OCCASIONAL NOTES OF THE QUARTER.

"Not more than Seven Clear Days."

There is, we are informed, a wide-spread doubt among medical men accustomed to sign lunacy certificates, and also among the superintendents of asylums, as to the meaning of the formula "not more than seven clear days." The importance of a correct interpretation is obvious, seeing that unnecessary delay and expense in obtaining fresh certificates may be incurred in some instances if the period does not lapse so soon as some suppose, and seeing, moreover, that an asylum superintendent may subject himself to serious legal consequences if he admits a patient within a period which he believes to be seven clear days from the date of the medical examination, but finds when the point is contested that the judges do not support him in his reading of the phrase. When the Lunacy Act Amendment Bill was first introduced, the Parliamentary Committee of the Association requested, among other things, that this term should be defined, but the Lord Chancellor did not comply with the request.

The well-known clause in which the law is laid down is found in 16 and 17 Vict., c. 96, s. 4, and 16 and 17 Vict., c. 97, s. 74—

"No person, not a pauper, shall be received into any asylum . . . without the medical certificate . . . of two persons . . . each of whom shall separately from the other have personally examined the person to whom it relates, not more than seven clear days previously to the reception of such person into such asylum. . . . And every person who receives any person, not a pauper, into any asylum, save under the provisions herein contained, shall be guilty of a misdemeanour."

Suppose, for example, a medical man examines a patient on February 1, how long is his certificate valid? On what day subsequently would a superintendent be guilty of a misdemeanour if he admitted him into his asylum? Some reply that the certificate is valid until February 8, and no longer; others until February 9. If the former be correct, it is obvious that a superintendent who admits the patient on the 9th, subjects himself to the risk of a penalty and great annoyance.

The Lunacy Commissioners, it is well known, hold that

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"*seven* clear days" cover a period of *nine* days. Thus they would accept as legal the admission of a patient into an asylum on the 9th of February whose examination bore date February 1st. It must be remembered, however, that although the presumption is that they are perfectly right, they are merely the interpreters, not the makers, of the law, and that a judge might decide otherwise and so rule that a medical superintendent against whom a patient had brought an action had acted illegally. We are assured by counsel that the result of such an action would be extremely doubtful—depending on the particular judge who gave judgment—and that to adduce the sanction of the Lunacy Commissioners would not avail the unfortunate asylum superintendent. As on referring to the late Mr. Archbold's "Lunacy Acts" we failed to find any commentary elucidating the point at issue, we addressed ourselves to his editors, Messrs. Glen, barristers, and received from Mr. Alexander Glen the following:—

"The meaning of 'so many days at least' was considered in the case 'Reg. *v.* Shropshire JJ.,' noted at p. 258 of our edition of 'Archbold's Lunacy Acts.' The meaning is the same as that of 'so many clear days' or 'not less than so many days' before or after an event; that is, there must be the specified number of complete days after the day of the first event and before the day of the second event. Now, the expressions used in the Lunacy Acts 'within so many clear days,' '*not more than so many clear days,*' 'not beyond the period of so many clear days,' must be construed on the same principle, and, in these cases, there must not be the specified number of complete days between the days on which the two events happen. Thus the 9th February is 'not less than seven clear days after' the 1st February, and therefore it is *not* 'within seven clear days after' the 1st February."

The Commissioners in Lunacy leave no room to doubt in their official documents that in their opinion the meaning of the words of the Act above quoted, "not more than seven clear days," is precisely the same as "within seven clear days." Thus in their "Instructions" in regard to "single patients" issued in 1877, and still in force, they state "a certificate becomes invalid and useless if the reception does not take place, or if the order is not signed, *within seven clear days* from the day of the medical examination on which the certificate is grounded." Again, under "Directions to

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Medical Men," the instruction is repeated in the words:—"The patient must be examined within seven clear days prior to admission."

The same words occur in the circular entitled "Lunacy-Medical Certificates Instructions," signed by the Secretary, Mr. Perceval.

In justification of the statement that "not more than seven clear days" is equivalent to "within seven clear days," it may be noted that Mr. Danby P. Fry, at p. 69 of his "Lunacy Acts" (last edition), inverts the statement contained in the Act, and holds that it is right to say that the examination must be "within" seven days of admission.* If, however, it be right to substitute the expression "within" for "not more than," it does not appear to be safe to admit a patient on the 9th February who was examined on the 1st. Observe, that after the day of admission we have the 2nd, 3rd, 4th, 5th, 6th, 7th, and 8th days of February—"seven clear days"—within which the patient must be admitted. This would seem a common sense, and, we believe, legal view to take of "*within* seven clear days," but, then, there is no judicial sanction for the assumption that "within" is equivalent to "not more than."

The judgment of Coleridge, J., in 1842 (not in a lunacy case, but one in which a similar question was raised, namely, in "Liffen *v.* Pitcher"),† favours the contention that there would not be "more than seven clear days" between the examination on the 1st and the admission on the 9th, and, if so, the Act would have been complied with.‡ But the judge did not commit himself to the opinion that "not more than" is correctly paraphrased by "within," but only laid it down that "clear" days are distinguished from "ordinary" days by the exclusion of the first and last day.

If, then, we need not follow the Commissioners in regarding "not more than" as synonymous with "*within*" seven days, and if the terminal days—the days of examination and admission—are to be excluded, it may be argued that if a patient be examined on the first of the month and be admitted on the

* To avoid burdening the main argument with a minor point, we relegate to a note the fact that Mr. Fry thinks the word "clear" is scarcely necessary here, the days so referred to being natural or ordinary days. The word is wanted in a negative or exclusive proposition, but not in an affirmative or inclusive one.

† *Vide* "Dowling's Reports on Points of Practice," Vol. i., N.S., p. 767.

‡ In connection with this question, "Rex *v.* Justices of Herefordshire," 3 B. and Ald. 581, should also be referred to. We have already noted "Reg. *v.* Justices of Shropshire," 8 Ad. and El. 173.

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ninth, such examination was made, as the Act directs, "not more than seven clear days previously."

The difficulty of arriving at an indisputably clear conclusion on this important point is confirmed by an observation of Lord Mansfield: "Probably no question has more exercised the minds of judges in former times than the question as to the proper mode of computing time." Unfortunately we labour under this exercise of mind at the present day.

It need hardly be added that the broad and not the narrow interpretation is the one we should desire to be correct, as the time is often inconveniently short between the examination and admission. All we wish is to have the law unmistakably clear, lest by pursuing the broad way some unhappy asylum physician find that in his own experience it but too surely leads to destruction.

Provision for Indigent Idiots and Imbeciles.

All who are acquainted with the demands made upon the Public Charities by families which have the misfortune to have an idiot child, know how utterly inadequate is the provision made for this class in England. In the first place, there is a great mass of pauper idiocy. Undoubtedly, counties and boroughs are obliged by law to admit cases of idiocy and imbecility into workhouses and asylums in the same way as lunatics. It is not, however, necessary to prove that it is highly undesirable to mix this class with the insane in county asylums, or to retain them in workhouse infirmaries. It would be possible, indeed, to erect separate buildings exclusively for idiots on the grounds of the asylum, and this course may be adopted if no distinct provision for the training and care of idiots be provided, as was proposed a few years ago by the Charity Organization Society. We will, however, assume that such provision will be made for pauper idiots as shall meet the objection of mixing them with the insane, and that they shall receive the special kind of education which they require. There still remains a not inconsiderable number of idiots who belong to a class socially above a very poor and strictly pauper class. In many instances a small weekly payment could be made, and, indeed, nothing would be more painful to the parents of such a child than to have to seek relief and ask for the

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