

Chapin (J. B.)

PUBLIC COMPLAINTS
Against Asylums for the Insane, and the
Commitment of the Insane.

By JOHN B. CHAPIN, M. D.,
Medical Superintendent, Willard Asylum for the Insane.

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PUBLIC COMPLAINTS AGAINST ASYLUMS FOR THE INSANE, AND THE COM- MITMENT OF THE INSANE.*

BY JOHN B. CHAPIN, M. D.,
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So frequent, causeless, undeserved and unexpected, have been the attacks upon the asylums for the insane, and those connected with them, that it has, probably, been the personal experience of some here present to enjoy a momentary sensation of relief after gleaning the morning papers to find they have not been publicly charged with the commission of some grave offenses; or, during a session of the legislature that no inimical measure has been proposed. It is a common occurrence that managers of sensational newspapers, pandering to a morbid appetite for wretched personalities, admit to their columns without hesitation the most improbable statements of persons who have been inmates of asylums for insane. The usual assumption is that these persons were sane and illegally confined on the allegation they were insane, and that a gross outrage has been committed involving the personal liberty of the citizen. Writs of *habeas corpus* have been issued on the petition and representations of discharged patients, and judges disregarding evidence presented in open court constituted themselves experts, and promptly discharged persons brought before them. Discharged patients and employés, persons with real or supposed grievances, or disaffected from various causes have been ready to join together or act singly to bring about

* Read at the Annual Meeting of the Association of Superintendents of American Institutions for the Insane, held at Newport, R. I., June 26, 1883.



legislative investigations of asylums. Testimony presented before legislative committees has been circulated in a garbled form in utter disregard of, or without allusion to, statements in rebuttal. Not only have newspapers devoted to miscellaneous topics and news been active in exciting distrust in the existing asylum system, but a portion of the medical press has presented its demands for what it calls "asylum reform." Societies devoted to special departments of medicine, and medicine and law, professional reformers and essayists, specialists and clergymen, the majority of whom when brought to the bar of the court could state nothing bearing on the pending question of their own knowledge from observation, or, were unable to furnish a suggestion that would lead to the production of witnesses, have nevertheless been active in proposing changes in the forms of commitment of the insane, and in criticising and denouncing the administration of the asylums. Lastly, a national society has been formed for the protection of the insane and the work of the prevention of insanity.

While all these interests have been engaged in their several ways in depreciating and lowering the public estimate of the asylums, there is a suspicious paroxysmal or volcanic activity in all these movements which shows itself about the time fixed for the assembling of the State legislature. So well-timed have been the articles in the medical press that the maker of prophetic almanacs might safely announce for December—"About these days look out for editorials in the medical journals on asylum reform."

It is within the recollection of the writer that thirteen official inquiries or investigations into the management of asylums of different States have been prosecuted by legislative authority during the past few

years, though the actual number was probably much greater. In the State of New York, where ample power is given to a *State Board of Charities*, and to a *State Commissioner in Lunacy* to maintain an effective inspection and supervision of the asylums, and with the machinery of these two distinct bodies in actual operation, four legislative investigations have quickly succeeded each other. It may also be stated as a part of this history that no less than twenty-five insane persons have been brought before the courts of the same State by writs of *habeas corpus* during the past two years, some of whom have been discharged as sane.

Contributors to staid magazines and medical quarterlies have found in the assumed mystery that surrounds asylum administration a fruitful subject of suspicious speculation, and have added the weight of their influence to excite the universal distrust which now seems to exist. So virulent and persistent have been the assaults of various kinds, and so deep-rooted is the prejudice against what is called the asylum system that public confidence is well nigh destroyed. Some of the attacks upon the asylums have been admitted to be unreasonable by those making them, but they have proceeded to make them on the theory that public sentiment and opinion must be aroused and alarmed in order that reform be brought about. No thought is given to the effect upon the organization and discipline of a public institution by the prosecution of ill-founded charges; to the feelings and anxieties of those who are compelled to place kindred in asylums; to the discouragements which public odium may bring upon the managers and medical officers of asylums; to the influence which calumny may exert in deterring young physicians of professional ability and ambition from entering upon an honorable and humane work; nor to

the restraining and conservative influences of professional comity and courtesy which should govern the relations of medical men toward their professional brethren, who are engaged in a most difficult work surrounded by embarrassments for the most part beyond their control. In this connection it is a noteworthy circumstance that the care of the insane in the State asylums is a subject of greater solicitude than the situation and care of the friendless insane in poor-houses who are, according to all official and other accounts in the most forlorn, wretched, helpless and pitiable condition. The administration of the State asylums has been the subject of extraordinary criticism, while the fact that a system may have an existence with the sanction of law under which men may be chained in hand-cuffs and shackles in rooms for months; the sexes not separated by any building plan; insane persons kept in seclusion in basement rooms and in considerable numbers in wards without attendants, or proper medical attendance in the acute stages of insanity, has nowhere elicited any note or comment from those whose suspicious zeal finds an outlet in exciting and inflaming the public mind with apprehensions and prejudice toward the established institutions of the State.

Of the various official examinations that have been incited by some of the various allegations to which allusion has been made, it may be stated that no conspiracy on the part of a medical officer of an asylum, or an examining physician, has yet been disclosed. No sane person has been placed in an asylum for an improper purpose, or with the knowledge or belief that the person was sane.* The State laws regarding the

* Ample powers of examination of asylums, of hearing and determining cases of improper detention are, by law, conferred upon the State Commissioners in Lunacy of the State of New York. The late Commissioner,

commitment of the insane have been, as a rule, carefully observed. Where mal-administration has been shown to have permeated the asylum, it has resulted from ignorance or a vicious system of appointment which has existed, or the general deterioration of the service following the use of professional positions for purposes of party gain or advantage. If abuses and ill-treatment of patients have existed, they have occurred in violation of the printed and established rules and regulations of the asylum, and without the knowledge and connivance of the officers, as crimes are committed notwithstanding courts, laws, and prisons, exist for their prevention and punishment. Offenses come from the wickedness of the human heart and their prevention is one of the recognized unsolved social problems outside of asylums.

It has been correctly observed that every superintendent of an asylum reposes among hidden forces of a volcanic nature, which may at any moment be moved to great activity. He may have discharged his whole duty, as he understands it, to the best of his ability, be more familiar with the defects of his institution than his detractors can hope to become, but, in his hour of trial, no good service record of a life time, or careful and faithful administration can be relied upon to shield him from suspicion and detraction. His tenure of office is at best of the most precarious nature, and, during its continuance, it has not unfrequently happened that a superintendent of an asylum who has devoted more or less of the best days of his life in its service has suddenly found himself put upon his

Dr. Ordronaux, after a service of several years stated to the writer that his office had been open to the public for the reception of all kinds of complaints, but, that not a single allegation of the detention of a sane person in an asylum had been presented to him; and, that in his personal examination of patients in asylums, no case of improper detention had been discovered by him.

defense against merciless and unwarranted attacks upon his character and professional reputation, on which he may set a higher estimate than he would place on his usually limited earthly treasures. It has been the privilege and pleasure of various State legislatures to move inquiries and investigations on petitions and presentments which any person may offer, and the press has assumed to publish as a part of its newspaper work, statements made by irresponsible and unreliable persons calculated to reflect injuriously upon asylums and medical men connected with them. While the various investigations have been exceedingly barren of results, the indirect consequences have been of the most serious kind to the persons involved, in the paralysis of energy and enthusiasm which has resulted, and the sense of injustice, ingratitude, and unjust suspicion which has been experienced, which time can not wholly eradicate. The friends of the insane who are compelled to look to the asylum as a refuge and place for medical care for their relatives have been filled with anxiety and apprehension. The spirit of philanthropy and benevolence which leads men and women to devote their best efforts to elevate the standard of care of the insane, and to give of their means for this purpose has received a severe shock. The asylums, instead of being regarded as hospitals and asylums for the medical treatment of a disordered condition, have come to be regarded as objects of suspicion; as convenient places for the "incarceration" of persons by designing relatives, and lunatic prisons, proper only for the detention of the criminal and dangerous insane. The following extract from a commentary upon a recent legislative investigation of charges made against an asylum in the State of Pennsylvania, may have a wider application. "The result

of the writer's observation during this investigation is, that if the hallucinations of the inmates of insane hospitals are to be received as competent evidence, the whole system of treating these unfortunate persons is a failure, and the result of such failure, should it become an established fact, would be that the old style of placing them in small filthy rooms, without ventilation or light, and where they can see no one except an attendant to pass their food through small openings in the door, with the accompanying cruelties of chains, whips, &c., will prevail. If reputable Christian physicians, and humane gentlemen who act as managers, are to be thus dragged before the public and exposed to harsh criticism whenever an uncured lunatic chooses to make a statement of cruelties, they will refuse to act, and thus the whole system of insane hospitals will become a failure, and the horrid receptacles of forty years ago must take their place."

If the various manifestations which have been noticed are a correct reflection of public sentiment toward the asylums, they may well excite alarm for the future. The results certainly threaten to be far-reaching and disastrous, and the causes which have been operative to produce the present feeling may well engage the serious consideration of the members of this body. We can not presume to question the right and power of the State government which creates the asylums to institute official inquiries in its own way, that it may be informed of the manner in which the laws for their administration are executed. Several of the States have created permanent Lunacy Commissions, and Boards of State Charities, with ample powers to supervise, examine and make reports, and all the public asylums are managed by boards of trustees acting under State authority. No proceeding in the management or administration of

these institutions has a greater corrective and conservative power than that to examine and report intelligently, independently, and fairly, upon their actual condition. In the judgment of the writer the asylums will suffer more from the omission to exercise the powers thus conferred, than from their execution in the spirit we have indicated. No objection will be interposed to the work of these boards which promises first to enlighten the public in respect to the actual state and operations of the asylums, and, secondly, to impart moral strength with which to make advances, as well as to withstand assaults from those who seek to pull down but have not the power, the ability, or desire to reconstruct. As we welcome the discussion of those social problems which enlightens and broadens public sentiment, by which alone any advances can be sustained, so does that liberty of the press, more properly denominated license, produce apprehension, paralyze effort, and destroy confidence. Its great power for good is conceded, but when unfortunately it is inspired for sensational purposes and exercised without responsibility and in utter disregard for the consequences, its utterances and influence are to be dreaded.

The powers and duties of a Lunacy Commission and State Boards of Charities ought to be regarded by the asylums, and prove to be in fact and in practice, cooperative, not antagonistic—to be welcomed rather than repelled. These bodies where they exist should be the department of governmental supervision to which the delicate questions of policy, proper administration and its abuse, may be referred. Here it would seem there should be concentrated such wisdom, such a disposition to preserve and ingraft what is considered established by experience, such a guardianship of the best interests of the State in the administration of the

asylums, that the various intricate questions of law and policy which arise might be safely intrusted to them for solution. The powers and privileges of the legislature, the courts, and the press, ought to be regarded as extraordinary, only to be invoked when the ordinary administrative machinery of the State may fail, or prove inadequate.

One cause of popular distrust of the asylum system may be attributed in part to *dissensions existing in the medical profession regarding the better plans of construction, methods of administration or State policy, and the unfortunate and ill-advised uses which have been made of the differences that have existed.* The fact that there is a non-agreement must be accepted as conclusive that the best methods have not yet been demonstrated. That all discussion should cease upon matters pertaining to the care of the insane because the limit of advance was deemed to be attained would be a sad commentary upon the members of a liberal profession. The fact that discussion exists in any field of scientific inquiry is an indication of the prevalence of a spirit of inquiry and research. No objection can be properly offered to legitimate discussion, or impersonal criticism. In this manner alone can advances be made and errors corrected. While medical societies can not afford to be intolerant of opinions honestly entertained, the members composing it can not defend their action in going outside to appeal to tribunals illy-prepared by technical training to render judgment. It recently occurred that the alumni and the trustees of a college failing to agree about some question of internal administration one of the parties to the controversy sought an advantage by attempting to procure favoring legislation. In another similar controversy—one wholly of internal administration and policy—the aggrieved party ap-

pealed through the press to the tribunal of public sentiment. In the discussions which have grown out of the modification of the code of medical ethics in the State of New York, questions which belong wholly to the profession to settle through its legally constituted machinery, have been brought into the newspaper forum to the scandal and destruction of its usages. Bills have engaged the attention of legislators to compel consultations between physicians who do not affiliate in their practice and convictions, under the pains and penalties which attach to the commission of crimes—a proposition as communistic, by the way, as one to confiscate property of another kind to the uses of others.

Quite analogous, and as mischievous in tendency, has been the action of medical and other societies which have so far departed from their constituted purposes, as to engage in formulating propositions and charges against the asylum system for presentation to State legislatures. Many of the charges have been pressed with such vigor as to lead to the opinion that they were prompted by personal grievances, or were the emanation of the mystery that surrounds all questions of medical politics. The zeal with which aggressive action has been urged has at times suggested the suspicion whether the promoters have not been more actuated by a desire to bring their organizations to popular notice than a real interest in the apparent objects they sought to accomplish. Whatever may have been the motives which have actuated medical societies and prominent physicians to go out of the usual way to discuss and accomplish the best methods of treatment of the insane, the tendency has been to excite distrust and destroy public confidence, as well as to bring the parties engaged into questionable prominence. If movements of this kind are to receive the

approval of the best public sentiment—if every disaffected portion of an organization, profession or calling may carry its grievances and opinions to the legislature for public ventilation and hearing—the time is not distant when divisions in religious bodies, benevolent societies, and business corporations will seek the sharp advantage which political legislation may grant in every controversy which may arise.

Another source of disquietude to the public and the asylums, results from the law, or forms regulating the commitment of the insane to the asylums. This association, and the medical profession generally, have adhered to, and promulgated, the doctrine that insanity was a condition of disease, and the asylums or hospitals were specially instituted and established for its treatment by physicians. The earlier forms of commitment to the asylums were quite analagous to those observed for the admission of patients to the general hospitals of the present day. A certificate by physicians that a person is a proper case for treatment in a general hospital is usually required as a step preliminary to admission. A certificate signed by a physician (or physicians), that a person was insane, and a proper case for treatment in an asylum for the insane, was the usual rule of admission for many years, and still continues to be the practice in several States and in England. By degrees, however, the rule has been changed, and stricter regulations governing the commitment of the insane are now in operation, and a general tendency in the direction of still more stringent laws exists. At an earlier day the larger proportion of admissions were recent cases about which no question as to the necessity of medical treatment would arise. With increased accommodation and a better understanding of insanity derived from experience there has been a recognition of

the necessity of the confinement of certain insane persons not for medical treatment, but for public safety and judicious custodial care. Every asylum has gradually come to number in its population patients who are dangerous by reason of delusions, or, have indulged in outbreaks of passion to an extent to render them unsafe to be at large, and a nuisance to their families and the community in which they live—men and women who have degraded themselves by indulgence in vicious practices and narcotics, who find in the asylum a refuge and a system of kindly custodial care. They have a certain amount of intelligence unimpaired which is sharpened by improved habits of living and surroundings. Their impatience of restraint is heightened by their inability to realize their actual condition as judged by others. They will not concede the justice of a system of restraint of personal liberty that takes counsel of its apprehensions. They are cunning enough to demand of the courts their liberty for the reason they have committed no crime, and after its commission to plead their irresponsibility. These persons prove to be as disturbing an element in the asylum as in the community in which they have resided. It would be the better policy of the asylum administration to refuse to receive these cases when recognized, and rid itself of their presence until public sentiment shall cause their relation to the community to be more clearly defined. The complaints of illegal admission and detention made by these persons against the asylums, their personal opinions of the administration and fancied grievances, coupled with the deep-seated suspicion instilled in the public mind by the various agencies we have alluded to, have proved to be the exciting causes of nearly all the legislative investigations of recent years. The outcome, however, of the

investigations has been the recommendation, or enactment, of more stringent laws for the commitment of the insane to asylums, or so-called personal liberty bills.

As an illustration of the tendencies of legislation in this direction, the following extracts are given from a bill which passed the lower branch of the New York legislature at its last session without, so far as we know, a dissenting voice. Time did not permit consideration of the measure by the upper house. The bill provided that insane persons should be admitted to the asylums only on an order of the court after a verdict of insanity by a jury; that twenty-four jurymen should be summoned, from whom twelve were to be selected, to try the insanity of the "*accused*;" that a trial of such question be had by the court and jury; that five day's notice thereof be given to the "*accused*;" "*and such trial shall be conducted in all respects as a trial for a felony*," with right to call witnesses, challenge jurors and every right accorded to a person indicted for a felony; the trial to be conducted by the district attorney or by counsel approved by the judge. "If the jury shall find the accused to be insane to such a degree as to render it unsafe for him to be at large, they shall so specify in their verdict; and thereupon a record of such conviction shall be made up, * * * the detention of any person against his will without such record to be a misdemeanor to be punished with fine and imprisonment. Persons detained in an asylum longer than one year may on demand have a trial by jury." Such are some of the provisions of a proposed law commended to the favorable action of the legislature of one of the larger States, and receiving nearly a unanimous vote of one of its legislative branches; a bill, which if it became a law, would require annually

at least 3,000 sittings of the courts, the services of several thousand lawyers an equal number of times, and the summons of no less than 72,000 jurymen, and the expense attending the presence of witnesses, in order that the unfortunate persons "accused" of insanity might be properly "convicted" and the liberties of 5,000,000 people preserved against the supposed designs of less than a dozen peaceably disposed physicians.

In two of the cases brought before the courts on writs of *habeas corpus*, the judges acting separately, conceded the existence of insanity, but remarked that no crime had been committed, and in the opinion of the court the lunatics were not dangerous, and took the responsibility of discharging them from the asylum.

Assuming the proposed jury law, and the opinions of the two judges to be a fair exposition of the judicial sentiment regarding the commitment of the insane, if these views should further take the form of legislative enactment, the effect upon the interests of the insane and the asylums would be disastrous in the extreme. The asylums and hospitals would be changed from places for the medical treatment of the insane to lunatic prisons. Insane persons would be committed, or permitted to be detained only after commission of criminal acts, or when manifestly insane in the judgment of a jury, but not for medical treatment and care. The medical idea is now prominent in the administration, but it would be supplanted by some other system than the present one, and a class of officials to be known as wardens or keepers would take the places of physicians. Friends of patients shrinking from the publicity and scandal of a public trial, would retain them at home beyond the curable stage, or remove them to other States. It

becomes the members of this association, of the medical profession, of all interested in one of the most obscure social problems, to be fairly warned and aroused by the disturbing and demoralizing tendencies of the day, before it is too late. It is to be hoped the apprehensions expressed are not to be realized, that the fears incited by the various agencies to which allusion has been made have been overrated, and that publicity, diffusion of knowledge and candid discussion, will exercise the usual corrective power.

A retrospective comparison will show that great advances have been made in asylum administration, equal if not greater than in any other department of hospital care. Can any one say the limit has been reached? If intelligent criticism fairly expressed shall not have the effect to quicken self-examination, if we proceed with our work, not recognizing that it may still have the imperfections inherent in all human undertakings, generous moral support to attain a higher plane of excellence need not be expected. It has been the history of asylum care of the insane, that improvements and the best methods have been the work and individual effort of physicians in charge of asylums, and have not resulted from the action of boards, societies, or legislative enactments, although the latter have done, and may do, much to cause their universal adoption. While we are willing to concede the asylums are not in all respects what we would desire, the hope and reliance for any changes for the better, which future experience may show to be wise, must be mainly upon the physicians now and hereafter engaged in asylum service.

In respect to the delicate question of the commitment of the insane which has been, and will continue to be, a disturbing one to the asylums and the public,

because it is not yet satisfactorily settled, changes should be very cautiously and considerably made. The principal source of trouble to be anticipated is to come from the commitment to the asylums on medical certificates alone, or medical certificates *approved* by magistrates or judges, of a class of insane persons sent to asylums not for medical treatment but for custodial care, some of the peculiarities of which class have been alluded to in another part of this article. Until the status of this class is more clearly defined it would be politic to exclude them from the asylums as far as practicable, and to discharge them as soon as it can be legally accomplished. We have grave doubts of the sufficiency of a commitment signed by physicians, even if "*approved*" by a judge of a court of record. The theory on which society proceeds to restrain a member of it of his personal liberty is that he has committed a crime for which he shall atone or expiate by a loss of his personal liberty or other penalty or because he is dangerous to others or to himself. Insanity if established by the certificate or evidence of physicians may properly bring the individual within the latter category. The medical certificate is but a diagnosis and can have no legal force even if fortified with the *approval* of a judge as in the New York State proceeding. The proceeding to be complete should require, further, an order of a judge or magistrate authorizing the admission of the insane person to an asylum, and such additional legislation where necessary, declaring a legally constituted asylum for the insane, a proper place of detention for such persons. The form of commitment prescribed in Massachusetts is quite in accord with views here expressed. On one point we are well satisfied that the insane should not be committed solely on the certificates of medical men, nor by any proceeding which places the whole respons-

ibility of detaining a patient on the medical superintendent of an asylum when presented for admission.

In the paper which has been read, it has been the purpose to present to the Association some of the causes which are embarrassing the work of its members, and impairing public confidence in a very necessary class of institutions. Among the influences engaged in this work may be mentioned, the sensational press; statements of disaffected employés and unrecovered patients, societies and medical men who appeal to the newspapers and to laymen to settle questions which are professional; and secondly, the unsolved problem of the commitment of the insane to asylums. To counteract the former there must be co-operation between asylums and the managerial and visitorial machinery of the State, where such has been established, that the fullest details of their actual condition and administration be brought within reach of the public. Publicity and the general diffusion of knowledge in respect to these, as well as publicity of the nature and inspiration of all antagonistic influences, will prove the most reliable correctives and restore confidence. State legislatures might profitably refer certain kinds of complaints to such State Boards or Commissions as by law are already empowered to examine and investigate the State asylums. As to the laws relating to the commitment of the insane, it must be borne in mind the asylum management does not make them, although a contrary impression sometimes seems to prevail, but is mainly concerned in carefully executing those that may be enacted by competent authority.

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