Occasional Notes.

Lunacy Law Reform in relation to the Treatment of Incipient Insanity.

The accuracy of the description of the present legislative provisions for the insane as the *Lunacy* Act has often been questioned, and there, indeed, seem many well-founded reasons for believing that they would have been more correctly described as the *Lunatic* Act.

The Bill on which this Act was founded was introduced at a time when John Bull (as Dr. Mercier recently remarked) was suffering from considerable mental disturbance excited by the Weldon case. The disorder took the form of morbid fears about the liberty of the subject, with delusions of suspicion against the medical profession. The Bill, as originally introduced, affords ample evidence of these symptoms, but fortunately several years of delay intervened (during which the sufferer had to some extent recovered) before this insane Bill became lunatic law.

The animus against the medical profession was well shown in the clause in the original Bill which excluded medical men from taking charge of single cases of insanity. An ex-convict, an habitual drunkard, or even a lunatic, was (and is still) at liberty to take charge of such cases, while all medical men (unless struck off the register for infamous conduct) were disqualified. That such a clause should have been introduced in two successive Bills is evidence of the spirit of the framers, and is confirmed by the extreme severity of the penal provisions of the Act against medical men. Throughout the Act lunatics are treated as veritable, and their doctors as probable, criminals.

The alleged lunatic was always spoken of as being "accused" of insanity, of being "incarcerated" in an asylum, and so on; whilst under the existing Act power is given to the magistrates to order these sick persons before them, to delay their proper medical treatment for days and weeks, even to override the written advice of two medical men, and to virtually discharge the patient after admission to hospital (asylum). This last power was recently exercised, resulting

in the suicide of the patient, whilst the other powers of delay have led to homicide, homicidal violence, or suicide. The magistrates, on the whole, however, have acted with astonishing discretion, and have rarely exercised the powers given them in the Act to practise as transcendental lunacy physicians.

The criminality of being mentally sick necessarily involves criminality in those who are accessory to the crime. Hence the Act provides that any person undertaking for payment to take charge of an invalid against whom mental disorder can be even alleged, is (by Sec. 315) guilty of a misdemeanour. The liberty of the subject, which this Act was designed to protect against the utterly improbable possibility of a sane person being detained in an asylum, is outraged in the grossest manner in three different directions—*viz.*, by delaying and deterring sick persons from obtaining treatment under certificates; by forcing certification on others before they need it; and by preventing medical men and nurses from the legitimate exercise of their vocation in treating these invalids.

Bad laws are badly obeyed, and the lunacy law, being harsh, unjust, and absurd, is no exception to the rule. To the intense popular objection to being considered a lunatic (which is evidenced throughout our literature, and by a hundred contemptuous phrases in the vernacular) has been added the equally wide-spread dislike to magisterial interference. Hence a much more universal desire to escape the meshes of the law; and this is aided by the fear that has been established in medical men by the penal threats of the Act, and by incomplete protection against prosecution for certifying insanity.

The manifold hardships and gross interference with the treatment of mental diseases in their early stages, as a result of the existing law, formed the subject of a discussion at the Carlisle meeting of the British Medical Association in 1896, when a resolution was passed leading to the formation of a conjoint Committee of the British Medical and Medico-Psychological Associations. This Committee was ultimately received as a deputation by the Lord Chancellor, who adopted into his Bill, almost without alteration, a clause moulded on that in the Scottish Act. This clause provides for the treatment of incipient and unconfirmed insanity for a period of six months without certification, and for notification of the fact to the Lunacy Commission.

Sir William Gowers, at the November meeting of the Medico-Psychological Association, read an address pointing out this defect in the law, and recommended much the same amendments. His testimony is all the more valuable from its being arrived at independently, he being apparently unacquainted with the Lord Chancellor's adoption of this clause four years ago.

Treatment of incipient and unconfirmed insanity provided in this clause if it becomes law, will need to be supplemented by some regulations in regard to the character and qualifications of the persons undertaking it. Ignorance may be worse than cruelty, and the incipiently insane person who is well fed, well clad, and tenderly neglected in the nursing-home bed or the genteel back parlour until hope of recovery is lost, is really subjected to the most grievous neglect. Under existing conditions such neglect, it is to be feared, is of but too common occurrence.

A considerable number of those engaged in the treatment of unconfirmed insanity are highly qualified for the work by experience or special aptitude, but there are many not so qualified. There seems, indeed, to be a very wide-spread popular opinion that when all else has failed a "patient" may be taken who, like the Hibernian pig, will not only "pay the rint," but something more.

The housing accommodation of incipient cases is not always the best that could be desired. There is often no opportunity for private exercise, so that the patient is unduly confined to the house, or, to avoid inconvenience to other inmates, to bed. To escape the attention or the annoyance of neighbours, and to overcome the noise of the locality, sedatives are often unduly resorted to, while the patient is frequently allowed to indulge many kinds of ill habits unchecked and uncontrolled except by chemical means.

Uncertified care may therefore be either the best or the worst form of treatment, and may bring either salvation or utter ruin to the patient. Such treatment should not be left, as at present, to be undertaken by any person, however unqualified, and under any conditions, however unfitting.

The notification of treatment would enable the Lunacy Commission to obtain information which they have now no means of acquiring, and of framing regulations which would

tend to obviate the present very serious irregularities. This would entail much labour, and would necessitate that increase in the *personnel* of the Commission which has long been required.

The Lord Chancellor has shown himself so much interested and so open-minded on lunacy questions, that direct representations to him would be much more practical and successful than to put the whole lunacy law into the hands of a Royal Commission. A Royal Commission, indeed, may be regarded as the Western equivalent of the car of Juggernaut. Fanatics rush to prostrate their crude ideas beneath its ponderous examination wheels, happy ever after in having them recorded in the report. Hence the conclusions of the Commission are commonly a compromise of extreme rather than a composite of all views. From such a result we may pray to be delivered.

The lunacy law wants reform on many points, but first it is necessary to persuade those concerned in legislation that the medical profession is not in a conspiracy to shut up all the community in asylums, but, on the contrary, is really desirous of doing good to the insane; that the insane are not criminals, but sick persons needing the most careful, skilful, and tender treatment, especially in the early stages of the disease.

The Legislature needs also to be taught that these sick persons have a right, equally with other sick persons, to obtain necessary treatment, without the delay of a moment by legal procedure, and that to sacrifice this right to the fantastic fear of a hitherto uncommitted crime is a disgrace to our national character for common sense and humanity.

In Scotland, where the law is sane, and has not a quarter of the safeguards and none of the terrific threats against medical men found in the English law, no case has arisen in which any person has been proved to be illegally detained. The late Lord Shaftesbury vainly pointed out that no such case had ever occurred in England.

The liberty of the subject bogey should be relegated to a legal limbo, and lunacy legislation should be based, not on panic and prejudice, but on common sense and justice.

If the present Lord Chancellor is approached in a suitable manner, we believe that English lunacy matters may yet be dealt with by "sane law in a sane Act."
