'Die Trinkerasyale und deren Einfügung

in die Gesetzgebung,' laid down very minutely the chief characteristics in respect to the arrangements and administration of such asylums. Time fails us to-day to go into very precise details concerning the construction and arrangements, &c., of asylums for drunkards.

I must, however, express my conviction (and it accords with the experiences of others as regards these asylums) that when asylums for habitual drunkards have been sanctioned by the legislature, and when all those persons who are fit inmates for such asylums have been placed in them, the number of insane persons whose mental disorders have been brought about by abuse of alcohol will diminish ; and those persons who at present are suffering from chronic diseases, and who consequently become inmates of poor houses, will recover their health and become again useful members of society. Through abstinence from alcohol, without exactly becoming a member of a temperance society, and by the construction of asylums for drunkards, wherein all incurable drunkards are legally placed by compulsion and detained until they are completely cured, the chief cause for the continual increase of insanity will be considerably restricted. Tilkowsky says : "A solution of the question of asylums for drunkards can be delayed, but can be no longer evaded. The solution will come because it must come ; it will come in the spirit of science, of progress, and of humanity." I concur entirely in this view, and am convinced that in Great Britain and Ireland, as well as in all other civilised countries, the construction of asylums for drunkards is only a question of time. The sooner this question is solved in the manner indicated, the greater value will the solution have for the general welfare.

Let us now pass to the second cause, which is the cause of nearly half of all mental disorders, namely, heredity. Mr. Thomas Drapes says in his work cited above, "Heredity and alcohol being admittedly the two prime causes of insanity, any measures calculated to control either factor would tend so far to limit its spread."

To restrict heredity is certainly a difficult matter, but it is not an impossible one. Just as with so many incurable bodily complaints, only the surgeon's knife can produce a cure, so in the case of mental disorders, the continual increase of which so seriously injures the common welfare, and which occasions such enormous expense, a decision must be arrived at to adopt measures to restrict the chief cause—heredity. This must not be done at the cost of insane persons under treatment, who should neither be exterminated nor *all* detained for life. There should be no change in the humane treatment of the present century. In the future, only those patients who are completely cured and certified by State specialists to be completely cured without fear of relapse, should be discharged from asylums. I do not wish by this proposal to reproach superintendents of asylums; but I know from my own experience that, owing to the overcrowding of patients in asylums, and to the entreaties of relatives of patients, and to many other circumstances, directors of asylums are induced to discharge patients who are certainly relieved, but are by no means cured.

In Austria, relations have the right legally to take their insane relatives, even when uncured, out of asylums, as long as the patients are not dangerous. This is called discharge against *revers*. This kind of discharge should cease altogether, even if the result should be an increase of patients during the first years; but after a period of from fifteen to twenty years, the beneficial results of this energetic and rigorous treatment will become manifest. Just as we plant fruit-trees the fruit of which is gathered by our children, so we must endeavour to diminish the hereditary cause of insanity for the benefit of those who come after us.

To-day in all civilised countries millions are spent, and will continue to be spent, on the care of the insane; but when the abuse of alcohol and the possibility of insanity being handed down to posterity have diminished, the

expenses on account of the insane will also diminish. It appears, perhaps, cruel, and the relations who are unable to take their relatives out of the asylum before the latter have reached the canonical age, will also call it cruel; but just as the State has the duty to protect its citizens from the ravages of some epidemic malady, such as pest or cholera, so in the same manner the State has the duty to protect them from the pestilence of insanity which extends itself by heredity.

Therefore construction of asylums for drunkards, and rigorous proceedings as regards discharging uncured patients from asylums, are a *sine qua non*, and, if these measures be adopted, alcoholism and heredity will gradually show diminishing numbers in the statistics of the insane. The latter will also diminish, what certainly is the chief thing for the nation's welfare, and the millions of pounds which now in England and elsewhere are being expended for the construction of asylums and for the care of the insane, can be utilised for other beneficial undertakings.

By steadily and conscientiously carrying into effect these well-considered scientific proposals, we plant trees which will bear fruit for our children and our children's children.