

conduct which seems to me its most essential feature. So I could go on making to every item in the table objections to which neither Dr. Rayner nor anyone else would attach any importance.

CHAS. MERCIER.

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*“Certifiability.”*

The terms, “certified lunatic,” “certifiable,” “certifiably insane,” &c., are commonly used as if some single definite meaning attached to them. I do not think this is the case.

More than one form of certificate is authorised by the Lunacy Acts. The Idiots Act, 1886, authorises one form. The Lunacy Act, 1890, authorises three forms—Form 8, Form 10, and a combination of Form 8 and Form 9. The effects of these certificates are severally very different.

(1) A certificate made under the Idiots Act, 1886, of itself, and without further authority, legalises the reception and detention of the certified idiot or imbecile in an institution registered under the Act. A person so certified is doubtless “certifiably” insane.

(2) A certificate made in Form 8 of the Lunacy Act, 1890, whether accompanied or not by a certificate in Form 9, does not of itself authorise the detention, or even the reception, in an institution, of the patient to whom it refers. The reception and detention need for their authorisation another document. Neglecting for the moment the case of the urgency certificate, the question arises: Does the making of a certificate, in Form 8 or in Form 10 of the Lunacy Act, 1890, constitute the subject of it a “certified patient”? Is he thereafter “certifiably” insane?

The certificate in Form 8 is in two parts. It states that the certifying practitioner is of opinion that the subject of the certificate is a lunatic or an idiot or a person of unsound mind, &c., and also gives facts indicating insanity. If the opinion is given and signed, does this of itself constitute a certificate, and, if so, is the subject of the certificate then a “certified” lunatic, and “certifiably” insane, whether or no the facts in the certificate bear out the opinion that the certificate expresses?

Certificates made in this form are made for the purpose of obtaining a judicial reception order. Two such certificates

must accompany the petition for the order, and it sometimes happens that one certificate can be obtained, but the second cannot. Is a person with respect to whom one practitioner makes a certificate, and another refuses to make a certificate, "certified" as a lunatic or "certifiably" insane?

Supposing that two certificates are obtained with respect to an alleged lunatic, and that, upon consideration of the petition and accompanying certificates, the judicial authority refuses to make an order, or dismisses the petition; is the patient still "certified" or "certifiably" insane? If not; has he been in the condition of being certified while the petition was pending? In such a case, the subject of two certificates would be at large and *sui juris*. The issue of his insanity would have been tried and determined in the negative. Are the certificates annulled by the dismissal of the petition? Or does he remain a "certified" lunatic? If the certificates are annulled, does the annulment date from the dismissal of the petition, leaving him a person who has been a "certified" lunatic; or does the dismissal of the petition annul the certificates retrospectively, leaving him a person who has never been "certified"?

(3) A certificate in Form 10 of the Lunacy Act, 1890, authorises the reception and detention for fourteen days of the subject of the certificate. During the fourteen days he is, no doubt, a "certified" lunatic, and is certifiably insane; but at the end of the fourteen days the detention is no longer legal unless an order is made by a magistrate. Again similar questions arise. If the magistrate refuses to make the order, the subject of the certificate ceases, it is presumed, to be a "certified" lunatic, and to be "certifiably" insane. Clearly, in this case, the action of the magistrate is not retrospective, and does not annul the certificate from the time it was made, for he cannot delegalise the detention during the fourteen days. If, then, the certificate is not in this case annulled *ab initio*, but is merely determined, by the refusal of the magistrate, is not the certificate in Forms 8 and 9 also merely determined by the dismissal of the petition, but in force, and the patient a certified lunatic, from the time the certificate is made until the petition is dismissed?

The cases are almost on all fours. The difference is that the certificate in Form 10 of itself gives a receiving and detaining power, while the certificate in Forms 8 and 9 requires in addition the order of a relative of the patient.

The action, or refusal to act, of the magistrate determines the efficacy of the certificate in both cases, and renders the subject of the certificate no longer a detainable lunatic; but, until the magistrate acts or refuses to act, or the time of their operation expires, both the certificate in Form 10 and the urgency certificate remain in force, are in action, and efficacious; and, during the time of their operation, the patient is surely "certified." But the case of certificates in Form 8, accompanying a petition for a reception order, is different. They have of themselves no operative force; they are merely for the consideration of the judicial authority, who may accept or reject them as he pleases. If he rejects or dismisses the petition, the patient is from that moment not a certified lunatic; but was he ever so?

It seems to be the current opinion that a person is "certifiable" with respect to whom a medical practitioner is prepared to make a certificate. From what I have said, this appears to be doubtful. Even when a certificate is made that a person is insane, it does not appear certain that that person is "certified," or even "certifiable." The opinion has been expressed in this association that "certifiability" should be the test of responsibility, and that no certifiably insane person should be held responsible for any crime that he may commit. The authority who expressed this opinion must have had in his mind that certifiability is a very definite state, which can be predicated or denied with certainty. It appears that this opinion is ill founded. What is often meant, I think, by "certifiability" is "detainability"—the liability to be detained under care and treatment as a person of unsound mind. But it is not certain that the two things are the same. And it must be borne in mind that the order for detention is not made by the certifier. It is made by the judicial authority upon the certificates; and it is much more difficult to induce the judicial authority to make an order, than to induce a medical practitioner to make a certificate.

CHAS. MERCIER.

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*Care of the Insane in England and Scotland.* By PROFESSOR  
E. MEYER, Königsberg in Prussia.

Professor Meyer gives an account of his visit to this country last year, and begins by paying us a high compliment as continuing the traditions of Conolly by a free and humane administration. He continues by giving an account of the