

X.—*On the Assimilation of the Law in England, Scotland, and Ireland, as to the care of Lunatics and their Property.*  
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As the care of lunatics is a work of state charity, which is necessarily free from all religious or political bias, it is difficult to understand why there should be any difference in the laws on the subject in the Three Kingdoms eighty years after the Irish union, and one hundred and seventy years after the Scotch union.

The sad results of this difference, so far as Ireland is concerned, have been brought before Parliament in the Report of a Commission presented in February last, which disclosed the rather startling fact that the neglected lunatics had increased from 1,500 to 3,000 in the last twenty years, that this increase arose in part from the non-extension to Ireland of the English Act of 1853.

Under that Act every pauper lunatic is inspected, and every lunatic wandering at large, or neglected by those who ought to take care of him, must be brought before a magistrate, and can be at once sent to a public asylum; if the public asylum be full, the local authorities are bound to provide for the lunatic in a registered asylum.

This increase arose in part from the non-extension to Ireland at the end of thirty-five years, of the provision in the English Poor-law order of 1844, enabling guardians of the poor to grant out-door relief, as well on account of the lunacy of the head of the family, as also of any member dependant upon the head for support. In Ireland, not only is there no such provision, but by imperial statute of 1847 the guardians cannot grant such relief. Even the very influential Irish Local Government Board, under the Chief Secretary for Ireland, an English statesman, is prohibited from issuing an order allowing it, though it is under an order of the English Local Government Board's predecessors, the Poor-law Commissioners, that the relief is granted.

Whilst in this great branch of human charity, Irish arrangements are thus kept by imperial statutable restriction behind English arrangements, the same Imperial Parliament has allowed Scotland to adopt arrangements in advance of the English system.

In Scotland pauper lunatics may be supported out of local rates, while residing with relatives, or boarded with strangers, where not more than four lunatics are kept.

This is a partial adoption of the famous Belgian system which has for centuries been in successful operation at Gheel, a very interesting account of which was given in a work entitled the *City of the Simple*.

The Belgian system owes its origin to a gifted woman of the seventh or eighth century being killed by a lunatic, just as the English Act of 1800 was caused by the attack of Bellingham on George the Third, and the extension of that Act to Ireland in 1858, by the killing of Mr. Sneyd, a bank director, in one of the principal streets of Dublin.

One disastrous effect of the Irish law for keeping out lunatics till they are dangerous and show an intent to commit a crime is—it leads from time to time to the most frightful human tragedies, where one near relative is murdered by another. These tragedies, when they occur, are reported in the newspapers as another Irish murder, and the near relationship of the parties is dwelt on as showing the savage character of the people, whereas they ought to be reported as defective lunacy law-murders, and the victims of the defective law should be sympathised with and not assailed.

The Scotch, while adopting boarding-out for harmless lunatics, were careful not to include in this class imbecile children of the school age. For them there have been for many years two training schools—the Baldovian Institution and the Larbert Institution.

Now the importance of asking to have the English and Scotch law extended to Ireland arises in this way: while the Irish Lunacy Inquiry Commissioners reported 3,000 lunatics to be in a neglected state, in February last, the whole session has passed without legislation. The Commissioners of Inquiry and the permanent Lunacy Department in Ireland differed as to the remedies. The Inquiry Commissioners recommended adaptation of work-house buildings as auxiliary places for the reception of harmless incurable lunatics and idiots; the permanent board recommended the building of new asylums. Meantime the 3,000 neglected lunatics remain uncared for, and there is no power under Irish law to compel their being sent either to workhouses or asylums. They cannot be compulsorily sent to asylums till they become dangerous, and have shown an intent to commit a crime, under an Act similar to what was superseded in England so far back as 1853.

We should learn the lesson from such calamities which the Belgians learned ten centuries ago from the tragedy which led to the foundation of Gheel. The law still in force in Ireland, keeping them out till they are dangerous, has this effect—it diminishes the chance of recovery. Some recent statistics show that of lunatics treated within three months, 77 per cent. are cured; of those not treated for a year only 20 per cent. are cured.

We need not be surprised if under the system in force in Ireland, the asylums get blocked up with incurable cases. The evil is thus going on with accelerated force, because as the asylums become more and more blocked, there is a longer delay in admitting cases; the longer the delay the less chance of cure.

To meet this evil at once, the simple remedy is to extend English and Scotch law to Ireland. If that were done it would not be necessary to wait for the erection of new buildings. To meet the pressing and urgent necessity of 3,000 neglected lunatics, the harmless lunatics and adult idiots might be provided for by boarding-out, and so space obtained for the curable lunatics. I do not propose to ask this section to express any opinion upon the treatment of lunatics, whether boarding-out is or is not suitable. The only proposition that I contend for is—that our legislation affecting such important social questions as to the care of lunatics, should rest on scientific principles, and that those charged with the care of lunatics in each

part of the United Kingdom should have the same powers of dealing with the cases before them.

The difference in the law in England, Scotland, and Ireland may be illustrated by the figures for an equal population.

	PAUPER LUNATICS		
	England.	Scotland.	Ireland
The Asylums and Lunatic Wards of Workhouses,	8,636	9,438	11,616
Boarded-out,	1,620	2,097	—
In Private Asylums,	609	—	—
	10,865	11,535	11,616

It appears from these figures, that adopting the English law in Ireland would enable 2,229 of the 3,000 neglected lunatics to be provided for, and adopting the Scotch law would enable 2,097 to be provided for. Extending both laws to Ireland would enable 2,706 to be provided for. This goes so near the number of 3,000 neglected lunatics as to show that the sole cause of there being that large number of neglected lunatics in Ireland, is the difference of the law upon the subject in the three countries.

As to the protection of the property of lunatics with small property, the arrangements of the state are in a most retrograde state; to the Scotch Lunacy Commissioners we are indebted for the persistent advocacy of a remedy. In their Report for 1875 they say.—

“We have repeatedly pointed out that there is a want of some economical and effective procedure for the administration of the property of lunatics when of small amount, and we have stated in former reports that we would be glad to see effect given to the suggestions contained in the fourth Report of the Scotch Law Commissioners, that in cases where the funds do not exceed £1,000, the authority to appoint a curator, at present possessed exclusively by the Court of Sessions, should be extended to the sheriff.”

The corresponding recommendation for England or Ireland would be that the appointment vested exclusively in the Lord Chancellor or other person acting under the Queen's sign-manual, should be entrusted in small cases to the County Court Judge. In Ireland a jurisdiction over the property of minors, where it does not exceed £500, or of land where it does not exceed £30 a year, was conferred on the County Court Judge in 1877, by the County Officers' and Courts' Act. In England a similar power over the property of minors was conferred in 1865, and the previous exclusive jurisdiction of the Court of Chancery abolished.

Now can any reason be suggested why, if the County Court Judge is fit to exercise jurisdiction as to minors' property, he should not

have similar jurisdiction for protecting the property of lunatics of small means. The mode that has been adopted for providing a remedy affords such an illustration of the defective machinery for carrying the most obvious social and legal reforms, that it has a value beyond the immediate subject.

A Scotch Law Commission having recommended the reform, as we have seen, and the Lunacy Commissioners having repeatedly referred to it in their annual reports, in the past session, on 23rd July, a Bill was brought in by four private members (Mr. Ramsay, Mr. Baxter, Sir Graham Montgomery, and Mr. Dalrymple), enabling the Scotch local judges, called sheriffs, corresponding to the English and Irish County Court Judges, to appoint "factors," that is caretakers of small estates not amounting, for real and personal property taken together, to £100 a year, or £2,500 in capital value, income being taken at 4 per cent.

For Ireland a Bill was introduced by Lord O'Hagan for giving, amongst other matters, local jurisdiction for small property entitled to exemption from fees and percentage under the Lunacy Regulation (Ireland) Act, 1871.

No Bill was introduced for England, and the Scotch and Irish Bills only got the length of being printed. In the case of the Scotch Bill one of the reasons I learned of its not being passed, was that there was not time to get it through.

Now I venture to submit that the state of our law which makes it necessary to have three Bills for England, Scotland, and Ireland on such an elementary question in jurisprudence as the one in question—that it is beneficial to entrust local judges with the appointment of committees of lunatics, where estates are too small to bear the cost of central administration, is one great source of the business of parliament being blocked up. In this case the result of the block of business is that the property of some of the most helpless members of the community will be for some time longer less effectively protected than it would otherwise be.

The result, as far as Ireland is concerned, of the difference in the law as to lunatics, is that 3,000 lunatics will remain a year longer in a neglected state.

I submit, in conclusion, that the law as to lunatics in England, Scotland, and Ireland should, as soon as possible, be reduced to a uniform code.

The Irish race are spread in Scotch and English towns, so that every sixth adult in Scotch towns, and every fourteenth in English towns, are of Irish birth. These indefensible differences in matters that affect the poor and helpless, which the Irish, from their migratory habits, are so well acquainted with, are an obvious and a just cause of discontent, and a cause capable of the easiest possible removal.

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