mined and persistent that watchfulness will not secure the necessary safety.

"2nd. Where there is determined and persistent disposition to self-maiming or injury, or denuding the person, or debasing self-abuse.

"3rd. Where there is great destructiveness, or violence towards others."

The general conclusion of his paper is that there is no real difference in principle among experienced professional men who have devoted their lives to this specialty; that the English Commissioners of Lunacy and the superintendents recognise the necessity of some mode of protective restraint, but having no settled convictions in favour of any particular method, they use coercive measures in the form of seclusion, the use of padded rooms, wet and dry packing, showering, and manual force of attendants.

Without disputing Dr. Gray's conclusions as to the means adopted in British asylums for the purpose of avoiding mechanical restraint, I think that, regarding this mode of restraint as an abhorrent expedient to be employed only as a last resource, I need make no apology for advocating the adoption of some other means by which mechanical restraint can be avoided. Moreover, the conviction is forced upon me, by comparing results of treatment in asylums conducted on the principles of restraint and of non-restraint, that the less mechanical restraint is had recourse to, the less necessity will there be for restraint of any kind.

(*To be continued.*)

Sketch of the French Legislation Relative to the Insane. By Dr. Achille Foville, Paris, Inspector-General of Charitable and Insane Establishments.

(*Concluded from p.* 167.)

The conditions established to regulate the admission of patients into lunatic asylums have given rise, in every country, to a great deal of discussion. On the one hand, many unacquainted with medicine are inclined to dread the abuse of the power to confine individuals not really insane under the pretext of insanity, and with more or less criminal intent; therefore these persons contend that admissions to asylums should be preceded by intricate formalities and repeated inquiries, with the interference of some public authority, such as a commission of either judicial or adminis-

trative officers. On the other hand, physicians advocate the necessity of prompt recourse to an asylum, not only for the patient's own benefit, but for his family's welfare; they demonstrate that a man labouring under acute insanity cannot be left to himself during the time required to set in motion the working of such complicated machinery as that proposed to be brought into action prior to his admission into a hospital; they further reject all interference of the public authorities to this end, as hurtful to private family feeling and the maintenance of professional secrecy, demanding, likewise, the greatest facilities for easy admission, guaranteed, nevertheless, by any number of subsequent examinations, or other means of inquiry into the case; and, finally, they hold that such supposed illegal confinements do not exist, since it has not been proved that any one really of sound mind has ever been shut up in any asylum, and that, therefore, the liberty of the subject is in no danger whatever. So in this respect we may rest confident, seeing that the past gives us full assurance for the future. Such is, upon the whole, the main point of dispute in every discussion on the subject, which happens to spring up again and again in different countries.

All the arguments *pro et contra* have been discussed to satiety from 1836 to 1838, and, with their full knowledge, the legislators, at that time, decided upon the system the most in accordance with the request of the physicians, to render as easy as possible the necessary formalities for the voluntary placing of lunatics in asylums, by which is meant the steps freely undertaken by the relations of the patient without any intervention of the public authorities. These formalities are reduced to three, viz., a demand for the reception of the patient made by any of the relatives, connections, or even a friend of the patient; a proof of identity of the person who makes the order and also of the patient who is to be placed in the hospital; and, finally—and this is the most essential document—a medical certificate. This certificate may be single, that is to say, signed only by one physician, who must be, however, not connected with the institution, nor with the person who makes the demand or order. The mental condition, with the peculiarities of the disease, and necessity for treating and confining the person in question in an institution for the insane, must be stated in the certificate, the date of which cannot go beyond fifteen days prior to its execution.

The law, therefore, does not require the intervention of

any agent of public authority for the above steps. However, an indirect intervention is often met with in practice, many of the asylums exacting that the signature of the physician should be legalized by the *Maire of the Commune.*

This system differs, theoretically, from that adopted in England only in that it requires one instead of two medical certificates, the demand for admission being equivalent to the English order. Besides, the manner of drawing up the certificate is not indicated by the French law so carefully as by the English, a fact to be regretted, and again, the adoption of printed schedules for the certificates instead of being general is, on the contrary, very exceptional in France. On this account it often happens in practice that the medical certificates in support of a demand for admission are short and incomplete, the superintendent of the asylum finding himself placed, under such circumstances, in an embarrassment to decide whether he should or should not receive the patient. It would be, therefore, very useful to take new precautions in order that the directions for filling in medical certificates be always sufficiently detailed, and that they should state, in an explicit manner, the necessity for the confinement.

At any rate, this is only a mere question of detail: the important one should be to ascertain if the provisions of the law of 1838, in regard to voluntary commitments, shall be maintained, or if the forthcoming legislation shall introduce new requirements therefor. The usual discussions on the subject will be repeated indefinitely, but it is difficult to foresee who will triumph, the partisans of the *status quo*, or their opponents who are determined to secure the intervention of some representative of public authority in sending a lunatic to an asylum.

The two systems, moreover, judging from their respective results in the foreign countries where they are in operation, work, strange to say, equally satisfactorily. Thus, to mention only two instances of it: Do not the majority of English alienists prefer that the commitment should be effected only through the intervention of the family or friends of the patients, while the Scotch specialists, on the contrary, uphold the system which leaves it altogether dependent on the sheriff's order? Can we not draw from this the conclusion that, after all, the social results of such a malady as insanity lead inevitably to results which are almost always identical, in spite of the standing provisions

in the different countries, to accomplish the transition from the freedom which it is impossible to allow to a lunatic to the confinement in which it becomes indispensable to keep him?

The means of control established to justify the detention of the patient after his admission into the asylum are numerous and efficient.

Twenty-four hours after his admission, this is notified to the Prefect, together with a copy of the medical certificate accompanying the demand. The physician to the asylum draws up, within the same time, a certificate on the state of the patient admitted. When the patient is sent to a private asylum, the Prefect directs one or more physicians to go, within three days, to visit the confined person, in order to ascertain his mental condition, and immediately report thereon. The Prefect may appoint any other person he may deem proper conjointly with the physician.

The Prefect reports the commitment, within the same period of three days, to the *Procureur de la République* in the locality of the residence of the patient, and in that where the asylum is located.

Fifteen days after the admission of the patient, the physician to the asylum issues another certificate, in which he confirms or rectifies—if there is occasion therefor—the remarks contained in his first one.

Every document concerning the commitment, every certificate from outside or from hospital sources, is copied in a large official register, under the name of each patient. In this register the physician to the asylum records, in monthly notes, the progress of the disease, as also the discharge or death of the patient. This register is submitted for the examination and control of those persons appointed by Art. 4 to inspect and visit the asylum.

All these provisions, of a domestic character, work in a smooth and satisfactory way, but being little known to the public, they scarcely attract notice. Consequently, nobody cares to criticise them, and very probably they will not undergo any important change.

The foregoing remarks refer, we repeat it, to voluntary commitments made by the families, which are naturally the less numerous, since the largest proportion of lunatics are committed upon an order from the public authority.

In principle, and according to the letter of the law, these commitments are of two kinds: one of them a police

measure respecting individuals "whose state of insanity endangers public order and personal safety" (Art. 18); and the other a measure of relief, or hospital charity, "towards lunatics whose mental condition does not endanger public order or personal safety" (Art. 25). Different maintenance rates were to be charged and arranged by the departments and the communes, according as the patient belonged to one or the other of the above categories. But this was a very impracticable distinction, chiefly based on interested and always arbitrary local valuations. Consequently, it has been rejected almost everywhere, and, as a rule, in most of the departments all official commitments are alike, without any distinction as to the character of the insanity, or the estimate of cost of maintenance.

These commitments are effected upon an order from the Prefect. The law enacts that the necessity for the commitment should be shown, and that the order should assign the reasons which render it necessary (Art. 18); but as there is no further provision specifying how the cause or reasons are to be set forth, it follows that, legally, the medical certificate is not indispensable. Nevertheless, as a rule, the Prefects always require it, and only under very exceptional circumstances do they order an official commitment to an asylum without a medical certificate therefor. For all these reasons it is very desirable that an obligatory certificate should be required by law, in conformity with the prevailing practice, and to silence those who might be disposed to impeach the law for investing the Prefects with an unrestricted and arbitrary power. It is needless to state that every commitment has to be preceded by an inquiry ordinarily made by the Maire, the Justice of Peace, or the Superintendent of Police of the locality.

The alacrity with which this inquiry is conducted, and the consequent decision of the Prefect, vary a great deal according to the departments; pending the commitment to a special asylum, the ordinary hospitals or asylums are bound to receive all lunatics provisionally. For these are never allowed to be regarded as prisoners, or committed to any prison (Art. 24).

These provisional measures are indispensable, but as the time they take depends chiefly on the local practices of the several *Prefectures*, they, on this account, differ considerably, and there is no denying that they are also a source of real abuse. To obviate this, a maximum limit should be fixed

upon for the provisional sojourn of lunatics in ordinary asylums, either while awaiting transfer to other places, or while under observation. Such a reform is no less required by the ordinary hospitals, in no wise intended by their arrangements for the proper treatment of lunatics, whose stay therein has also a damaging effect. This would also promote the usefulness of the special asylums, recognising as we do how essential it is that methodical treatment should be instituted as speedily as possible after the beginning of the malady, to secure recovery. This is one point of detail loudly calling for improvement.

Article 19 of the law has given rise to contradictory interpretations. It is thus stated: "In case of imminent danger, attested by the certificate of a physician, the Public Commissaries in Paris, and the Maires in the other Communes, shall order all the necessary provisional measures in regard to persons affected with insanity, and shall report thereon, within twenty-four hours, to the Prefect, who shall thereupon act conformably to law." This is a very important article, and the practical interest connected therewith rests on knowing which are "all the necessary provisional measures" to be resorted to by the Maires in cases of imminent danger. Do such measures involve the direct and immediate removal of the patient to the nearest asylum, or are they simply limited to the transfer of the patient to an ordinary hospital, or only, again, to his maintenance, under proper supervision and care, either at his own house, or at any other dwelling, inn, room in the municipal buildings, &c.? The interpretation of this section of the Act and its practical working in different parts of the country vary. In some departments the Maires are authorized to send very dangerous patients directly to the asylum; in others this is formally forbidden, chiefly on financial grounds, so as to prevent that an expense which is altogether departmental should be incurred without a personal decision from the Prefect. This is a matter of administrative jurisprudence which needs to be regulated; its best solution as regards the patient and public safety, which are of the most importance, should be to empower the Maires to send the patients directly to the asylum, but enjoining upon them at the same time great prudence in the exercise of such power; the pecuniary risks to be entailed by this measure on the departments would be of little consequence. At all events, any solution would be preferable to the existing incertitude.

The official commitments being always, with rare exceptions, to public asylums, the visit of the physician appointed by the Prefect, and which has to take place within three days, as directed by Art. 9, is then omitted. Every other formality of examination, such as notices, medical certificate after 24 hours' and 14 days' admission, the report to the Procureur of the Republic, and monthly written statements by the physician, entered in the official register, are exactly the same for lunatics admitted by official commitment as for those voluntarily sent by their relatives, besides which, in regard to the first or official commitments, the physician has to send every six months—in January and July—a report, guided by which the Prefect orders that the patient shall continue in the asylum for another six months, or be discharged, as the case may be.

Discharge from the Asylum.—The law, notwithstanding the statements to the contrary, has fully provided for the discharge of patients, and the means of obtaining it are numerous. Let us, at first, consider the lunatics voluntarily placed in asylums. Art. 13 enacts that they should be liberated as soon as the physician to the asylum certifies that they are cured. Undoubtedly the patient is usually returned to his family or friends; but should he be friendless, should nobody ask for his discharge, then the very fact of the certificate of cure, entered by the physician in the official register, opens the asylum doors to him. In the case, however, of a minor, or other person incapable of managing his own affairs, notice should be sent to those persons to whom he will be returned and to the Procureur of the Republic. Even without any acknowledgment of the patient's cure by the physician, however, his discharge can be obtained from the asylum on the request of the guardian, husband, wife, relative, or the person who applied for the commitment or signed the order of admission, or from any person authorized by the deliberations of the lunatic's family—*conseil de famille.* If there is any disagreement between the parties qualified to ask for the discharge, the matter is decided by the said *conseil de famille.* Evidently it would be impossible to enact more liberally, and, without doubt, the discharge of the patient from the asylum is as untrammelled as his voluntary admission into it. When the physician considers the patient particularly dangerous and perilous to public safety, he may refuse to discharge him, but must, within twenty-four hours, report

the fact to the Prefect. This latter is further empowered to order, of his own accord, without assigning any reason therefor, the immediate discharge of any person voluntarily placed in any institution for the insane (Art. 16). Seldom, indeed, does a Prefect exercise such privilege, and, when he does it, it is generally after advising with the physicians. But, finally, he is nevertheless free to act without such consultation, and he is thus empowered with considerable and perhaps undue authority. On this account it is intended to have this article modified so that, previous to the discharge, the Prefect should ask the opinion either of the physician under whose care the patient is, or of any other independent medical authority, but always remaining free to follow or not to follow his advice.

As regards patients officially committed, whenever the physician to the asylum (Art. 20 and 23) declares that their discharge is advisable, the Prefect is immediately notified of it, and the law enacts "that he should act without delay." It is not, however, stated that he must necessarily order the discharge; yet there is no other interpretation to put upon this provision, and, in practice, a declaration of cure and the order for the discharge of the patient always follow each other. It may be conceived, however, that the Prefect, if he entertains any uneasy apprehension as regards the liberation of the patient, might, notwithstanding the physician's declaration, hesitate to grant his discharge, and acting as any one similarly placed might do, fall back upon Art. 29, which will be presently considered.

Right of Legal Redress.—The foregoing remarks on the different means of discharging from a lunatic asylum a person voluntarily or involuntarily confined therein refer to the physician, the family or friends of the patient, and to the legal powers of the Prefect. Yet to judicial authority is entrusted the natural safeguard of the rights of the community; anything affecting personal liberty being too important to have been passed over by the law of 1838, it has provided for its protection in the most ample and efficient manner, by the enactment of Art. 29. This enactment is of the greatest consequence, both in theory and practice, and worthy, therefore, of all our attention. It is thus framed: "The guardian in the case of a minor, and the *curateur*, or any relative or friend, of any person placed or confined in an institution for the insane, may, at any time, apply for his or her release to any law court held in the locality where the

institution is situated, and upon the necessary inquiries, the Court shall, if it deems it proper, order forthwith the discharge of the said person. The persons who asked for the commitment, and the Procureur of the Republic, officially, may present the same application to the Court. The decision shall be rendered upon a simple request."

The Court, takes the decision "*en chambre de conseil,*" that is, in a private sitting, where the public is not admitted. It does not give the reasons for its decision. It says only that the demand of X must be or must not be acceded to.

It results from this enactment that any person besides the patient, or whoever is interested on his behalf, can, at any time whatever, demand that the Court examine whether the patient may be liberated. A simple letter addressed to the President of the Court, through the post or otherwise, suffices for this purpose. Thereupon the Court must institute the necessary inquisition, it alone being the judge of the measures needful to ascertain whether the demand is or is not rightly founded. To this end the Court may order one member of the bench to examine the patient, or that this latter should be brought to be personally interrogated by the Court, or the Court may not go beyond examining the writings of the patient, or the records of his case, or it may, again, ask for a report of the attending physician, or, finally, order a medico-legal inquisition by one or more physicians not connected with the asylum where the patient is confined. In this latter case, the physicians' fees are to be paid by the patient or by his family. The other proceedings are entirely gratuitous, and may be repeated as often as it may suit a lunatic whose demand has been rejected. Some parties resort to a solicitor to present their demand to the Court, and have it defended by a barrister, expecting thereby to be more successful, and, as they are free to pursue this course, they must naturally pay their legal advisers. But the intervention of these latter is entirely optional, while the belief that the case is examined into less carefully when the demand has been made in a simple private letter is not at all warranted.

To sum up, nothing is easier or cheaper to a patient confined in a lunatic asylum than to submit the legality of his confinement to the decision of the judicial authority, and it seems, indeed, impossible to devise a more equitable legislation than the present in this respect.

This legal provision is not only a protection to the

patient, but also of invaluable help for the physician: in the case of a lunatic apparently cured and not fit to be yet liberated on account of his probable early relapse, or in any other embarrassing instance, the physician, to protect his own responsibility, can advise the patient to address himself to the President of the Court for a judicial decision on his case.

We repeat it, this Art. 29 offers to everybody one of the strongest safeguards; instead of dreading it, physicians to lunatic asylums ought to desire that it should be resorted to more frequently, so that magistrates would acquire, by being compelled to deal repeatedly with the difficult problems connected with insanity, the practical experience without which they run great risk of erring in their decisions.

Expenditure for the Care of Lunatics.—It is needless to dwell at any length on the articles referring to the expenditure for the care of lunatics (25 to 28). Suffice it to state that the cost of treatment of lunatics voluntarily committed is charged to the patients themselves or to their relatives; that the same principle is carried out with lunatics officially committed who are not indigent; that the latter, that is to say pauper patients, are treated gratuitously, the rates of maintenance being defrayed by the several departments conjointly with the communes, who are bound to agree thereto; the small and poor communes contribute a trifling amount, whereas those embracing large and rich cities pay as much as half of the total expenditure.

Protection of the Property of Lunatics.—We will close this summary of the French legislation on lunacy by noticing the measures provided to protect the pecuniary interests of patients in lunatic asylums. This is, indeed, a very important phase of the question, and although the French law is already very fair in this matter, it needs, as is generally acknowledged, some improvement which will constitute one of the chief advantages of the reform in contemplation. The Civil French Code, following the ancient practice, orders the interdiction of persons in a habitual state of imbecility, dementia, or fury (Art. 484, *et seq.*). They are deprived of the power to administer their personal affairs and property, and are in the position of minors, under the direction of a guardian or trustee appointed by the Court after the proposition of the *conseil de famille*, that is of the nearest relatives or friends. This guardian is charged with the

management of their interests and of seeing to their proper maintenance in the manner already settled by the Court.

If there be a slighter degree of intellectual weakness or trouble, the Court is satisfied with appointing a committee to protect the patient. The subject of this measure remains master of his conduct and free to dispose of his income; but he cannot alone undertake any transaction involving the capital of his fortune without the approval and sanction of his committee.

The interdiction is ordered upon a judgment after special proceedings, which may last not less than several months, and often much longer, involving judicial costs which, although by no means so excessive as those attached to the simplest English *de lunatico inquirendo*, are nevertheless too onerous for small fortunes. Previous to the law of 1838, when a person, not interdicted, was placed in a lunatic asylum, the administration of his interests had to be unavoidably suspended, and, to resume it in a legal manner, it was necessary to wait until the person was discharged from the asylum, or interdicted. In the meantime all his affairs remained postponed, or had to be discharged by expedients and artifices more or less illegal or compromising to the rights of the patient, and quite irregular in the eyes of the law. This practice is, we believe, still followed out in England with lunatics not under the Lord Chancellor. The evils of this condition of things were exposed in the discussions from 1836 to 1838, with general acknowledgment of the necessity of avoiding them by provisions for the protection of the interests of the patient and the management of his estate, without the necessity of resorting to the long, expensive formalities connected with the interdiction, which is, besides, in itself such a serious measure, that, once ordered, it becomes permanent unless it is superseded by a new judgment rendered upon proceedings similar to those required to obtain the interdiction.

To obviate these embarrassments, Art. 32 of the law of 1832 directs the Court to appoint a provisional guardian of the estate belonging to any person, not interdicted, placed in a lunatic asylum, whenever a demand is made to that effect. This appointment is made by the Court, in private sitting, the *conseil de famille* and the Procurator of the Republic having previously given their advice.

These proceedings are much simpler, shorter, and more economical than those for the interdiction. There is

between the two the capital difference that the Court has not to inquire into the mental state of the person placed in the asylum, nor to verify the existence of his insanity, but only to concern itself with confirming the fact that the person has been placed in a lunatic asylum, which involves *ipso facto* the impossibility of the lunatic administering his affairs and protecting his interests. This then is remedied by the appointment by the Court of a provisional guardian, who assumes, within certain limits, the administration and protection of the estate and interests of the patient. From two to three weeks' time and an expenditure of from four to five pounds sterling are sufficient to obtain this appointment. Yet even this has been considered an onerous charge for the means of several individuals and injurious to the interests of many others. Consequently, to render things even still easier, it has been ordered that the Committee of Inspection of Public Lunatic Asylums and the Managing Board of Hospitals provided with special accommodation for lunatics should act as provisional guardians of lunatics, not interdicted, placed in asylums, each of the Committees appointing every year one of their number to fill this office. As such appointments are made beforehand, the guardians may begin to look after the protection of the interests of the patient from the very moment he is admitted into the asylum, and without his having anything to pay for the services of the said member of the Committee of Inspection acting as guardian, which are gratuitous. This is obviously a system of unsurpassed simplicity and liberality. From the very moment a patient enters a public asylum he finds himself already provided, without expense or delay, with a provisional guardian qualified to watch over the management of his estate, and to protect his interests, and no sooner is he discharged from the asylum than he recovers his full rights, and the provisional guardian ceases to act spontaneously without need of any legal proceedings therefor.

As a matter of fact, the guardians do not willingly undertake the management, for any lengthened period, of the estate of patients in wealthy circumstances; in these cases, after attending to the most urgent demands and securing the immediately necessary protective measures, they direct the family to apply to the Court for the appointment of a special guardian, and should the family fail to do so, then the guardians may themselves petition for this appointment.

When, on the contrary, it is a question of an indigent person possessing scarce any property, the guardian assumes its management, and thus he may be called upon to look after small details, such as the salary for a few days' labour, the payment of trifling debts, the keeping or giving up of a labourer's lodgings, the seeing to his clothing and its removal to the asylum; all these are small matters which the guardians are quite able to manage, and they are ready at once to exercise their protective action. No doubt all guardians are not equally zealous, nor similar in diligence and punctuality, in the performance of these duties, but this we must expect in all mundane arrangements however good; but having, as is here provided, a stated authority in existence, we may, while the principle holds good, improve its application.

This special legislation, with all its obvious advantages, is, however, open to a serious reproach. We have previously shown that the provisional administration of the estate of non-interdicted lunatics is organized beforehand and ready to act at once, and is entrusted to committees with jurisdiction over public asylums only. This means that it does not exist for private asylums, which is a very serious want. Are not all lunatics, rich and poor, placed in any and every asylum entitled to the benefit of the same protection? Why then should the hazard of being placed in a public asylum insure the benefit of an immediate protection to one, while being placed in a private asylum subjects the other to the inevitable dilatoriness of special proceedings? This evil is generally recognised, and all seem disposed to remedy it by instituting for patients in private as well as in public asylums means of immediate protection prepared beforehand, and thus stop the shocking distinction which now exists between the two kinds of institutions. This would be one of the most useful amendments to this section of the Act.

We have sufficiently demonstrated here, in a general way, that the French law has provided for the protection of the interests of non-interdicted lunatics placed in asylums, and we will merely repeat that the functions of the provisional guardians cease by the mere fact of the discharge of the patient from the asylum. We will not enter into further details concerning the practical working of the provisional administration, which are matters purely technical, concerning the lawyer rather than the physician. Our aim has been to show the principle and the manner of bringing it into operation.

This rapid sketch of French legislation in regard to lunatics justifies, we hope, what we stated in the beginning respecting the real merits of the law of 1838. We point out as particularly worthy of attention the facilities allowed to patients to have their mental condition examined by the judicial authorities; and the measures taken for the immediate protection of even the least important interests of patients placed in asylums. These two orders of precautions, which were not inspired by any precedent, would suffice to recommend to us the legislation of 1838. Their work is, no doubt, capable of improvement in certain details, as asserted by the Minister of the Interior at the inauguration of the labours of the great Commission instituted in March, 1881. Nevertheless it is desirable that the main feature of the law should be respected, lest the desire of doing better should lead us to do worse.

CLINICAL NOTES AND CASES.

Moral Insanity. Case of Homicidal Mania. Contributed by H. MANNING, B.A.Lond., M.R.C.S., Laverstock House, Salisbury.

In the January number of the Journal we directed the attention of our readers to the question of Moral or Emotional Insanity, and requested contributions illustrative of this alleged mental condition. Articles have appeared on the subject by Dr. Savage and Dr. Gasquet. An interesting case of "Emotional Insanity with Homicidal Violence" has also appeared in the Journal.

The following letter from a patient to Mr. Manning referring to evidence given by him on the trial of Roderick Maclean for attempting the life of the Queen is another valuable contribution to the series. In forwarding it to us, Mr. Manning guarantees its genuineness, and observes—"As evidence of the reality of the insane impulse to murder, the possibility of which both Bench and Bar seem to ignore, this letter appears to me to be of great interest." —[EDS.]

April 25th, 1882.

SIR,—

In your evidence the other day, you said that you had often asked homicidal maniacs whether they were aware of what they had done, and that their answer had been, "Yes, I knew perfectly well