

**A letter to ... the Committee of the House of Lords, on the Administration of Justice Bill / [Richard Saumarez].**

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# A LETTER

TO

THE RIGHT HONOURABLE THE COMMITTEE OF THE HOUSE OF  
LORDS, ON THE ADMINISTRATION OF JUSTICE BILL.

*Hans Place, June 15th, 1840.*

MY LORDS,—

UNDER a hope that the respectful communication of my experience as a suitor in the Court of Chancery during the last five years, may assist the Committee of the House of Lords in the present enquiry on the Administration of Justice Bill, I am induced, for the better protection of my afflicted brother, and other Lunatic Wards of Chancery, to break from a retirement more congenial to my own feelings, and give the utmost publicity in my power to the practice regarding that branch of the administration of the Court of Chancery, which is connected with the Lunatics under its immediate jurisdiction.

The consideration of this branch of its proceedings, is daily growing into more importance, not only because, "it is now known that Insanity is as curable as any disease to which mankind are subject; that it arises from deranged bodily functions, not mental affections—and that by kindness and proper medicine, there is less difficulty in removing this malady, than many others, of which juster notions have long been entertained by the faculty,"\* but also because when once an individual is made a Chancery Lunatic, experience shows that the hope of recovery, and restoration to the exercise of his civil rights, even ever again to attend of his own free will the public worship of his Maker; which comes to all, comes not to him: for out of the returns which have been made of Chancery Lunatics, I am informed, not five of the whole number within the last seven years have recovered, while the restoration of pauper Lunatics averages annually forty in one hundred, and of persons in Lunatic Asylums not paupers or Wards of Chancery, fourteen in a hundred.

Since such a discrepancy arises, an inference cannot but be drawn that many of our fellow Christians of the noblest families of the land, are drawing out from the inadequate protection afforded to them by the guardianship of the Lord Chancellor, an unnecessarily procrastinated imprisonment of the most frightful and revolting nature; for there is in the sufferings of Invalids of this description, and their connection with a Lunatic Asylum, enough to lower the pride of the

\* Shelford, on the Law concerning Lunacy, p. lxxiii.



proudest—the vanity of the most vain. There the mind quails under the power of the dust it tries to despise—their delicacy suffers martyrdom, energy faints, fortitude is overcome, genius extinguished, temper lost; there strength and independence are possessed only by the menials—their heroism learns to weep, and patience to complain. The fatalist frantically searches for the means of death, which are placed beyond his reach, while the Christian starts at the echo of his own unwilling murmurs. There, all that once pleased, becomes wearisome; the imagination loathes everything with which it is surrounded; memory flies from the contemplation of passing events, and lingers round those calm resting places of a Christian's hope, which once seemed dull and cheerless—there lessons are learnt in an hour which a long life has failed to teach—*this is the real truth, and no florid colouring of human suffering, as the few who have been released from lunatic asylums can assure your Lordships*, for they fully confirm the statement of Dr. Scott, the late naval surgeon at Haslar Hospital, that it is exceedingly rare “to find a man insane on many points at one period, and never on all points,”\* so that the agony of the educated inmates of asylums is dreadful beyond all human description.

The extent of liberty or incarceration to which they may be subjected, is at the unlimited control of their Committees. The individuals thus denominated, are generally two to each lunatic, and possess an authority greater than that of a father over an infant, for they are not liable to account to any earthly being—not even to the Court which appointed them, for their disbursements of the allowances made over to them for the Lunatic's support—they can send the Invalid to any Asylum they please without consulting the heir at law—they can keep the invalid in the house of a medical man objected to by the invalid himself, as well as by his nearest relatives;†

\* Dr. Scott's lectures, see p. 35.

† This is exemplified in the case of my brother, whose Committee have retained him with Mr. Stevenson, against the earnest wish of myself, and of his sister, Mrs. Gimingham, as may be seen by the following extract of a letter from her to Mr. Walters, of No. 1, Lincoln's Inn Fields, one of his Committee, relative to the other brother.

“I shall take the liberty to submit to you my objections to the continuance of Mr. Stevenson in the care of my brother. Mr. Stevenson has had the entire control and management of Mr. F. Saumarez for more than a twelve-month, during which period I have had ample opportunity to arrive at my present opinion.

“Leamington, 1839.

“CARTERET GIMINGHAM.”



—they can go further. They regulate even the few shillings he himself may disburse, or be allowed out of his fortune; and as they have the selecting of the persons by whom the invalid is surrounded, they control a mass of affidavit evidence which enables them, under the plea of its producing excitement, to discard relatives from the house of the invalid, to prevent him seeing his friends, or to have any communication, even by letter, with any of them. This is the position of the Chancery Lunatics; and the three following returns will give an insight of their numbers—the vast amount of their real property, and the allowances granted to Committees for the maintenance.

### RETURNS TO THE LEGISLATURE ON LUNACY.

RETURN (Dated 5th June 1832,) of the number of Lunatics confined under the Authority of the Lord Chancellor.

	£.	s.	d.
109 Lunatics, whose property amounts to less than £200 per annum each:			
Total Annual Amounts of such Property,	11,210	14	3
234 Lunatics, whose Property amounts to £200 each per annum, and upwards:			
Total Annual Amounts of such Property,	264,464	14	7
43 Lunatics whose income is not ascertained.			

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386

A RETURN (Dated 7th March, 1833) made up to the latest possible period of the Number of Lunatics confined under the authority of the Crown, and of the total Amount of their Annual Incomes.

	£.	s.	d.
There are 399 Lunatics confined under the authority of the Crown, the total of whose Annual Incomes amounts to	269,158	1	9
Of which number there are,—			
57 who individually have less than £100 per annum, and whose incomes amount to	3,254	11	9
61 who have £100, and less than £200 per annum, and whose incomes amount to	8,675	2	0
50 who have £200, and less than £300 per annum, and whose incomes amount to	12,130	0	3



31 who have £300, and less than £400 per annum, and whose incomes amount to	10,050, 15 10
152 who have £400 per annum, and upwards, and whose incomes amount to	235,047 11 11
and	
48 whose incomes are not ascertained.	
<hr/> 399	<hr/> £269,158 1 9

RETURN to an ORDER of the Honourable House of Commons, (dated 21 February, 1839.) RETURNS, made up to the latest possible period of the number of LUNATICS against whom COMMISSIONS of LUNACY are now in force, and of the Total Amount of their Annual Incomes, and the Total Amount of the Sums allowed for their Maintenance.

		Income. £. s. d.	Maintenance. £. s. d.
86	Persons who individually have less than £100 per annum, and whose incomes amount to . . . . .	4,654 15 10	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	4,932 0 4
83	Who individually have more than £100, and less than £200 per annum, and whose incomes amount to . . . . .	11,702 16 9	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	8,960 5 4
98	Who individually have more than £200 and less than £400 per annum, and whose incomes amount to . . . . .	26,567 6 1	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	20,728 4 8
49	Persons who individually have more than £400, and less than £600 per annum, and whose incomes amount to . . . . .	24,700 9 1	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	17,451 8 7
46	Persons who individually have more than £600, and less than £1000 per annum, and whose incomes amount to . . . . .	36,195 13 7	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	25,764 7 0
71	Persons who individually have more than £1000 per annum, and whose incomes amount to . . . . .	174,170 11 11	
	And the total of the sums allowed for their maintenance to . . . . .	- - -	91,551 14 9
	Of the 494 persons above mentioned many are recent cases, and the number where the fortune is not yet ascertained and the allowance for maintenance fixed, is 61.		
61			
<hr/> 494		<hr/> £ 277,991 13 3	<hr/> 169,388 0 8



On comparing the first and third of these accounts, it is evident that the Lunatics confined under the authority of the Lord Chancellor, and the arrears of business relative to them, *have increased* in the same ratio; for the number of unhappy individuals who have thus had their social rights suspended—and whose fortunes were not ascertained, or allowances for maintenance were not fixed by the court, (under whose assumed protection they were placed,) are at once seen by the following table:—

Years.	No. of Wards of Chancery.			No. of arrears of those whose fortunes were not ascertained or allowances fixed by the court.		
1832	.	.	386	.	.	43
1833	.	.	399	.	.	48
1839	.	.	494	.	.	61

The third return also demonstrates the vast amount of property involved in this delay, by pointing out the amount of income belonging to a similar number, whose fortunes are known to the court.

The income of		£.	s.	d.
46 persons, who individually have more than £600.				
per annum, and less than £1000. per annum,				
amounts to	.	.	.	36,195 13 7

The income of		
71 persons, who individually have more than £1000.		
per annum, amounts to	.	174,170 11 11

So that owing to the mass of business under the wretched construction of the judicature of the Court of Chancery, there is in all human probability, property exceeding a million sterling belonging to the 61 persons, whose liberty and power of action is at the mercy and control of the Crown, being for years unaccounted for to it; but the manner in which the accounts of a Lunatic's estate are at last (often after many years of delay,) brought into the Master's office, and *there passed*, is so contrary to any thing like protection, except to those who fatten upon its produce, that unless an example is instanced it will not be imagined—for can it *otherwise* be believed that the Master would have allowed a person who had been in possession of a Lunatic's property, to bring before him an averaged account as



the annual amount of the receipts and disbursements of each year. What would he, what would your Lordships think of an agent, in possession of an estate, rendering a mere average account of the probable receipts and expenditure?—and what is to be thought of the judgment of the Master, who after seeing it, selects, or permits that person to be for an hour one of the Committee of the Lunatic.

An instance of such a circumstance occurred in the return made by John G——, Esq., from whose house my amiable and much wronged brother (a Clergyman and Magistrate,) was removed, to the care of a keeper, and ultimately, to a Lunatic Asylum; *in which*, after three years confinement, an examination de Lunatico Inquirendo was held, which declared him for the future incapable of protecting his person and property. Mr. G——m, whose brother-in-law (almost from the first and has ever since,) occupied the invalid's parsonage; had himself taken the management of the Rev. Paul Saumarez's estate—receiving the rents, ordering repairs, &c., during the years antecedent to the issuing of the commission; and then brought before William Brougham, Esq., the Master to whom this case was referred by order of the Lord Chancellor, accounts,\* as being that of the sums received and disbursed each year by him, and (nominally) by my deceased father, from the period of the Lunatic's arrest to the period fixed by the order.

Of these accounts the items under the following heads deserve particular consideration.

	Board and Lodging and attendant.				Clothes.		Bills & repairs at Gt. Easton.	
1830	.	.	.	.	20	.	.	15
1831	.	.	260	.	.	25	.	30
1832	.	.	260	.	.	20	.	20
1833	.	.	260	.	.	20	.	20
1834	$\frac{1}{2}$ year	130	.	.	.	10	.	10

No four years of such expenditure could each year have so exactly tallied, as to have come to those precise sums which are set down under each disbursement! But if your Lordships turn from the credit to the debit side of the account, it further and more forcibly shews, how superficial is the protection afforded to a Lunatic's property by the crown. A legacy to the Lunatic in 1831, is there set

\* See the accounts in the Master's office.



down £215, and another legacy in 1833 of £100, paid by the Trustees of John Saumarez, Esq., is wholly omitted.

Now this Committee, as brother-in-law, having received for his wife those two sums, knew that such sums were due to the Lunatic, and had vouchers been produced he could not have put down £215 for £264. The consequences of this £150 being omitted, and the other accounts being passed without vouchers were, that a balance appeared against instead of for the estate.

The total assumed Payments were	.		£2845	17	6
Ditto ditto	Receipts	.		2515	0 0
					<hr/>
					£ 330 17 6

Yet it was upon accounts so brought in, that the Master allowed the only real property of my brother to be sold;—this was a policy of assurance on his life, and effected by him the 9th of March, 1827, for £3000. The sums paid on this policy were £627. The produce of the sale was £338. 3s. Such is Chancery property.

Nothing is more unfortunate than the general confidence of the watchfulness of the Court of Chancery in the auditing of accounts;\* for it was this mistaken assurance, that induced my excellent father not to trouble himself to look into them, and to consent to a sale, injurious to his son's interests, for the purpose of repaying himself, and which he would have shrunk from doing, had he known that a correct audit of the accounts after they had passed the Master's office, could have shewn a very different balance from that the Master approved of, and which was evidently fallacious—and unjust to the Lunatic.

The whole process is as expensive as it is visionary; for this is not an isolated case, but one of every day occurrence; because great inaccuracies may be clearly shewn in the accounts of the Committee, of which I lately was one, with Mr. Le Merchant Thomas, and Mr. Leman. The *latter* gentleman also acted as Solicitor, and I had no control over the manner in which they were annually brought in. In vain did my Solicitor represent to the Master that sums put down in one year (as having been received) were never received during the year;

\* The most gentlemanly courtesy to me and my Solicitor, has been ever shewn by the late W. Martin, Esq. and his successor, Sir William Horne, the Masters to whom the case of one of my brothers is referred.



and that other sums received within the period alluded to were not inserted. These inaccuracies may be traced to the absence and total inattention to dates—*for without dates* the account of any sum *must be* unintelligible. Such circumstances as these are the ruin of families who vainly attempt to protect their children by appealing to the Lord Chancellor; and are partly the means of the Unclaimed Suitors' Fund having swollen to £2,500,000, a sum larger than that which under a similar jurisprudence fell, by the deaths of the claimants, into the chests of the Holy Inquisition. It is not for me to uphold a court of justice now generally reprobated in Europe, and on the practice of which the proceedings in Chancery are based; but the leading officers of its jurisdiction were selected from the most honourable of the country; and therefore it is no evidence, because the Lord Chancellor, and those under him, are most honourable men, that the precedents upon which they are bound to act, are not such as to vitiate justice, and to render this annual property of £277,991, such a source of litigation as must be provided for by *far greater remedies* than in the Bill contemplated by the Right Hon. the Lord Chancellor.

The various duties and legal questions emanating from ten millions of property belonging to Lunatics thus under the guardianship of the crown, must, when adequately provided for, afford ample occupation for any one Judge, however splendid his talents: while the enormous expense of the present unhealthy system of affidavit evidence, and the unexampled powers\* of committees, so *far from sparing the feelings of the noblest families of the land*, only tend to absorb their property, and further *expose the affliction* under which *they labour*. It is, my Lords, after years of procrastinated endurance that I with dutiful submission offer these facts to your Lordships' dispassionate consideration.

I have the honour to be,

My Lords,

Your Lordships' most obedient Humble Servant,

R. SAUMAREZ, K.L., CAPTAIN, R.N.

\* Mr. Leman and Mr. L. Thomas, my Co-committees, have sent me assumed accounts exceeding £400, for maintaining my brother, without the production of a single voucher; nor can any authority, not that of the Lord Chancellor, legally force them to produce any, yet I am forced to assent to them.

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