

LUNACY REFORM

IV

THE RIGHT OF THE INSANE TO LIBERTY

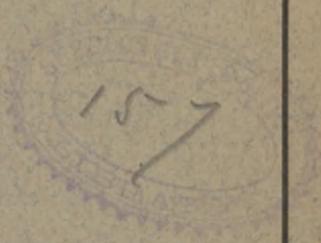
BY

E. C. SEGUIN, M.D.

ONE OF THE CONSULTING PHYSICIANS TO THE HUDSON RIVER
STATE HOSPITAL FOR THE INSANE, ETC.

[Reprinted from the ARCHIVES OF MEDICINE, August, 1880]

NEW YORK
G. P. PUTNAM'S SONS
182 FIFTH AVENUE
1880



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IV.

THE RIGHT OF THE INSANE TO LIBERTY.*

“The true principle to guide our practice should be this,—that no one, sane or insane, should ever be entirely deprived of his liberty, unless for his own protection or for the protection of society.”

HENRY MAUDSLEY.

It is fair to say that, in the present state of psychiatry in America, to be pronounced insane by physicians, by a judge, or by a jury, means imprisonment for months, for years, or for life. To put it in another way, there is a disease which reduces its victims to a level with persons accused of crime, and exposes them to loss of liberty, property and happiness.

Is this just? Is this worthy of a country like ours, which aims to be foremost in works of philanthropy, and preëminent as regards individual liberty?

Let us review the facts of medico-legal practice in the State of New York, on which these statements rest.

1. A man has acute mania, he becomes unmanageable at home, is dangerous to himself and to others. This man is summarily placed in a carriage, taken to an asylum and locked in without any process of law. Before a certain time has elapsed after his reception (five days), certificates duly executed before a

*Read before the National Conference of Charities and Corrections at Cleveland, Ohio, on Thursday July 1, 1880.

judge of a court of record must be furnished to the superintendent of the asylum as a justification for further detention.

Viewed without prejudice, this course seems the only one which can be pursued, and consequently we deem it right. For to wait many hours or several days for all the legal forms of commitment to be executed, might endanger the life of the patient or of those about him. Still it must be remembered that such cases of very severe acute mania are rare. In most cases a delay of twenty-four hours can do no harm.

2. The same patient recovers in greater part; he becomes quiet, and, with the exception of an occasional false notion and a degree of mental enfeeblement, is like most well men. Yet by virtue of the power of the original commitment this man is kept confined to the asylum, he is yet a prisoner. If he wishes to walk, or to breathe fresh air, or to attempt some little out-door work, doors must be unlocked to let him pass, and when he returns to his room or ward he is locked in for the night. And this stage of partial recovery may last almost indefinitely. The sole power of discharge rests in the judgment and hands of a single man, the superintendent; the patient is practically under a most singular form of tyranny for any enlightened State to permit to flourish.

No matter how scientific or how good a man the superintendent may be, I hold that this degree of authority, of uncontrolled authority over the liberty of citizens, ought not to be allowed.

3. The same sort of a case, *i.e.*, one of acute mania, terminates unfavorably. The delirium is transformed into a group of more or less fixed delusions, kept up by hallucinations; the memory and judgment are fatally impaired, in other words, secondary dementia is established. If, as in innumerable cases now in asylums, the delusions of the patient are not delusions of persecution or of any other form likely to lead to an outbreak of violence or destructiveness, is it right to keep this patient in the more or less costly and elegant prisons we call asylums?

Why should not this remains of a man enjoy freedom under a certain supervision? Why should he not be allowed to go and come as he pleases and to have what little pleasure there remains for him in life?

Let us make a further supposition, which is perfectly in accord with cases daily observed. If this harmless dement have property of his own, why should not this property be used to provide him with a suitable mode of life, and expended in reasonable amount for his benefit? There is good reason to believe that many such patients are kept in asylums, private or public, indefinitely, unprovided with the luxuries or quasi-luxuries to which they are entitled. After a few years of patience on the part of the relatives, and of more or less conscious misery on the part of the patient, the disease ends in death, and the carefully preserved property of the deceased is duly apportioned among heirs.

4. A woman drifts through domestic trouble, semi-starvation, into a state of cerebral mal-nutrition and anæmia, delusions of a melancholic type appear, together with a depression and sadness which cannot be reacted against.

Is it right to imprison such a woman, to place her actually under lock and key for months?

In some cases I am willing to admit that it is justifiable, but in the majority of cases I believe that such a procedure is unjust, morally and legally, and decidedly opposed to the patient's recovery.

To decide which cases belong to the former category and which to the latter, and to judge when a given case passes from one category into the other, requires, I admit, careful observation and ripe judgment, but not more, I am prepared to maintain, than do many other problems in medicine and surgery which are decided every day in our midst with average good success.

5. Cases of primary dementia occur frequently in both middle-aged and old people. Many such patients are simply foolish, but quite harmless. Why are they sent to asylums except for safe keeping, because of the lack of relatives, or because of pecuniary inability of friends to take care of the deteriorating member of the family, or lastly, pretty often, I fear, because of unwillingness to keep the patient at home?

In all these three categories I believe that confinement under the present asylum system is unjustifiable, legally and morally.

What right have we to bar a man's window and keep him all day, or a part of the day, for months and years, under lock and key, because he is simple or foolish, or, to put it technically, demented?

The pauper insane of the harmless demented class must, I suppose, be aggregated in institutions, preferably under medical supervision if not medical control, but have we not the right to demand that these unfortunates shall have the maximum of personal liberty consistent with safety to themselves and others; that they shall be both employed and amused in an inexpensive manner? Must we not remember that so long as any reason survives, perhaps longer, the animal capacity for simple enjoyment persists? How many hundred chronic insane in this nation are quite capable of enjoying a game of cards or dominoes, bowling, a pipe of tobacco, etc., in comparative freedom, under a surveillance that need not at all resemble the present prison-like manner of watching patients in asylums?

6. Epileptic and hysteric patients are not rarely detained in asylums without justification. I have had personal knowledge of such cases.

The alleged cause of certification originally, and of unlimited detention afterward at the request of relatives, is some psychical disorder which, in a majority of cases, is temporary, and quite as much under the control of a physician as of a superintendent.

I do not, let it be clearly understood, mean to say that such cases should not be sent to institutions, but I protest most energetically against their commitment to prison-like asylums, to their forced association with the insane, and their subjection to the imperfect medical treatment which obtains in most asylums.

Removal from home often does much good in these diseases, and is a *sine qua non* to recovery in certain cases of hysteria; but from this statement to the present evil practice of judicial commitment and locking up there is a vast gulf—a gulf as deep and wide as is the great human right to personal liberty.

I do not mean to refer in detail to a last class of cases, viz.,

those in which a sane person is fraudulently imprisoned as insane under our present imperfect laws.

I firmly believe that such cases are extremely rare, and from my personal knowledge of many of the superintendents of insane asylums, I do not believe that any of those gentlemen would for one moment countenance such a procedure.

I trust that I have made myself understood.

With many others, some of them to be cited further on, I believe :

a. That a large number of the inmates of asylums could be taken care of with open doors and unbarred windows, and, of course, without restraining apparatus.

b. That many insane now confined in our asylums could be trusted almost implicitly to go and come at will, could be given nominally remunerative occupation, and, above all, could be provided with simple amusements suited to their stations in life (and I do not refer to costly stereopticons, or the solitary billiard table, or the lectures, to which superintendents now refer with so much complaisance).

c. That the phases of insanity should be watched more closely with especial reference to early discharge of a patient, to his transfer to another institution, to the amount of liberty allowed him, etc. And I do not think it safe to leave this power wholly in the hands of the superintendent.

d. That the time has come to look around and attempt in this country the English and Scotch plan of placing harmless insane persons singly in the families of farmers and of others willing to undertake the task under frequent and efficient visitation.

There is not, I dare say, a single county in the State of New York where a number of harmless chronic or even sub-acute cases of insanity might not be safely and *happily* treated or kept in families, and where a good yet just and firm country doctor could not be found to visit a dozen or more of these patients occasionally and unexpectedly, and keep a strict watch over their health and happiness, reporting fully to the State Commissioner or Commissioners of Lunacy, or to a special general inspecting official.

There are, I have reason to believe, many families who would much prefer to keep their insane in this manner, at a reasonable cost, who are made to shudder at the mere mention of an asylum, whose long and desolate corridors they see in imagination, whose locks and keys they almost think they can hear, and whose deteriorating influences upon patients they more than half suspect.

While expressing the above views I also desire to state just as clearly my belief that certain cases of insanity, more especially acute mania or melancholia, all psychoses accompanied by homicidal, suicidal or marked destructive tendencies, should be placed as quickly as the law will allow in confinement. But even here we may implore that the confinement may be made as easy as possible for the unfortunate patient, who is, contrary to public prejudice, just as much a sick man as if he had phthisis or a chronic ulcer; and that all the barbarous means of corporeal restraint, such as cribs, jackets, straps, etc., shall be radically done away with as asylum implements, as a part of the nosocomial *armamentarium*, and only applied by express directions of the medical officer in exceptional cases, very much in the same way as we resort to heroic medication or surgical procedures in general practice.

If you will pardon a simile, I would say that I look upon restraining apparatus in the treatment of insanity very much as upon the lancet in the treatment of general diseases. The sight of restraining apparatus in an asylum seems to me as demoralizing and uncalled for, as would be the carrying of a lancet and the celebrated palette by a physician of to-day in his hospital visit. Bleeding is generally condemned, and so is physical restraint of the insane, excepting in this country, and yet I will not deny but that once in a while, under peculiar circumstances, both phlebotomy and restraint are justifiable. Let us join in the hope that before many years both procedures will be equally rare.

I desire to close this essay by reference to the opinions of much abler men, and much more expert specialists than myself upon this subject. And I believe that the gentlemen whose views I am to quote are so eminent in their specialty that the most bigoted

defender of our present prison system of asylums cannot question their right to be considered as foremost authorities.

Dr. Henry Maudsley, who has held almost every possible official position in relation to insane administration in England, and who is justly regarded as one of the most distinguished European alienists, expressed himself as follows years ago. I quote from the second edition of "The Physiology and Pathology of the Mind," London, 1868.

"To be a lunatic, as public sentiment goes, is to be cut off socially from humanity. With such feeling prevalent with regard to the insane, can it be thought possible that the treatment, at present sanctioned by general approbation, should be the most just and humane possible. The feeling is one which cannot be justified, and the system which it inspires cannot be just. That system is the system of indiscriminate sequestration—of locking up a person in an asylum simply because he is mad.

"Now I believe this practice to spring out of an unjust feeling, as already said, and to be founded on false principle, as I shall now endeavor to show. The principle which guides the present practice is that an insane person, by the simple warrant of his insanity, should be shut up in an asylum, the exceptions being made of particular cases. This I hold to be an erroneous principle. The true principle to guide our practice should be this: that no one, sane or insane, should ever be entirely deprived of his liberty, unless for his own protection or for the protection of society." (pp. 494-495.)

"I venture, indeed, to affirm in opposition to it, that there are many chronic and incurable insane persons, neither dangerous to themselves nor to others, who are at present confined in asylums, and who might as well be at large." (p. 495.)

"Another objection to the liberation advocated will be, that the insane in private houses will not be as well cared for as they are, nor have any more comfort than they now have, in well-conducted asylums. The quarter from which this objection is urged taints it with suspicion; I never heard it put forward but by those who are interested in the continuance of the present

state of things. Those who make it, appear to fail entirely to appreciate the strength of the passion for liberty which there is in the human breast; and as assuredly there are but very few persons who would not infinitely prefer a garret or a cellar for lodgings, with bread and water only for food, to being clothed in purple and fine linen, and faring sumptuously every day as prisoners. I can well believe that all the comforts which the insane person has in his captivity, are but a miserable compensation for his entire loss of liberty, that they are petty things, which weigh not at all against the mighty suffering of a life-long imprisonment." (pp. 496-497.)

"For the reasons adduced, I cannot but think that future progress in the improvement of the treatment of the insane, lies in the direction of lessening the sequestration and increasing the liberty of them." (p. 501.)

"Not the least of the evils of our present monstrous asylums, is the entire impossibility of anything like individual treatment in them." (p. 502.)

"Indeed, I cannot help feeling, from my experience, that one effect of asylums is to make some permanent lunatics. * * * And I can certainly call to mind more than one instance in which I thoroughly believe that the removal of a patient from an asylum was the salvation of his reason." (p. 503.)

Our distinguished countryman, Dr. Samuel G. Howe, everywhere known for his philanthropic efforts, enters a noble protest against the unnecessary restraint of lunatics by confinement to asylums, in the Sixth Annual Report of the State Board of Charities of Massachusetts, for 1869. I quote:

"Yes, disguise it as we may, we do keep under unnecessary restraint and in a sort of slavery, a multitude of unfortunates who sigh for liberty, and to whom it would be very sweet. Their appearance of quiet and their seeming acquiescence are oftentimes utterly deceptive. Bewildered, doubtful of their own power of self-guidance, half conscious of insanity, still they know enough to know that the whole power of society holds them in its grip, and they resign themselves in despair." (p. lxxxvii.)

“It would be folly to deny that restraint by walls, by iron sashes, by oaken doors and by constant guard is necessary for a certain class of patients under our mode of treatment. But it is equal folly to maintain that it is necessary for all, or for nine-tenths; and if not necessary, upon what ground can we defend our violation of a right which the lunatic never forfeited?”

It is sinful and criminal to abridge unnecessarily the freedom of an innocent man; and it is, moreover, cowardly and cruel to abridge that of an unfortunate lunatic.” (p. lxxxix.)

In the next place I quote from G. Fielding Blandford’s work on “Insanity and its Treatment,” London edition, 1870, American edition, 1871. He says:

“Doubtless, you have all heard of the moral treatment of insanity, but shutting a man up in an asylum can hardly be called moral treatment.” (p. 379.)

“In asylums they dwelt from year to year, a few walking beyond the premises, but none sleeping beyond, or going to any places of amusement like ordinary men. Now, from all asylums patients are sent to the sea-side, to the theatre, the picture galleries, and each proprietor vies with his fellows in providing recreation and entertainment for his patients—in proving, in fact, how little they need the restraint of an asylum.” (p. 383.)

[The above passage applies only to a special class of private asylums in Great Britain, but its bearing on the general question is obvious.]

“As the last generation did away with the fetters and mechanical restraint used in asylums, so let the present release from the restraint of an asylum all those capable of enjoying a larger amount of liberty and a freer atmosphere than that in which they now fret and chafe.” (p. 385.)

Dr. John Charles Bucknill is known to the profession in this country as an eminent authority upon the topic in hand.

He has this spring given us in book-form the series of papers on Lunacy Law Reform which appeared in the *British Medical Journal* in 1879. The purpose of these papers is mainly warfare upon the private or proprietary asylums as they flourish in Eng-

land, but scattered throughout the volume are numerous passages proving how thoroughly Dr. Bucknill, after a most varied experience with the insane and with asylums, coincides with Dr. Maudsley in the opinion that for many cases of insanity or mental unsoundness confinement to an asylum, subjection to asylum routine and deprivation of liberty and social enjoyments are cruel and legally unjustifiable.

I quote a few sentences only :

“Custom-blindness (which is more than color-blindness, because it blurs the outline of things as they are) often leads official people to associate unsoundness of mind with detention under care and treatment as correlative if not identical conditions ; but with the general public it is not so, and still less with the medical profession, and still less again with that of the law.” (pp. 25-26.)

“ * * * And, therefore, it would appear to be imperative to a proper certification of a lunatic for detention in an asylum that the reasons for which such detention is needful should be fully stated upon the face of the documents, and distinguished from the facts which simply indicate lunacy.” (p. 26.)

“But it is not merely the happy change which takes place in confirmed lunatics when they are judiciously removed from the dreary detention of the asylum into domestic life, it is the efficiency of the domestic treatment of lunacy during the whole course of the disease, which constitutes its greatest value, and of this the author's fullest and latest experience has convinced him that the curative influences of asylums have been vastly overrated, and that those of isolated treatment in domestic care have been greatly undervalued.” (p. 114.)

“Many a suicidal patient can live as safely with two faithful and skillful attendants in a villa or cottage as in any asylum, and in the free air he will walk or drive, employ or amuse himself in various ways, and recover without the asylum brand or the asylum danger of falling more and more into subjective ways of thought and shunting into the sad list of incurables.” (p. 116.)

E. C. SEGUIN.

ARCHIVES OF MEDICINE FOR 1880.

A BI-MONTHLY JOURNAL.

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