reading, but he did not feel convinced that the Chairman ought to be paid. He hoped the Government would not press for a salary for the Chairman of the Board.

Mr. RENSHAW regarded it as an unfortunate feature of the proposals of the Bill; for it for the first time proposed the partial payment of those who were connected with public offices in Scotland. It seemed to him that what was most needed was the appointment of another Assistant Commissioner, or they might get rid of one of the two legal advisers.

Other members having given utterance to similar objections, CAPTAIN SINCLAIR paid a tribute to the admirable administration of the Scottish Lunacy Board. He said that the salaries were limited by a statute, dating so far back as 1864. The English statute did not limit the salaries, and he maintained that the Government should pay the Scottish Commissioners well, and no one could contend that at present they were sufficiently paid.

The LORD ADVOCATE said he was sure he was not doing too much in saying that he would take upon himself to bring to the notice of Lord Balfour the views that had been expressed upon matters of principle. They were perfectly willing to consider them, and he could promise the House that in the light of the remarks which had been made his noble friend and himself would consider the circumstances, and whether it might or might not be more prudent to provide for the extra assistance in another way. On that understanding he hoped the House would allow the Bill to be now read a second time.

Mr. CALDWELL thereupon withdrew his amendment, and the motion for the second reading of the Bill was agreed to.

EDINBURGH DISTRICT LUNACY BOARD.—10*th May*.

On the motion for the second reading of this Bill, Mr. URE moved its rejection, urging that it was of an unprecedented character. The statutory powers of the Lunacy Board had nothing whatever to do with constructing and maintaining a railway, with selling water as a water company, and with the work of a sewage contractor. He opposed the Bill, not only on general grounds, but in the interests of the town of Bathgate, which, with its small rateable value and limited water supply, had a claim on a portion of the large catchment area the Lunacy Board proposed to acquire.

Mr. JONATHAN SAMUEL seconded the amendment.

Sir LEWIS M'IVER said he hoped that the Hon. Member for Linlithgowshire was now prepared to allow the House to go on with the business before it. Bathgate had arrived at the decision to drop opposition to this Bill. It would be a grave departure from Parliamentary traditions to oppose on the second reading a Bill which had passed a Committee of the House of Lords, and to refuse it the courtesy of a hearing by a Committee in that House.

Mr. URE, by leave, withdrew his amendment, and the Bill was read a second time.

RECENT MEDICO-LEGAL CASES.

REPORTED BY DR. MERCIER.

[The editors request that members will oblige by sending full newspaper reports of all cases of interest as published by the local press at the time of the assizes.]

Eady v. *Elsdon*.

The plaintiff was a schoolmaster, who brought an action against a schoolboy to recover damages for having wilfully set fire to the plaintiff's school and destroyed his furniture. The defendant denied liability, and pleaded that if he did the act complained of he was temporarily insane; and further, that the plaintiff voluntarily took him as a pupil, knowing that he was mentally affected, and failed to exercise proper discipline and control. The plaintiff advertised for boys who were idle, disobedient, or difficult to manage, and it was as a pupil of this description that the defendant was placed with him. It was alleged that the defendant had previously set fire to another school, and his mother stated that he needed constant watching and flogging, and could not be restrained. He had repeatedly

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run away from home and from school. The defendant was called as a witness and gave evidence with considerable intelligence, and admitted instances of his own mendacity and vice, and that he had caused the fire. The judge told the jury that the recognised relation between master and pupil was that for the ordinary acts of the boy the master undertook the risk—namely, the wear and tear of school furniture by knocking about, kicking the doors, and so forth. But it was clear that he did not take upon himself the risk that the pupils would set fire to the school. To fix him with that risk it must be shown that there was a bargain to that effect. In the present case the crucial test was whether or not it was part of the bargain between Mrs. Elsdon and the plaintiff, that he should undertake such a risk as this. If it was, then the action could not be maintained. If not, and he only undertook the ordinary risk, then the plaintiff was entitled to damages. There was another question: Was the boy mentally deranged? It was put before them as a sort of defence, and although he could not see why, he would put the jury that question. The main question was, Was it part of the bargain that plaintiff should undertake the risk? It was one thing to say, "I know that he is unruly, and I can manage him," and another to say, "I know that he is likely to set fire to the house, and I will take the risk." Unless they thought that the defendant had made out a special contract, the risk was outside the ordinary contract in such cases. The jury found that the defendant was not insane, and that there was no special bargain, and assessed the damages at £450.—2 B. D., February 20th and 21st (Mr. Justice Ridley).—*Times*, February 21st and 22nd.

The interest of this case to those who have charge of mischievous and unruly persons is manifest. Supposing that the incendiarism had been committed, not by a schoolboy in a school, but by a lunatic in an asylum, would the lunatic be answerable in damages for his act? By the ruling in this case it would appear that his liability would depend upon the nature of the bargain made by his friends at the time that he was placed under care, unless it were assumed that incendiarism was one of the "ordinary acts" of a lunatic. Is incendiarism as much an "ordinary act" of a lunatic as cutting his name on his desk, or kicking the doors is an "ordinary act" of a schoolboy? Probably the managers of lunatic asylums would say that it was not, and probably the relatives of lunatics would say that it was. And does the rule, whatever it may be, apply as well to other forms of wilful damage as to incendiarism? A plausible view would be that while the breakage of windows and of crockery, and the tearing of clothing were as "ordinary acts" of the lunatic as the cutting of his name on a desk or the kicking of doors were of the schoolboy, yet, that incendiarism in the former was on a par with the breaking of windows in the latter, for which an extra charge is usually made. Until the question has been judicially decided, it would be rash to act upon this view, and the managers of institutions for lunatics, who desire to be secure against the consequences of exceptionally destructive acts on the part of those under their care, would do well to specify in the bargains that they make precisely how much of the property destroyed or damaged by their patients they are willing themselves to make good.

Charleston v. *Stewart.*

This case was referred to in the last number of the JOURNAL. It was an action for breach of promise of marriage, in which the defender pleaded, *inter alia*, that several of the pursuer's relatives, both on her father's and mother's side, had suffered from insanity. At the trial counsel for the defender admitted that "the existence of a weakness of this sort in the family of the woman was not a sufficient defence to an action for breach of promise of marriage, *for the reason that the man ought to have inquired beforehand*. The judge ruled that evidence of the fact that the parent or grandparent of the lady had suffered from insanity was admissible, because it might tend to affect the question of damages. Counsel acquiesced, and said that he would not found upon the evidence as a substantial defence.—Court of Session, March 27th and 29th (Lord McLaren)—*Scotsman*, March 28th and 30th).

It is interesting to know that, in Scotland at any rate, a lover is supposed to make inquiries as to the sanity of the relatives of the inamorata before he puts to her the decisive question, and that their insanity is no defence for him if he subsequently repudiates his engagement.

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Mackensie v. *Anderson and others.*

An action for damages for slander. The pursuer sued the defenders for writing and publishing in newspapers an account of proceedings headed "Astounding proceedings at Stornoway—Farmer carried off to a Lunatic Asylum." The defenders pleaded justification and privilege. The judge said that the vital question was whether the publication warranted the innuendo that it charged the pursuer with knowledge that Mr. Fowler, to whom the letter related, was sane. That was a question of impression which did not admit of quotation of authority, and hardly of argument, and on that question his lordship was of opinion that it did not. The question of fact in the first issue was whether the defenders said of the pursuer that he got his father-in-law confined in an asylum as of unsound mind. It was admitted that he did so, and it was clear that it was not slanderous to say that a man did that which, as a matter of fact, he did do. It was a contradiction in terms to say that a true statement was false and calumnious. Further, it could not be libellous to add that the act was done illegally and wrongfully, for such words added nothing to the substantial averment of fact; and besides, they raised a question of law, not a question of fact, for a jury. It was not libellous to dissent from or to blame an action actually done, or words actually spoken, however undeserved the blame might be. Nor could it make the statement libellous to add that Mr. Fowler was not, in fact, of unsound mind, if it were not said that the pursuer knew that he was not. That would be merely charging the pursuer with error of judgment.—Court of Sessions, March 13th (Lord Kincairney).—*Scotsman*, March 14th.

If to say that a man has illegally and wrongfully placed his father-in-law in an asylum be not libellous in Scotland, we can only suggest that our comments would be much more freely made and be of greater interest to our readers if this JOURNAL were published in Scotland, and we commend the suggestion to the Association. There are several things that we should say if we were not deterred by the fear of actions for libel.

Hope v. *Board of Guardians of Chertsey.*

Plaintiff, a medical man, was called in by the relieving officer to examine, with a view to certification, certain patients in the workhouse. For this he demanded a fee of a guinea for each examination and certificate. The Guardians disputed the amount, under their statutory discretion to pay "such reasonable remuneration as they thought fit," and offered three guineas for the eight cases. His honour, in giving judgment, said that he had to decide what was a reasonable remuneration. The examination was one of very great responsibility. The public interest and the fate of the patients were in the balance, and the responsibility attaching to the medical man was very great. Dr. Hope seemed to have done his work very thoroughly, and as to his seeing the eight patients in 85 minutes, it did not matter whether it took him 5 minutes or 100 minutes. It was not a question of time, but of professional judgment and skill and experience. Defendants had not given a single instance of a case in which less than a guinea had been paid, but on the other hand they had ample evidence of the recognised and customary fee in the profession. His first impression had been that the Act referred to left an absolute discretion to the Guardians, but the defence had itself admitted that that provision was merely to protect the guardians from the surcharge of the auditor in case they paid too much. Dr. Hope was not aware of this section of the Act when he was called in, and he had asked for what his Honour thought a fair and reasonable sum. Judgment for the plaintiff with costs on the higher scale.—Chertsey County Court, April 5th (Judge Lushington).—*Surrey Times*, April 7th.

Dr. C. H. Broadhurst was summoned at the instance of the Commissioners in Lunacy for unlawfully for payment, and not under the provisions of the Lunacy Act, 1890, taking charge of a lunatic in an unlicensed house at Bournemouth. The patient in question, a Mr. M—, had been in St. Andrew's Hospital suffering from various delusions, and had been discharged therefrom (not improved) by order of his wife. He was taken from St. Andrew's by Dr. Broadhurst to the house of the latter, and at the time of his discharge from St. Andrew's was considered by the medical officers of that institution to be certifiably insane. Dr. Morton, to whose care the patient had been removed from that of Dr. Broadhurst,

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deposed that the patient was certifiably insane when he received him. Dr. Broadhurst deposed that during the time that Mr. M— was in his house he was not certifiably insane. That he transacted business, and was under no control, except that sometimes he had to be made to put his clothes on. Dr. Savage deposed that he examined Mr. M— while in Dr. Broadhurst's house, and that while Mr. M— was a confirmed hypochondriac, he was not a person who should be treated as a lunatic. He was not of sound mind, but he was not certifiably insane. Dr. Snow, of Bournemouth, said that he had examined Mr. M— while at Dr. Broadhurst's, and would not have certified him. At this stage the Court adjourned, and on resuming, Dr. Broadhurst's solicitor announced that his client was prepared to plead guilty to a technical offence. The solicitor to the Commissioners then assured the Court that he did not ask for a heavy penalty. There was not the slightest suggestion of impropriety against Dr. Broadhurst, and the patient had been well treated. It was merely a technical offence. The Bench inflicted a fine of £15.—Bournemouth Police Court, March 24th and 25th.—*Bournemouth Visitors' Directory*, March 31st.

Reg. v. *Greaves.*

Henry Greaves, aged 26, hawker, was indicted for the murder of Henry Smith, at Enfield. Prisoner hired Smith's yard, but as he was in arrear with his rent the deceased would not allow him to enter it. Greaves thereupon knocked him down, went away and fetched two scythes, and with these he repeatedly struck deceased as he lay on the ground, and of these injuries Smith died. The prisoner gave evidence, and said that he and the deceased man were the best of friends, and denied striking him with the scythe. He admitted that he was himself in drink at the time. Guilty. Sentenced to death, and subsequently hanged.

The plea of insanity was not raised in this case, but it is noticed here as a crime whose violence and ferocity so far outstripped the provocation as to bring it into close resemblance with a class of crimes that frequently result from insanity. And the resemblance is still further increased by the fact that the murderer was at the time suffering from the transient insanity of drunkenness, and to this there is no doubt that the crime was due. The transient insanity of voluntarily induced drunkenness is, however, no excuse for crime, and the prisoner was hanged. The case may be instructively compared with Reg. *v.* Stoner and Reg. *v.* O'Byrne in the last number of this JOURNAL.

INEBRIATE LEGISLATION.

The London County Council's Committee reports:—"Having regard to the insufficiency of accommodation for Protestant women at the Duxhurst Reformatory, and the refusal of the managers to receive patients of the prostitute class, who form a large proportion of those who come before the courts, we have been in negotiation with the Salvation Army, with the managers of various penitentiaries, who, we understood, had under consideration the question of applying for certificates under the Act, and have done all we could to find accommodation for those who could not be received under the terms of our existing agreements. Our efforts have not, however, been successful, and failing the provision of accommodation in any other way, the Council, on our recommendation, decided to provide accommodation itself, and has, for this purpose, acquired the Farmfield Estate, and arrangements are now being pushed forward as rapidly as possible for the adaptation of the buildings on the estate for the purpose of a reformatory for females. In order that no avoidable delay may occur in bringing the buildings into use immediately they are ready, a superintendent has already been appointed, and we are in conference with her with a view to the completion of the arrangements with regard to the staff and other details. We hope to have the reformatory ready for the reception of patients not later than the middle of June.

"With regard to the accommodation for male inebriates we have been in negotiation with the Church Army, who have a reformatory in course of construction near Dorking, and with the Managers of the Lingfield Training Colony, which has been visited by our Chairman. The Managers of the Colony are prepared to make arrangements in the existing buildings at the Colony for the temporary accommodation of from ten to fourteen inmates within a few weeks, and to proceed with the

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