low matter in the anterior lobe of the right hemisphere, occupying the grey matter extending into the white, and nearly reaching the surface, and which one might fairly think was of so extensive a nature as almost, if not quite, to destroy the functions of that part of the brain, yet there was no aphasia during life. Indeed, the patient could speak distinctly up to the time she became unconscious.

OCCASIONAL NOTES OF THE QUARTER.

Actions for Alleged False Imprisonment in an Asylum.

Two trials which have recently taken place on account of alleged false imprisonment in a lunatic asylum deserve some notice before they pass quite out of mind. In the first trial, that of Johnstone v. Cotham, the plaintiff, who was chaplain of St. Mary's Hospital, brought an action against the defendant, and sued for £5,000 damages, for having been placed by him in a lunatic asylum. It was admitted that Mr. Cotham had acted from purely disinterested motives, for the benefit and protection of, and indeed out of compassion to, the plaintiff, who had formerly been his curate. The evidence of the plaintiff's insanity adduced at the trial included that of Mr. Cotham and his churchwarden, and of the defendant's landlady; the evidence of the two medical men who signed the certificates, and of Dr. Sibson, one of the physicians of St. Mary's Hospital; the evidence of two of the Lunacy Commissioners, and that of Dr. Armstrong, the proprietor of the asylum, and of his medical assistant. Notwithstanding the conclusive character of this testimony, and the feeble character of the little evidence which the plaintiff was able to adduce in favour of his sanity at the time when he was put under restraint, there can be no question that, but for the clear and decisive summing up of the Lord Chief Justice, the sympathies of the jury would have resulted in a verdict for the plaintiff. As it was, however, they were constrained to pronounce for the defendant, but at the same time did not forego the expression of their strong disapproval of the manner in which the plaintiff had been removed to the asylum. He had been

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taken there quietly in a cab, at two o'clock one morning, by the defendant, one of his churchwardens, and a policeman in plain clothes. It is to be presumed that the jury would have approved the course of proceeding, had Mr. Johnstone being decoyed in the asylum by some lie, instead of being honestly told where he was going, and being compelled to go. We feel no doubt whatever that the truthful plan adopted was far the best, as it nearly always is in these cases, and that the time of removal may, for the future, be properly left by juries to the judgment and opportunities of those who have placed upon them the painful and heavy responsibility of dealing with a person suffering from acute and dangerous maniacal excitement.

In the second trial, that of Gent v. Glennie and Ray, which took place before Mr. Justice Smith, the plaintiff brought an action against his brother-in-law, who, without any personal motive, and only in compliance with the urgent entreaties of the plaintiff's daughters, had taken the necessary steps for protecting them by placing him under restraint in an asylum. Very strong evidence was given of the plaintiff's dangerous insanity at the time of his being sent to the asylum, and the jury instantly returned a verdict for the defendant.

The cases were, in some degree, similar, inasmuch as an excessive indulgence in stimulants appeared to have been the cause of the insanity in both instances, and recovery took place in a short time after the patient had been placed under proper care and treatment. In these circumstances lay the hope of the actions. No doubt it was thought that a jury might be persuaded to regard the alleged insanity as really nothing more than the excitement produced by drunkenness, and the quick recovery as conclusive evidence of the truth of that view. And if so, it might then be confidently expected that, from the common jealousy of asylums, they would give substantial damages to the aggrieved persons. It is hardly necessary to say here that the effect of drunkenness may be to produce not only delirium tremens, but acute and furious mania, necessitating the treatment of an asylum. The point in which it does seem incumbent to remark seriously is the opinion expressed by the Lord Chief Justice and Mr. Justice Smith with regard to the degree or kind of insanity which may be held to justify sequestration in an asylum. Both these judges are reported in the newspapers to have instructed the jury that the question for their determination was not whether the plaintiff was subject to delusions, but whether he was a

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dangerous lunatic—whether at the time he could not, with due regard to his own safety and the safety of others, be allowed to remain at large. "If," said the Lord Chief Justice, "they were of opinion that the plaintiff was not in a fit state to be at large, then, however they might sympathise with him, their verdict should be for the defendant. If, however, under all the circumstances of the case, they came to the conclusion that the plaintiff was not of unsound mind, *or, being so, was not dangerous to himself or others,* they should find for him. . . . . The question for them to consider was whether the plaintiff was, at the time when he was placed in the asylum, a dangerous lunatic." And in the second trial Mr. Justice Smith is reported to have said: "It was plain that there could be no justification for confining the plaintiff in a lunatic asylum, unless he was, at the time when the order for his reception into the asylum was signed, a person of unsound mind, in such a state of diseased mind as to be deprived of the use of his reason, and to be dangerous to himself or those with whom he might come in contact." These are startling propositions, and if they contained a just exposition of the law, it would only remain for the Lunacy Commissioners and the county magistrates to order the immediate discharge of at least three-fourths of the lunatics now in asylums. For if the law really be such as these high legal functionaries have stated it to be, we may undertake to say that there is not a single lunatic asylum in the country which is not carried on contrary to law. But we venture to think and pronounce this exposition of the law to be hasty, and, notwithstanding the high authority for it, entirely illegal, and to assert, in opposition to it, that any persons of unsound mind, whether he be dangerous or not, may legally be placed in an asylum on the authority of the order and medical certificates prescribed by the Lunacy Acts. Twenty years ago, the then Lord Chief Baron Pollock gave hasty utterance to a similar *dictum,* which called forth at the time an earnest remonstrance from the late Dr. Conolly, and subsequently a letter from the Commissioners in Lunacy to the Lord Chancellor which was printed by order of the House of Commons. We quote the most important paragraphs in that letter, for they are particularly appropriate now:—

To revert to the opinion stated to have been expressed by the Chief Baron, that no person should be placed or detained in any Lunatic Asylum unless he be dangerous to himself or others: upon

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this point it is of vital importance that no mistake or misconception should exist, and that every medical man who may be applied to for advice on the subject of lunacy, and every relative and friend of any lunatic, as well as every magistrate and parish officer (each of whom may be called upon to act in cases of this sort), should know and be well assured that, according to law, any person of unsound mind, whether he be pronounced dangerous or not, may legally and properly be placed in a County Asylum, Lunatic Hospital, or licensed house, on the authority of the preliminary order and certificates prescribed by the Acts 8 and 9 Vict., c. 100, or c. 126 (as the case may be).

The order and certificates thus obtained show that the person mentioned therein is either a lunatic, an idiot, or a person of unsound mind, and a proper person to be confined, and fully justify all parties in the matter, and they enable the proprietor or superintendent of any hospital or licensed house to plead them in defence to any action, and are, in the words of the statute, a justification for "taking, confining, detaining or retaking" the patient (see 8 and 9 Vict., c. 100, s. 99).

If all lunatics and persons of unsound mind, except such as had previously manifested a dangerous tendency, were to be excluded from the care and treatment provided in lunatic establishments, sanctioned by law for the benefit of the whole class, the most lamentable consequences must ensue.

In respect to pauper lunatics, it has already been the subject of almost universal complaint, that the number of such lunatics has been multiplied, and the country burthened to a prodigious amount, because the poorer class of lunatics have been allowed to remain at large, or kept in workhouses, deprived of that medical treatment which a lunatic establishment properly managed is best calculated to afford, until their malady has become incurable.

The misery to lunatics' families, and the great cost to the various parishes and counties consequent on this course, it would be difficult to exaggerate.

In regard to private patients, if not placed for cure or care in some lunatic establis hment, they must be kept at home under every disadvantage to themselves, and be the cause of great and unnecessary expense, and of inexpressible annoyance to their families. The first, and an essential proceeding, with a view to cure, is, generally, to detach the patient from the scenes and associations in the midst of which his disorder has arisen. If he were to remain at home, this could not be effected; the proper treatment and accommodation could not be obtained, inasmuch as separate apartments, separate attendants, and daily medical supervision are necessary, and these in ninety-nine cases out of a hundred would be beyond the means of the patient's family to afford. Again, the habits and general conduct of patients under the influence of mental disease are frequently so violent, and at times so offensive, that it would be to the last degree cruel and unjust

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to expose the other members of the family to them; more especially where there are children, whose minds might might receive a shock, and perhaps be incurably injured, by continually witnessing the paroxysms or maniacal extravagances of a lunatic.

Dr. Conolly, in his pamphlet entitled, "A Remonstrance with the Lord Chief Baron," which rapidly went through three editions, set forth with great moderation, and in a most conclusive manner, the mistaken and mischievous nature of the ill-considered *dictum* of the Chief Baron. He says, very justly:—

If the liberty of an insane person is inconsistent with the safety of his property or the property of others; or with his preservation from disgraceful scenes and exposures; or with the tranquillity of his family, or his neighbours, or society;—if his sensuality, his disregard of cleanliness and decency, make him offensive in private and public, dishonouring and injuring his children and his name;—if his excessive eccentricity or extreme feebleness of mind subject him to continual imposition, and to ridicule, abuse, and persecution in the streets, and to frequent accidents at home and abroad;—his protection and that of society demands that he should be kept in a quiet and secluded residence, guarded by watchful attendants, and not exposed to the public. To consider, as your Lordship seems to do, that a process so expensive, and attended with such publicity, as a Commission of Inquiry, should be a necessary preliminary to taking this proper care of a patient, would in a majority of these cases exclude such care altogether. If a good asylum was not open to the unfortunate man without such a process having been gone through, he would generally be at length condemned to a domestic imprisonment, more secret, and in every respect more objectionable than confinement in a lunatic asylum. In the one case, no eye would superintend him, nor authority guard him from neglect. In the other, his condition and treatment could not be concealed.

There are many other forms of unsound mind which, although for a length of time unattended with actual danger to the lunatic or others, lead to consequences so intolerable, that an asylum must be resorted to for relief from them. Delusions as to rank and consequence, as to property, as to money owing or withheld, as to attachments on the part of persons of high station, or as to suggestions made by voices in the air, or words written in the sky, often prompt actions so absurd, so inconvenient, and entailing such persecution on particular families, that interference is positively required before the individual becomes dangerous; which also, if he is not interfered with, he is always very likely to become. The danger must not be waited for, or incurred; it must be prevented.

If the Commissioners, acting according to your Lordship's advice,

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were to liberate all such people, they would, indeed, "let Bedlam loose," bring affliction on a thousand families, and even throw society into confusion.

He concluded his earnest and seasonable remonstrance in the following terms:—

For some time to come, it will occasion great uncertainty and uneasiness in many families, who, after passing through many afflicting scenes before making up their mind to seclude some insane relative, will now probably once more consent to incur the miseries of leaving the lunatic at large, and in their domestic circle. It will expose every feeble-minded person possessed of property to all the rascality of fanatics and swindlers. It will disturb the contentment of numerous persons now happy and secure in asylums, where they enjoy a safe liberty and every comfort. It will make every medical man so apprehensive of being unjustly censured for writing a certificate of insanity, as often to delay its doing until ruinous or fatal consequences have ensued. It will prevent many insane persons from receiving that early treatment, and being subjected to that timely superintendence which can alone arrest insanity in its incipient stages, and prevent the supervention of stages of which the symptoms are more violent, and involve the lunatic and all about him in danger, and are such as make the case hopelessly incurable.

The possibility of such results must excuse the presumption of this remonstrance. It is the duty of those who have large opportunities of weighing the necessity of various kinds of seclusion or restraint applied to the insane, and of estimating the advantages of treatment in lunatic asylums, to step forward in opposition to prejudices, which, although associated with kind and liberal feelings, are full of mischief and danger. In myself doing so, I trust I have not, in any word I have employed, seemed to depart from the respect with which I subscribe myself,

Your Lordship's
Very obedient, humble servent,
J. Conolly.

Hanwell, July 7, 1849.

So serious were the possible evil results of the Chief Baron's opinion judicially expressed, that Lord Monteagle brought the matter at the time before the House of Lords, and strongly deprecated such an exposition of the law. We quote the remarks of Lord Brougham in reply, as they are reported in the *Times*, July 24th, 1849.

Lord Brougham observed that this subject was one of great importance, and thanked his noble friend for bringing it thus prominently forward. It was, however, idle for their lordships to say anything

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upon it now, as the subject was still *sub judice*, and their lordships might have to decide upon it in their legal capacity. It was clear to him that, if the learned Judge had really stated upon the trial what he was represented to have stated, there must be a motion for a new trial; it could not be avoided. He had no doubt that everything which ought to be done had been done in the administration of justice, and that the account which his noble friend had quoted must be inaccurate. He could not conclude, however, without recommending speculating attorneys to bring no action upon this *dictum*, for, if they did, they certainly would have their own costs to pay.

This brief summary of what occurred nearly twenty years ago, is the best commentary which can be made now on the opinion which the Lord Chief Justice and Mr. Justice Smith are reported to have expressed on the occasion of the recent trials for alleged false imprisonment. If the verdict of the jury in either case had been for the plaintiff, it is difficult to see how a motion for a new trial and the granting of a new trial could have been legitimately avoided. For there certainly does not appear to be any question whatever that the Chief Justice and Mr Justice Smith gave an entirely mistaken and mischievous exposition of the law with regard to the sort of insanity which would justify the friends of an insane person in placing him in a lunatic asylum—an exposition against which it is incumbent on us to protest. The circumstance is not calculated to impart the most exalted opinion of the amount of exact legal knowledge possessed by our highest legal functionaries. Perhaps it is in law as it is in medicine. As there are some physicians, who, out of the great armoury of the pharmacopœia, and in conflict with the variety of diseases with which they have to deal, only make use of two or three prescriptions, which serve them to cure all sorts of maladies; so may it be with judges, who, out of the vast repositories of legal precedents, and the endless series of Acts of Parliament, and acts to amend Acts of Parliament, only make use of a few common principles and prejudices, which serve them to dispose of all sorts of questions that are brought before them for decision. If there be any such judges, certainly the Lord Chief Justice of the Queen's Bench is not one of them. It is the more surprising, therefore, that he should appear to have given the sanction of his powerful intellect and high legal authority to a principle which, plausible as it seems, it needs but a little consideration to prove quite untenable. Perhaps, however, he was mis-reported or inadequately reported. If so, would it not be well to take some opportunity of correcting the misrepresentation?

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We may now not inappropriately conclude this note with a story which is strictly true. A few days after the trials of which we have been speaking, when visiting an asylum, a patient, in loud tones, and with violent gesticulations, demanded his instant release. "Voice," he exclaimed, "won't kill." "What do you mean?" was naturally asked. "Mean that I shall make as much noise as I like, and that you've no business to keep me here. Read what Cockburn and Smith say. I'm not a dangerous lunatic; I only use my voice, and I will use my voice as loudly as I like." "Well, but Mr. ——, listen, please," we replied; "you must know quite well from what you see of the persons around you, that the opinion of these judges is most unreasonable—indeed, absurd, and could not be acted upon for a moment." "Certainly it is," he said, "the damnedest nonsense ever uttered; they don't know what they are talking about." Having said this, he went on to declare loudly that he would bring an action for damages as soon as ever he obtained his release, and that he would claim fifty pounds for every minute that he had been unjustly detained. When he brings his action, it may be hoped that neither the Chief Justice nor Mr. Justice Smith may try the case, for outrageously insane as he unquestionably is, he is certainly not a dangerous lunatic. He only means, by aid of the peasants of England, to drive a passage through the earth to the South Pole, and to do a few other wonderful things of that sort.

Epileptic Homicide.

The "Saturday Review," we regret to perceive, is still afflicted with the distressing homicidal mania from which it has so long suffered. An acute paroxysm has been recently brought on by the unexpected escape from the gallows of the convict Bisgrove, who was reprieved by the Home Secretary, Mr. Austin Bruce. Bisgrove, it will be remembered, had been sentenced to death, together with a man named Sweet, for murder, and soon after the sentence made a confession of the crime, exculpating Sweet from any knowledge of or part in it. This was bad enough: that he should by his confession have prevented a man from being hanged, who no doubt deserved to be hanged for something, if he did not happen to have been concerned in that crime. But the matter was made intolerable when Bisgrove himself, who had perpetrated the murder, and had gratuitously added to his iniquity by

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