how difficult it is to cast off intellectual bondage; how painful to ascend to the light—to purge ourselves of the "blossoms of passion," those "gay and luxuriant flowers," which deceive us by their brightness, but bring death in their odour.

Both lead us to an earthly paradise, where, drinking of the streams of Lethe and of Eunoc, the memory of evil is lost, and the good, which was overlaid and withered, is resurrected, and—like Dante himself—Philosophy is rendered "Puro e disposto a salire alle stelle."*

* Pure and disposed to mount to the stars.
Purg., c. 33–145.

The Provisional Treatment Order of the Royal Commission.† By

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Introductory.

The Lunacy Acts of England and of Scotland are in urgent need of amendment. The parent Act for Scotland dates back to 1857, since when great changes affecting its serviceableness have taken place in the social life of the country as well as in the scientific world. It, however, definitely recognizes the paramount position of the medical profession in the treatment of mental diseases, for under its provisions no layman or magistrate is called upon to interview the patient before he is placed in a mental hospital, and no layman or visiting committee is held to be responsible for his removal when recovered. Medical men discharge these and all similar duties, and to this feature must be ascribed the success of the Scottish system. It has gained the confidence of the people and in place of misgivings and suspicion, there is pride in our mental hospitals and in their management. No case of improper detention has ever been recorded in the law courts. The Act of 1857 has served its day and generation well, and its principles of medical responsibility and of reliance on the honour of the medical profession are established in Scotland.

The Lunacy Acts for England and Wales were consolidated in the Act of 1890.

From the legal and administrative points of view it is a complete

† Being the address which opened a discussion on "Points in the Report of the Royal Commission on Lunacy and Mental Disorder (England and Wales) at the Annual Meeting of the Association held at Edinburgh July 22, 1927 (*conjointly with the Section of Mental Diseases of the British Medical Association*).

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logical and well-drafted instrument. Its very perfection in these respects has been a calamity to the person sick in mind. That the treatment of insanity is primarily a medical question, that insanity being a disease must be treated like other diseases and treated early if its cure is to be effected, were minor considerations in the building up of this Act. They were overshadowed by legal problems connected with the liberty of the subject and with the haunting fear of improper detention. As a result of this, an Act designed for the welfare of the insane person has turned out in practice to be in many respects to his detriment.

The present is an opportune time to discuss the problems of lunacy legislation. A thorough and impartial inquiry by a Royal Commission has just been concluded and an exceptionally able report has been presented, pointing out existing defects and making valuable suggestions for the future. One gratifying and immediate result of the investigations made has been to allay all anxiety in the minds of reasonable people as to the improper detention of sane persons in mental hospitals in England. Such cases have not been found, and in future, legislation should not be dominated, as it has been in the past, by unjustifiable suspicions and fears that have prevented the patients from receiving proper medical treatment.

The problems are summed up by the Royal Commission in the following paragraphs:

> "The problem of insanity is essentially a public health problem, to be dealt with on modern public health lines" (Par. 50).
>
> "The keynote of the past has been detention; the keynote of the future should be prevention and treatment" (Par. 42).
>
> "The Lunacy code should be re-cast with a view to securing that the treatment of mental disorder should approximate as nearly to the treatment of physical ailments as is consistent with the special safeguards which are indispensable when the liberty of the subject is infringed" (Par. 104).

According to the Royal Commission, the basic classification of cases requiring mental treatment should be the voluntary and the involuntary.

The arrangements suggested for voluntary treatment are, on the whole, satisfactory. This form of treatment will ultimately become by far the most important and popular. Its advantages are manifold: Earlier treatment, willing co-operation, a shorter stay, more numerous recoveries and the absence of all annoying formalities and legal difficulties. The effect of these on the contentment of the other patients, on the atmosphere of the mental hospital and

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on the attitude of the public towards mental hospitals is invaluable. Already in the Scottish Royal Hospitals the admissions of voluntary patients paying the higher rates of board amount to two-thirds of the total number. As the principle of voluntary treatment meets with universal approbation and differences of opinion exist only on matters of detail, discussion on this subject would serve no useful end at present and is, therefore, avoided.

With regard to involuntary patients three procedures are recommended by the Royal Commission.

The simplest of these is the Emergency Order signed by a relative, or friend, or public official on one medical certificate, which, let it be noted, is not a certificate of insanity. This Order remains in force for seven days. Nothing need be said regarding the Emergency Order, which is satisfactory. It will be found most useful.

We now come to the two remaining procedures recommended by the Royal Commission, namely, the Provisional Treatment Order and the Reception Order. They differ in three respects.

To obtain the Provisional Treatment Order, one doctor only is called in to advise, instead of two, as in the Reception Order; secondly, the single doctor makes a recommendation in the Provisional Treatment Order, while the two doctors give certificates of insanity in the Reception Order; and thirdly, the authority of the Provisional Treatment Order lasts from one to six months only, while that of the Reception Order is indefinite in duration. Both these Orders are obtained through the personal intervention of a layman.

A Recommendation by One Doctor only.

The Royal Commission is to be congratulated on adopting the principle in the Provisional Treatment Order, that an insane patient, whose recovery is expected, may be detained and treated on the recommendation of a doctor, without being certified to be insane, thus relieving the patient and his relatives of the stigma of certification, which is so acutely felt by them.

The Provisional Treatment Order is supported by the recommendation of one doctor only; this is a mistake. In so important "a matter which is the most difficult, delicate and indefinite in the whole range of medical practice," according to Mr. Justice M'Cardie, two doctors should without doubt have been consulted. In every great profession there may be a weak or an unworthy member; doctors, like other human beings, suffer in health and may make mistakes or be deceived, but the possibility of two doctors falling simultaneously into one or other of these categories or of acting in collusion is a very remote contingency. As a

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safeguard and as a second witness, apart from the value of another medical opinion, the employment of a second doctor must meet with the approval of everyone. Light may be thrown on the failure to recommend two doctors by question 4055: "Do you think a second certificate of sufficient importance as a safeguard to justify the expense in pauper cases?" Two medical certificates have been employed in all pauper cases in Scotland, a much poorer country, for seventy years, and should be employed in England in all such cases as well. Moreover, the Provisional Treatment Order applies to private cases as well as to paupers. A niggardly economy where the liberty of the subject is concerned is indefensible, and it is particularly objectionable to the medical profession when the failure to employ a second doctor is, as we believe, partly responsible for the repeated visitations of a sick person by laymen, and these will certainly not make for economy. It has been estimated that the addition to the cost of lunacy in England would amount to a sum of about £20,000 if a second doctor were employed, but probably much more than this sum would be saved if the repeated visitations by justices and their followers were abolished.

The Difficult Question of Prognosis.

Another very debatable point is the basis upon which the two classes of patient—namely, those to be placed under the Provisional Treatment Order and those to be placed under the Reception Order are to be selected. This involves the question of prognosis, notoriously the most difficult and uncertain problem in psychiatry. It has to be solved in the first place by the general practitioner, who can scarcely be expected to have the necessary experience; and secondly, by the justice, who has had no medical training at all. The Provisional Treatment Order applies to those cases only in which "there is a prognosis of early recovery"; and the Reception Order applies to those patients only who are not likely to recover within six months. Those who have already been under provisional treatment for six months naturally come under the second category.

The difficulty regarding prognosis may be illustrated by a recent experience. A very eminent surgeon treating a melancholic patient regarded the prognosis of the mental condition as hopeless, because the patient was intensely suicidal. A suicidal tendency is the most anxious symptom a patient can exhibit; but as regards prognosis it is of no more significance than an ingrowing toe-nail. The surgeon was astonished when he was told this truth, but he now knows better, for he saw the patient make a rapid recovery. A Justice under similar circumstances might very naturally and excusably make the same blunder and refuse to sign the Provisional

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Treatment Order. It is obvious that prognostication and forecasting the date of recovery is not one of the easiest tasks in psychiatry, and should not have been selected in sorting out Provisional Treatment cases from Reception Order cases, even though it is desired, and very properly desired, that all patients who make early recoveries should receive the benefit of the Provisional Treatment Order.

The happiest laws regulating practical affairs are not the fine product of learning, but are fashioned by the friction of circumstance and the shock of facts in the rude school of experience. And were the recommendations of the Royal Commission regarding involuntary patients passed into law, every doctor would place every patient, not hopelessly and incurably insane, under the Provisional Treatment Order. What experienced doctor will give a bad prognosis at the beginning of an obscure illness? If thirty-five years ago Sir Thomas Clouston objected to the term "dementia præcox," simply because of the malign influence of a pessimistic nomenclature on the endeavours of the physician, what are we to think of the evil consequences of a serious prognosis given solemnly on oath as a preliminary to treatment? When remedies are forthcoming for incurable and fatal diseases like general paralysis of the insane, what doctor, in the early stage of any illness, in cold blood, is in vulgar language going "to throw up the sponge"? Every successful doctor is an optimist; to be anything else is fatal to the prospects of his patients and to his own success. Gloomy deans may have a vogue, but not gloomy doctors. It may be safely assumed, if the recommendations of the Royal Commission be passed into law, that every patient not a long-standing chronic or absolutely hopeless case will receive the benefit of the doubt and will be treated under the Provisional Treatment Order. In other words, all recent and recoverable cases of mental disorder will certainly be given the chance of recovering within six months without being certified and registered as lunatics. No harm will be done, if incurable cases by mistake also enjoy this privilege; for it is clearly better to err on the side of granting it to too many than to too few. The self-reproaches of a family doctor who had certified a patient to be insane under the Reception Order, may be left to the imagination should the patient make a perfect recovery in the course of three or four months. His services would be dispensed with to a certainty.

When it designed the Provisional Treatment Order, the Royal Commission had the Scottish Schedule "G" in mind, for the powers granted under this schedule can be applied to the treatment of a patient for six months, when "the malady is not confirmed," and

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"with a view to his recovery." This condition is better expressed in the schedule than in the Provisional Treatment Order, for the intention can be honestly remedial, however faint the hope of recovery; it avoids such a strain on the conscience as a declaration on oath that recovery is likely to take place within six months when the outlook is quite uncertain, and when a definite diagnosis has not been made. Seeing that similar results can be obtained in a simpler, surer, and more honest way than by speculative prognosis and hazardous assessment of the date of recovery, it would be better to drop the dubious procedure of prognostication altogether and give every patient, not a chronic and absolutely hopeless case, the benefit of the Provisional Treatment Order for six months, in order that he may be treated "with a view to his recovery."

After a patient has been treated under a Provisional Treatment Order for six months and is not likely to recover soon, and in obviously incurable and chronic cases, full certification of insanity and a Reception Order is a procedure to which no objection can be taken, seeing that custodial and not remedial treatment is its main object. If a patient under a Provisional Treatment Order has not recovered within six months, but is expected to recover soon, it should be possible, with the approval of the Board of Control or other competent authority, to extend the duration of the Provisional Order to a year, or even longer.

Personal Intervention of the Justice.

We note, with profound regret, that the Justice, a layman, must intervene personally in order that temporary medical treatment may be obtained under the Provisional Treatment Order. Quasi-medical duties and responsibilities are also imposed upon him. Such a recommendation is astonishing in a report that records no case of improper detention, and that breathes medical aspirations and professes therapeutic and preventive ideals on almost every page. It is clear from the evidence submitted to the Royal Commission that legal formalities have in the past been the chief impediment to early treatment and have prohibited preventive measures altogether. The treatment to be given under the Provisional Treatment Order is only temporary and is essentially remedial; it is quite different from that given under the Reception Order, which is unlimited and is predominantly custodial. There is, therefore, little reason for judicial intervention in the Provisional Treatment Order, and this intervention would be still less necessary if two medical men were consulted instead of one.

The judicial authority, we are told, is employed for two reasons: Firstly, as a safeguard against improper detention; and secondly,

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because it is a principle of English law that the liberty of the subject may not be infringed without the intervention of some judicial authority.

With regard to the first reason—namely, as a safeguard against improper detention, if improper detention ever happens, it is never the result of malicious intention. So long as human nature remains as it is, and circumstances seem to conspire, mistakes may occur; but when we recall that miscarriages of justice such as the Adolph Beck and the Edalgi cases have occurred even in our courts of law, and that no cases comparable to them have occurred in our mental hospitals, then it must be admitted that the record of the medical profession is beyond all praise and one to be proud of. Further, when we consider that in Scotland for seventy years thousands of insane persons have been placed in mental hospitals without being seen by any Magistrate, and that no case of improper detention has ever been found in our courts, it is clear that the honour and vigilance of the medical profession are no mean safeguards.

A Medical Safeguard.

There is a safeguard, not judicial, the value of which the Royal Commission does not appear to have realized—the medical appeal. The subject is in Scotland safeguarded against improper detention in an asylum by the right of appeal to two independent doctors for examination. The judicial authority is the sheriff, whose strictly legal functions will be described later. He considers in private the written medical evidence only and makes no quasi-medical investigations himself, nor does he invade the privacy of the sick-room. His Reception Order is wholly given on the written opinions expressed by the two medical men first called in, but complete and speedy protection is afforded the patient, should these two have made a mistake, by the right of appeal to two independent doctors for examination. This right is enjoyed by the patient, by any relative, by any friend, by the Sheriff, and by the General Board of Control, so the machinery can be easily set in motion and in many ways. A patient is detained in a mental hospital on the certificates of two doctors, and what two medical men have done, two others can undo, if wrong has been done or a mistake has been made. If the first opinions are confirmed by this independent and unbiased testimony, the opposition of all reasonable persons is silenced. No layman, no judge, no committee, not even the General Board of Control itself can act independently of the opinions of these two independent medical men, who form the supreme and, for the time, the final court of appeal. We thus have in Scotland a purely medical system that affords complete protection, that has stood

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the test of time, and that satisfies public opinion. The personal intervention of a Justice is therefore not necessary as a safeguard against improper detention if this tribunal exists. An appeal is not often made, for frivolous appeals are discouraged by the authorities, and a sum of £30 a year apparently suffices for the payment of those cases of real doubt in which no other funds are available. In those cases in which funds exist, an appeal may be made periodically.

The Liberty of the Subject.

In the second place, it is stated that "it is a principle of English law that the liberty of the subject may not be infringed without the intervention of some judicial authority." (Par. 107.)

The object of the Lunacy Acts is to authorize violations of personal freedom for the benefit of the patient and others under certain circumstances and formalities. Between 1845 and 1890 we were informed, on the authority of Dr. J. C. Bucknill, a Lord Chancellor's Visitor (England), that "any one of the Queen's subjects may be deprived of his liberty, captured, confined and detained by the proprietor of a licensed house or his servants, upon the order of any person whatsoever, either a British subject or an alien, either an adult or an infant, either a relative or a stranger, either an equal in social rank or a menial substitute; the only condition being that he has seen the alleged lunatic within one month of making the Order, and that is supported by the certificates of two men qualified to practise and practising the medical profession."* In spite of this absence of any judicial authority the Select Committee appointed in 1877 to inquire into the subject of improper detention under the Act of 1845 report: "Assuming that the strongest cases against the present system were brought before them, allegations of *mala fides* or of serious abuses were not substantiated." It would therefore seem that the infringement of the liberty of the subject without the intervention of a judicial authority is not without ample and striking precedent in the treatment of mental disease, and that it was freely practised in England for forty-four years without the occurrence of serious abuses. It is still practised in Ireland without abuses arising.

Judicial intervention creates difficulties and causes delay at a time of great trouble and emergency. But, if there must be some form of judicial intervention, then the Scottish procedure has much to recommend it. It preserves the integrity of the medical ideal, it respects the sanctity of the home, and it introduces the legal

* *The Care of the Insane and their Legal Control*, p. xxx.

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element in a purely judicial capacity. The Sheriff, who signs the Reception Order, is an experienced barrister and a salaried judge. He never sees the patient; he does not make any quasi-medical examination. The application and medical certificates are presented to him, and if these be in order, and if the facts observed by the doctors indicating insanity satisfy him, he invariably signs the order. No one could discharge these duties better than this highly-trained judge; no legal intervention could be less objectionable than the one he practises.

The Prison-stigma.

It is, however, undesirable that the Provisional Treatment Order conferring certain powers should be granted by a Justice, a Magistrate or a Judge, because these are the officials who sentence wrong-doers and delinquents to detention of a totally different kind. It is not right that remedial detention or restraint in a hospital, which is an essential part of medical treatment for mental disorder, and is prescribed for a sick patient with the object of curing his malady, should be confused or associated in the minds of the public with the detention of criminals and others, which is a punishment. The sick patient is irresponsible and has done no moral wrong, and if detention be an element in his treatment, it should be imposed by a different authority from that which sentences delinquents to punitive detention in a prison because they have done wrong. Every sensitive and reasonable person must appreciate this distinction. If a differentiation be not made, then a prison-stigma will assuredly attach to treatment under the Provisional Treatment Order, which the Royal Commission had hoped to avoid.

The question therefore arises, Is judicial intervention necessary? In Scotland it is quite superfluous. The inspection of the application to see that it is in order and the examination of the medical certificates to discover if they truly indicate insanity, which is all that the Sheriff does, are in every case as carefully performed by the General Board of Control as by the Sheriff. If an Order must be signed by a fourth party, there is no reason why it should not be signed by the General Board of Control, as is already done by the Board in the case of patients who are boarded out in private dwellings, and the Sheriff be allowed to drop out altogether. The Sheriff is only a fifth wheel to the coach. It is more appropriate that a permanent body that has medical as well as legal members on its staff, that is competent to examine patients as well as to scrutinize legal documents and weigh written evidence, should perform the duty of signing the Order. This was the view held

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at one time by the General Board of Lunacy, which questioned "whether the magisterial authority is not in reality supererogatory." The Royal Commission contemplate that ultimately "the participation of a Magistrate will no longer be considered necessary." For these and many other reasons it is considered that the Board of Control should take the place of the Justice and should sign the Order, if it be considered necessary that a party, other than a relative, friend or public official should sign the Order.

The Drama of Judicial Intervention.

ACT I.

Let us now dramatize the procedure that has been recommended by the Royal Commission before a sick man can obtain medical treatment for his illness. The proceedings are not medical, for a layman is the presiding authority. The stage on which they are enacted is a distracted household, for nothing, not even excepting death, upsets a family so much as the occurrence of insanity in one of its members. Their only consolation is the comforting and encouraging words of the family doctor. The application is signed, not without perturbation, the recommendation filled in, and now word is hurriedly sent to the Justice. This unwelcome official must interview the sick patient within seven days. Not being a doctor and at the beck and call of sick patients, and having other matters to attend to, he may be somewhat dilatory and cause inconvenience. We must not then be surprised if recourse is very frequently had to the certificate of emergency. The Justice is recommended to visit the patient in the patient's own home, and this, in the country, involves an expedition probably by motor car. His medical examination is to be no perfunctory performance, as was so often the case in the past. As those Justices who have a natural or acquired gift for this delicate duty are to be selected, it may be assumed without offence that all do not possess the necessary accomplishments. Then the relatives are to be interviewed, and if this be judicially done, both those "for" and those "against." The kinsmen of patients are often trying, and some are to be met who refuse ever to see any signs of insanity, because they say there has never been any in their family. If the Justice be in doubt, he is to confer with the doctor, so he, as well as the relatives, have to put their time at the disposal of the Justice, however inconvenient this may be to all of them. More than one visit may be considered necessary.

The Justice is now to exercise what has been described as "a directed discretion." For example, if delusions have been alleged,

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he may deem it necessary to investigate these further, and how much further afield these may take him no one can tell. All sorts of inquiries may have to be set afoot and many witnesses interviewed. Then he has to decide whether the patient is to be informed of these allegations. To experts this is, perhaps, not a difficult decision to make—but how often has one been asked by a perplexed layman: "Doctor, should I agree with everything he says, and if I contradict him, will he get excited?" This layman has, in addition, two medical problems placed upon him which he must solve by a personal examination and on his own responsibility. He has to decide, firstly, "Is the patient insane or not?" And secondly, "If insane, is there a prognosis of early recovery?" How a layman without any medical training or experience can answer the latter question it is impossible to conceive. If he has to rely on the doctor's opinions, and is guided by him, why bring a layman on the stage at all? We will here drop the curtain on the first act of this drama.

ACT II.

The second act opens after an interval of only one month. The scene is laid at the place, whether mental hospital or otherwise, where the patient is being treated. The Justice again visits the patient, and has to decide whether the patient may be expected to recover in five months or not. He again has the assistance of a medical recommendation, probably from the doctor who is now treating the patient. If he agrees with the doctor, he extends the duration of the Provisional Treatment Order to a further period of five months. These two acts, at an interval of a month, could with advantage be run into one and the recommendations from the two doctors obtained simultaneously and at the beginning, instead of successively with an interval of a month.

ACT III.

The curtain rises on the third act, six months after the patient has been placed under the Provisional Treatment Order, if he has not recovered.

The question of placing him under a Reception Order has now to be considered. Two doctors are called in to assist and give certificates of insanity. The Justice may now have the assistance of the Clerk to the Justices. The patient may now appoint someone to represent his interests, and there is nothing to prevent him employing a solicitor whom he has found amenable to his instructions. The court is thus carefully and fully prepared for a formal

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hearing of the case, but the adoption of a forensic procedure is deprecated by the Royal Commission. Those who conduct these proceedings are advised to drop, so far as they possibly can, judicial ceremonial and alarming formalities. The Justice requires to see and examine the patient again, but no instructions are given as to whether the patient is to be present at this " trial " or not. If the solicitor, to earn his fee honourably, defends his client, the patient can hardly with justice be excluded from the proceedings during all the time. Nor can the solicitor be denied such access and such facilities of getting up his client's case as he considers necessary, and this almost certainly would involve the evidence of other patients. Lively scenes, it may be surmised, will sometimes occur. Irresponsible allegations will at times be flung about, and the Commissioners have very wisely recommended that all parties must be sworn to secrecy. But there is one tongue over which they have no control, and possibly not even its owner can curb it—the tongue of the patient. We know how fond manic patients are of revelling in scurrilous and intimate disclosures, and how they love to pose before an audience.

Criticism of Judicial Procedure.

What are we to think of these recurrent judicial performances? Within six months, a sick man needing medical treatment is interviewed three times by a lay official who prescribes what is to be done for his illness. The Royal Commission discovered that the problem of insanity was primarily a medical one, that its treatment should approximate to the treatment of physical ailments, yet we have a scheme proposed in which a layman fills the principal *rôle* on at least three formal and set occasions, and decides at his own discretion difficult and delicate medical problems. Compare this blaze of limelight, these anomalous duties and these repetitions with the analogous proceedings in the excellent septuagenarian Act for Scotland, in which the judicial authority is invisible, acts wholly on medical evidence, and acts once for all. Who is rash enough to predict for these newborn proposals a success equal to that of the Scottish Act of 1857?

It may be said that the picture presented above is overdrawn, but the more nearly judicial intervention is judicial in character the truer will the picture be to what will occur. The perfunctory way in which these duties were sometimes performed in the past, as by one-minute interviews in taxi-cabs, may possibly have been a saving grace. It is a pity that such disclosures did not lead logically to the abolition of personal intervention, instead of to its reinforcement and rehabilitation, a most unfortunate decision.

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Whether non-existent, as in England between 1845 and 1889, whether performed perfunctorily, as was so often the case there, or whether performed in the purely legal way without seeing the patient, as in Scotland, judicial intervention or non-intervention seems to have made little difference one way or another, and neither Select Committee nor Royal Commission has found any person improperly detained in our mental hospitals. It is clear that adequate protection exists and is afforded by other means. To us in Scotland, who have never had any experience of the personal intervention of a layman, this form of amateur medicine seems a monstrous and intolerable invasion of the sphere of the physician, and nothing less than a caricature and a mockery of medical science and practice. The reason why the medical profession in England has acquiesced in it, has been the hope that the personal intervention of the Justice would relieve medical men of some responsibility and reduce or abolish the risk of legal actions. That hope has not been fulfilled, although according to Mr. Justice M'Cardie the medical certificate is no more than " a mere opinion," devoid in itself of operative force, and that the Reception Order is the effective authority.

Further, these recurring judicial proceedings also lead to expense. According to the Royal Commission, if a patient has been ill for six months, four doctors have to examine him, and they have to appear four times as witnesses before the Justice. The Justice himself has to visit the patient three times or oftener, and he may be accompanied by the Clerk. Relatives have to appear times without number as witnesses, and a friend or lawyer has to act for the patient. In comparison with the simple and inexpensive medical procedure in Scotland, where the family doctor is joined by one outside doctor and by no other person, the programme set for this multitude appears fantastic. Is all this heavy armour needed for the protection of liberty on the south side of the Tweed, when in the north so little danger is run or feared, that precautions are few and simple, yet so appropriate and adequate? Has its total cost ever been estimated?

Conclusions.

The Provisional Treatment Order based on a recommendation and no certificates of insanity forms the most striking departure from precedent of all the proposals contained in the Report of the Royal Commission. Voluntary treatment has existed for a long time, and no facilities are offered that are not already enjoyed in Scotland, where certifiable as well as rate-aided patients can be treated voluntarily. The Emergency or Urgency Order has always

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existed, but it has been greatly improved by not requiring a statement to the effect that the patient is insane. The Provisional Treatment Order is the offspring of Schedule G of Scotland,* but it is a much greater concession, for Schedule G applies only to private patients. Patients without volition but non-resistant, a class for which it was very desirable that special provision should be made, were associated somewhat incongruously with voluntary patients in one clause of the Mental Treatment Bill. The Provisional Treatment Order has done much more, for it has conferred the privileges it contains, namely, treatment without certification and in a choice of places, not only on patients of the class referred to, but also on volitional and resistant patients, provided they are deemed recoverable in six months' time. In effect, these privileges will apply, as they were intended to apply, to all cases of recoverable insanity.

Having said so much for the aims of the Provisional Treatment Order, we must add that its benefits will be sacrificed, on account of the discredited and out-of-date machinery that has been adopted for working it, unless much of it be scrapped. The new wine of medical ideas has been put into the old bottles of legal procedure. The legal formalities of the existing law, along with certification, have been the cause of its failure as an instrument for medical treatment. Certification is abolished in the Provisional Treatment Order, but the legal formalities are made, not less but more stringent, exacting and numerous than ever before, and that for no discoverable reason. We want to see the Order a working success, conferring the great benefits that it was intended to confer, and with this object in view we make the following recommendations. They are all of a simple nature, and nearly all have been proved to be workable by the supreme test of experience.

Recommendations for Improving the Provisional Treatment Order.

1. **Two doctors should give "Recommendations" instead of one.**

2. **A right of appeal to be examined by two independent doctors should exist in all cases of doubt.** This privilege exists in Scotland and renders improper detention almost impossible.

3. **The personal intervention of the Justice should be abolished.** It becomes unnecessary for the judicial authority to visit and examine the patient if a second medical recommendation be required and the right of appeal to two independent doctors be granted. In support of this we point to the results of seventy years' experience of this procedure in Scotland and think it conclusive.

* See Appendix.

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The visitation of the Justice perpetuates those legal formalities that have in the past delayed treatment, frustrated attempts at prevention and differentiated mental disorders from other illnesses.

4. **The Board of Control should replace the Justice.** It is accustomed to examine patients when necessary, and is already engaged in scrutinizing application forms and medical certificates.

5. **The two conditions for coming under "Provisional Treatment" should be that the malady is not deemed to be incurable, and that the patient requires treatment with a view to his recovery.** This change would make no difference to the patients concerned, but it would confer relief to their physicians, who would find prognosing and forecasting the date of recovery on oath beset with great difficulties.

6. **The duration of "Provisional Treatment" should be for a period not exceeding six months.** It is hoped, however, that full opportunity will be given to the patient to recover under "Provisional Treatment" by an extension, if necessary, of the duration of its operation.

EPILOGUE.

An ideal and time-honoured solution—Lord Shaftesbury's.

There is a still simpler procedure which those engaged in the treatment of mental disorder consider much the best. Others who have not had this practical experience may possibly require further education and enlightenment before they also approve. This procedure is based on that of the Emergency or Urgency Order, which in the past has proved so useful.

The Emergency Order is signed by a relative, friend or public official, and there is a certificate accompanying it given by one doctor. On the strength of these two documents a patient may be treated in an approved place for seven days. That the duration of the Order lasts seven days only is a comparatively small matter beside the important fact that the patient has been deprived of his liberty and been placed under treatment away from home.

Emergency or Urgency applies to any event or state requiring immediate action, and the Urgency Order has been in consequence much employed. In Scotland, 90% of all certified patients admitted to the mental hospitals are cases of emergency. The certification of a patient and his removal from home are usually delayed on sentimental grounds till the last moment, by which time removal has often become a very urgent matter. It is impossible to eradicate this excusable human weakness.

It is suggested that the Provisional Treatment Order, like the Emergency Order, should be signed by a relative, friend or public

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official, but that it should be accompanied by the recommendations of two doctors. The employment of two doctors in place of one would give it much more than double the guarantee of safety of the Certificate of Emergency, and it would not therefore be amiss to allow such an Order to hold good for a month. Copies of the documents would, of course, be sent at once to the Board of Control, which would, as at present, check irregularities of procedure and inquire into cases of doubt. At the end of a month, if the doctor having charge of the patient and having opportunity for close observation sent a third recommendation, the Provisional Treatment Order might on the strength of these three recommendations be extended to the full period of six months. Such a procedure would be simple and safe, it would avoid lay formalities and consequent delays, and in many cases it would with advantage take the place of the Emergency Order, of which it appears to be a logical development. The machinery here suggested is similar to the ordinary procedure for private patients of the 1845 Act, which did yeoman service for forty-four years, and for the retention of which Lord Shaftesbury with unerring insight and philanthropic zeal fought so hard against legal dogmatism but failed. It also resembles the procedure under the existing Irish Act.

Appendix.

Schedule (*G*). (20 *&* 21 *Vict.* *Cap.* 71. *Scot.* 1857.)

I, *L. M*—, a Medical Person duly qualified in Terms of the Act (*specify this Act*), certify on Soul and Conscience, that *C. D*— (***name and design the patient***) is afflicted (*state the nature of the disease*), but that the malady is not confirmed, and that I consider it expedient with a view to his recovery, that he should be placed (***specify the house in which the patient is to be kept***) for a temporary residence of (*specify a time, not exceeding six months*).

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*Chronic Sepsis as a Cause of Mental Disorder.**

By William Hunter, *C.B.*, LL.D., M.D.Edin., F.R.C.P., Consulting Physician to London Fever Hospital and to Charing Cross Hospital.

The part played by sepsis in producing nervous and mental disorders of all degrees of severity and the degree to which these can be prevented, checked, or controlled by antisepsis are singularly opportune subjects for discussion on an occasion marking the

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