bed-ridden, paralysed, dirty cases sufficiently insane to be certified as such. These have generally ended their days in the workhouses, as the officials would not have dared to face out before the Board of Guardians the expense of sending them to the asylum. But now it will be decidedly cheaper, and a great saving of trouble, to pack them off to the county asylums, where the only effect their advent will have, will be that of raising the mortality per-centages. A pleasant prospect this for the asylums. And to show that these fears are not chimerical, it may be stated that in an asylum with which we are acquainted, out of 35 admissions from April 10th to June 1st, thirteen were so far advanced in disease that five died within a few days of admission, and the other eight cannot last more than a month or two. Three of the rest were idiots. During the corresponding period of last year there were exactly the same number of admissions, but only seven were advanced in disease, and none died. This may only be a coincidence, but it looks suspicious. At all events we think that we have presented matter for grave consideration.

Insanity and Divorce.

Out of five judges three have answered in the negative, and two in the affirmative, the question put to them by the House of Lords in the Mordaunt case. The question was, whether the insanity of one of the parties in a divorce suit should preclude the other party from going on with his suit. Lady Mordaunt having been pronounced insane, the judge of the Divorce Court had decided that the insanity was, so long as it continued, a bar to the husband's prosecution of his suit to obtain a divorce on the ground of adultery; and this ruling was subsequently confirmed by a majority of judges in the full Court of Probate and Divorce—that is, we believe, by two out of three judges. Sir Charles Mordaunt appealed against this decision to the House of Lords, which thereupon called in the assistance of the judges, who have illustrated their perplexity and the uncertainty of law by delivering elaborate judgments on opposite sides of the question. It now remains for the House of Lords to determine whether it will accept the opinion of the majority, in which case Sir Charles Mordaunt may prosecute his suit for a divorce, or that of the minority, when he must remain

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without remedy so long as Lady Mordaunt is pronounced insane.

The differences of doctors have long been considered proverbial, but any one who will be at the pains to note how often the judges are divided in opinion in appeal cases, and what throes of intellectual labour they sometimes go through in order to bring forth very remarkable births of legal wisdom, may well conclude that the judges have earned a right to the eminence which doctors have so long had unquestioned.

As it would be a pity that the following instances of judicial subtilty and judgment, which occurred not long ago, should pass out of memory, we take leave and occasion to quote them as they were recorded in the "Times." "Last week all the force of the Common Law Bench united to consider the case of the proprietor of a merry-go-round, and the result was anything but satisfactory. A girl at a fair mounted one of these vehicles of pleasure, giving the proprietor a sovereign, out of which he was to take his charge of a penny, and give back the change. He gave her eleven pence, and said he would hand over the rest after she had finished her ride, but when the finish came he refused to deliver the nineteen shillings. He was indicted for stealing this sum, and a jury found him guilty without hesitation; but the validity of the indictment was reserved to be considered by the majesty of Westminster. After much argument and deliberation, the Judges decided that he certainly could not be indicted for stealing the nineteen shillings; and they gave no hint to show how he could have been prosecuted. Almost simultaneously with this case occurred another, distinguishable from it, but equally perplexing to the Judges. A man went to a money order post office with an order for a few shillings, which he wished to be changed; the clerk, having another order before him at the same moment, referred to its amount in error, and put down on the counter its sum, eight pounds odd, which the man took up, and thereupon walked away. He was indicted for stealing the sum, and again the jury were satisfied of his fraudulent intent, but again the Judges were perplexed to decide whether, according to our common law, a theft has been committed where a man fraudulently appropriates the property of another who has physically offered him the opportunity of appropriating it, but has never in mind or will consented to his taking it. Fortunately, on Saturday, the Court for the Consideration of Crown Cases Reserved seems to have found itself able, after two or three

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hours' consultation among the five Judges constituting the Court, to affirm the verdict; but even then 'they were not yet prepared to deliver a formal judgment with reasons for their decision.'" It does not appear that the formal judgment with reasons has yet been delivered; no doubt it requires a prolonged and anxious gestation; but is it too much to hope that, when the Judges are formally delivered of their reasons, these may contain some hint to show how the proprietor of a 'merry-go-round' who takes nineteen shillings and one penny out of a sovereign when he is only entitled to a penny is to be proceeded against?

With regard to the question raised in the Mordaunt case, however, it is quite evident that there was ample room for differences of opinion, and that it would have been too much to expect judicial unanimity. On the one hand, it would be very hard upon a husband whose wife had committed adultery, and had subsequently become insane, that he should be compelled to maintain as his child, as well as to receive as his heir, the offspring of her adulterous intercourse, and should be precluded from seeking the relief to which, had she not become insane, he would have been entitled. He has taken her, it is true, for better or for worse, but he might fairly urge that the worse does not include adultery as well as insanity. On the other hand, if he were allowed to proceed with his suit, it is quite possible that injustice might be done to her, seeing that she might, by reason of her insanity, be rendered incapable of giving such explanations of circumstances and such contradictions of testimony as would, if given, destroy all the weight of the evidence adduced in support of the charges against her. She may not, in fact, have committed adultery at all. The charge may be a wicked fabrication. Is the door then to be opened to an unprincipled husband to concoct a false charge of adultery against an incurably insane wife in order to get rid of her? Again, the charge may be a false charge made by her against herself under the influence of insanity, but made with such earnestness and such detail of circumstance as to convince the husband and others of its truth. It is well known that insane women do sometimes make false charges of this kind against themselves, and it is a hard matter in some cases for the most experienced physician to satisfy himself, from mere observation of the patient, whether the self-accusations are the pure result of delusions, or whether there is not some truth in them. The writer has seen at least three cases of

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this kind in which he would be greatly puzzled to give a decided opinion one way or the other, and his experience has taught him this caution—never, when signing a certificate of insanity, to put down a self-accusation of adultery as one of the facts indicating insanity. For this event sometimes happens: that a vain and foolish woman, who by reason of some predisposition to insanity is of unstable mental nature, deficient in self-control, with passionate and ill-regulated impulses, commits adultery, and becomes insane soon afterwards, the insanity either being the natural climax of the mental degeneracy, or being brought on by remorse on account of the broken commandment. In this case, it would be rather hard upon the husband if he were refused all possibility of relief. But it would be a still greater hardship upon a suffering wife if she were divorced on the ground of an insane confession of a sin which she had never committed.

Whatever be the decision of the House of Lords, it is plain that it must involve the possibility of injustice to one of the two parties. The question will, no doubt, be decided by considerations having reference to the general welfare of the community. And to us it appears that the predominance of these is in favour of the decision come to by the majority of the judges. Were the opinion of the minority to prevail, the injury to the husband would in some cases be a positive certainty, whereas, if the opinion of the majority be confirmed, the injury to the wife will only be a possibility, which, if due care be taken, can hardly, in any case, reach the height of a serious probability. For although an experienced physician may sometimes have a difficulty in saying from mere observation of an insane woman whether a self-accusation of adultery is a delusion or not, that difficulty would disappear if he were made acquainted with all those facts of her previous history, relating to the charge, which would be given in evidence in a court of justice. And surely the court may be trusted in weighing the evidence in a divorce suit, to which the respondent cannot answer, to take that care which it takes, and to avoid those dangers which it presumably avoids, when a prisoner on trial for his life is undefended.

Since the foregoing remarks were printed, the House of Lords has given judgment, affirming the opinion of the majority of the judges. Sir C. Mordaunt may now, therefore, proceed with his suit for a divorce.

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