

always throw upon private individuals, coupled with the uncertainty of the result, will effectually prevent them from coming forward as prosecutors.

The publication of cases like that furnished by our correspondent will, however, serve to open the eyes of the Legislature to the abuses of the present system, and may in the end lead to the appointment of a better qualified class of men, and to a more satisfactory performance of the duties of the important office of coroner.

The employment of the vapour of ether for the purpose of destroying sensibility to pain during the performance of surgical operations is now becoming almost universal. During the last week it was successfully used by Dr. Fairbrother with the occasional exhibition of wine, as a counter-stimulus, in the case of a patient who underwent amputation of the thigh at the Bristol Hospital. The operation lasted fifteen minutes, but the man remained during the whole of this time in a perfectly quiescent state, without motion or sound. He afterwards stated himself to have been conscious of the amputation, but without pain beyond that of a scratch.

The mode adopted on this occasion by Mr. Herapath to ensure the respiration of the ether-vapour, is perhaps the best and simplest which has hitherto been described. It is identical with that which has been so long employed in experiments for the respiration of the nitrous oxide or laughing gas.\*

From an advertisement in our last number it would appear that the mania for the employment of ether in surgical operations, is likely to receive a check. We learn that the administration of the vapour of ether to the lungs is "patented for England and the colonies." Hence no person can

employ it without rendering himself amenable to an action at law. It is well known that the most absurd and even impossible processes may be patented under the English law; the great object apparently being to secure the heavy fees, and leave the patentee or the public, as the case may be, to find out the mistake by the results! We do not deny that there is some utility in this discovery, but we doubt whether it possesses that novelty which should entitle it to a patent.\* What is to prevent a patient from presenting himself for a surgical operation provided with his own bottle of ether, and a bladder prepared according to Mr. Herapath's directions? Would an action lie against the operator if he drew a tooth under these circumstances? We should think not: because he could not be said to have employed the process; and he could no more prevent a patient from inhaling a dose of ethereal vapour, than he could prevent him from swallowing a full dose of laudanum. Would an action lie against the patient? The patent laws are so complex that it is difficult to give an opinion. Daguerre, after receiving a very liberal annuity from the French government for throwing his "photographic process" open to the world, was actually permitted to patent, by his agents, the use of *solar light*, rare as it is, in England! It appears to us that in spite of the patent-laws a man has as much right to inhale the vapour of ether as to swallow ether in the liquid state; and we do not see how he can legally infringe the rights of the patentee unless he achieves an impossibility, *i. e.* that he swallows the vapour, and operates upon himself, while in a state of insensibility! The

\* We presume that the agents of the patentees intend to open establishments in different parts of the metropolis, where persons may be rendered insensible at fixed prices by their process, or that they will supply the patent vapour to hospitals by annual contract!

\* See Dr. Fairbrother's letter, page 81.

two conditions must, we apprehend, be taken together, or there would be no infringement. We cannot pretend to say how a legal decision in such a case would go; but we think there would be very great difficulty in maintaining a patent right to the respiration of the vapour. From an article in the *Pharmaceutical Journal*, for January 1847, we learn that the vapour of ether was inhaled as a substitute for nitrous gas many years ago;\* hence the only novelty is in the application;† but unless the ether vapour is employed by the party who operates, we do not see how he can be charged with an infringement. We make these remarks not for the purpose of justifying what the law might deem a collusive infringement of a just patent, but of showing the extreme difficulty which must exist in comprising in a specification what is certainly not a new process, but at the best merely a new mode of applying the well-known sedative effects of ether to the production of a state of narcotism. The patentee must, it appears to us, be prepared not only to claim an exclusive right to the use of the vapour of ether (by respiration) as a narcotic; but also an arbitrary right to prevent any surgeon from drawing a tooth or performing any other operation upon a person who has, by the agency of himself or friends, been brought to a state of insensibility by the inhalation of the ethereal vapour! All professional men, except those immediately interested, will, we are assured, agree with us in thinking that this is not a process to be patented; and we shall heartily rejoice to hear, that this attempt to extort a per centage upon the fees for the extraction of teeth, amputation of legs, &c. &c. has been defeated. Admitting that the privilege of making a profit on

pain and suffering is really secured by law,—who, we would ask, is to pay the fee for a license to use the patent? It cannot be expected that this should come out of the pocket of the operator: he has exactly the same amount of trouble and responsibility whether the patient be under the influence of a narcotic or not. The benefit is conferred on the patient whose nerves are, *pro tempore*, spared the sense of pain. Equitably, therefore, the patient should pay the fee: but a very large number of those upon whom operations are performed, are not able even to pay a fee to the operator, much less to pay one to a patentee for undergoing a temporary exemption from pain and suffering! It is obvious that if this absurd patent right is maintainable at law, whatever benefit may be attached to the discovery will be entirely withdrawn from those who are most in need of it—namely, the unfortunate inmates of our hospitals, and the more wretched tenants of the sick wards of our Poor Law infirmaries! We feel quite satisfied that the Poor Law Commissioners would make no addition to the tariff of scanty fees now allowed for operations in order to pay for the use of patent ether vapour; and it is equally certain that a surgeon who has the liberal salary of about *seventy pounds* a year for medical attendance on some thousands of paupers in a widely spread Poor Law Union, will not be able to make any deduction from the extra five pounds which, in the event of the patient surviving the operation thirty-six hours, he receives for an amputation! It is clear, therefore, that the patentees, if successful in their object, can look for a satisfactory return only to the legs and arms of the wealthy part of the community.

\* p. 337.

† Even this is a matter of doubt. See a letter by Dr. Collyer in the present number, page 82.

THE weekly deaths in the metropolis are on the increase. In the week

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