

The Danger of Discharge of Insane Patients by the Judicial Authority.

“A Flaw in the English Lunacy Law,” to which Dr. Ernest White draws attention⁽¹⁾ is an example of the dangerous power given to the “judicial authority” under the existing Lunacy Act.

The case of which Dr. White gives the details is one in which, in spite of the written opinions of four medical men, two of them specialist physicians, a justice of the peace reported to the Commissioners in Lunacy that he did not consider the patient to be insane. The Commissioners, on this report, were obliged to discharge the patient, who thus obtained the opportunity of committing suicide, and did so.

The criminal absurdity of giving an ordinary justice of the peace the power of deciding on the sanity of an alleged lunatic has never been more clearly and forcibly demonstrated; but the fault is in the law, and not in the judicial authority, who possibly did not know that his report would inevitably lead to the discharge of the patient. A young justice of the peace would probably expect that his report would not lead to immediate discharge, but only to an investigation by skilled medical men. The law, therefore, needs amendment in giving the Commissioners in Lunacy discretion in regard to discharge on such a report, so that they may act on it, decline to act on it, or make further investigation.

That sick persons should be liable to be discharged from hospitals on the medical opinion of a lay judicial authority is an intolerable injustice, and would be a ludicrous absurdity were the consequences not so lamentable and disastrous, as exemplified in the case under consideration.

The Lord Chancellor, if this case is brought before his notice, will probably amend the section under which it occurred, otherwise we must conclude that disease is really regarded as crime, and that we are fast approaching to the state of things depicted in Erehwon.

⁽¹⁾ See page 312 of this number.
