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(4)

THE RIGHTS OF THE INSANE

AND THEIR

ENFORCEMENT.

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Ladies and Gentlemen :—

Lord Ashley, when moving in the British Parliament, in July, 1844, for an address to the Crown, praying her Majesty to take into consideration the Report of the Metropolitan Commissioners in Lunacy, made use of this remarkable language :—

"Sir: These subjects may be dull, and want the light and "shade of more exciting topics, but the expense which is "incurred, the numbers that suffer, and the nature of their "sufferings, will perhaps justify the present demand upon your "time and patience. The House possesses the means of "applying a real and speedy remedy: these unhappy persons "are outcasts from all the social and domestic affections of "private life—nay more, from all its cares and duties—and "have no refuge but in the laws.

"You can prevent, by the agency you shall appoint, as "you have in many instances prevented, the recurrence of "frightful cruelties; you can soothe the days of the incurable, "and restore many sufferers to health and usefulness. I trust, "therefore, that I shall stand excused, though I have consumed "so much of your valuable time, when you call to mind that

"the motion is made on behalf of the most helpless, if not the "most afflicted, portion of the human race."

Mr. Chairman.—If we but consider that when I am called upon by the officers of this "National Association for the Protection of the Insane and the Prevention of Insanity," to speak OF THE RIGHTS OF THE INSANE, I must call to your mind that army of over 100,000 souls in the American States for whom I am to speak, who are most defenceless, whose misfortunes have made them voiceless. This, Sir, makes me regret, indeed, that you have not called a far more eloquent voice and abler head to this important task, so that the appeal might reach the hearts and quicken the actions of our people, and awaken our Legislators throughout the Nation to the crying evil of our time.

When that most fearless and indefatigable Englishman in the British Parliament alluded to the terrible fact that there was not at that time any provision for official visitation of what was then known as "single houses," he said—

"That he thought such a power ought to be confided to "some hand that would hunt out and expose the many horrible "abuses that at present prevail." *—

May I not read to this body the sworn testimony of that other noble Englishman, who, for more than thirty years, was the Chairman of the Lunacy Commissioners of England, and of whom Mr. Sheil could well say, in the British Commons—

"That this noble Lord had added nobility even to the name "of Ashley, and that he had made humanity one of 'Shaftes-"bury's characteristics."

Lord Shaftesbury's evidence before the Select Committee was one of the most potential factors in arousing popular attention and securing the subsequent legislation in the mother country.

Upon the subject of the abuses of the insane prior to the introduction of the system of visitation, he says, March 14th, 1859, in his evidence before the Select Committee on Lunatics (pp. 64 and 65, Minutes of Evidence), § 569, and before the

* Report of the Metropolitan Commission for 1844.

same Committee, upon the right of visitation as a lawful remedy to prevent and punish abuses (p. 35, same Minutes), § 304, 306, 307:*—

"Just take this fact: in one of the large Metropolitan houses, "on every night, nearly 200 patients were placed in mechanical "restraint; and I know that as much as three years after the "Act came into operation, when we were doing all we could to "remove those abuses, one of the Superintendents admitted to "our Commission that between 80 and 90 patients in one house "alone, under his supervision, were found in chains every "morning."

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"When we began our visitations, one of the first rooms that "we went into contained nearly 150 patients, in every form of "madness. A large proportion of them chained to the wall, "some melancholy, some furious, but the noise, and din, and "roar were such that we positively could not hear each other. "Every form of disease and every form of madness was there. I "never beheld anything so horrible and so miserable. Turning "from that room, we went into a court appropriated to the "women. In that court there were from 15 to 20 women, "whose sole dress was a piece of old cloth tied round the "waist with a rope; many of them with long beards, covered "with filth; they were crawling on their knees; and that was the "only place they could be; I do not think that I ever witnessed "brute beasts in such a condition. And this had subsisted for "years, and no remedy could be applied to it. It was known "to one or two physicians of the Royal College, who visited the "place once a year, but they said, fairly enough, that although "they saw those things, they could not amend them."

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"The law says that we must inquire what is the amount "and character of the occupation; and that no asylum can now "be built unless there be a sufficient provision of land to give "the patient out-of-door exercise; that they may cultivate the "soil; and indoor occupations are now given to women; a large "number of them are engaged in the kitchen and in the laundry,

* Abstract from the Evidence of the Earl of Shaftesbury, taken before the Select Committee of Parliament, March 14th, 1859.

"and very efficient they are. It tends greatly to the progress "of their case. And again, there is another provision, as to "which I think it would be desirable that the Committee should "investigate a little more, and see that provision is made for the "consolation of religion.

"It was never thought of, at one time, but it is now thought "of, and in some places is really carried into effect, with the "most beneficial results."*

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"§ 304. It would seem that whenever a person is put under "surveillance, it is not too much for the Legislature to require "information of that fact.

"I think that the honorable member has put it on the true "principle. So long as a patient is kept within the walls of his "own house, under the care of his wife, or if it be a wife, under "the charge of her husband, I do not think that public opinion "is ripe for allowing any one to go into it. I do not say whether "it would be right or wrong; but I am sure that public opinion "is not ripe for that—to introduce a new power to enter domestic "establishments.

"If they choose to take charge of patients themselves, they "are right, if it is necessary for their own happiness and comfort; "but if they put them under the charge of another, then I think "that the law has a right to come in and see that there is no "undue power exercised over the personal liberty and comfort "of the sufferer."

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"§ 306. Have there not been many cases of that kind in "the lower ranks of life, in which, in order to avoid expense, "persons of unsound mind have been detained by their own "friends, and subjected to very bad treatment?"†

"Yes, a vast number of such cases. The cases that we "brought out, of that description, in the Report of 1844, in "Wales, were very shocking. I can conceive nothing so horrible "as the state in which that class of patients have been found."

"§ 307. Did you intend to include that class of cases when "you said that no interference ought to take place with them?

* § 569, pp. 64–65, Report Select Committee.
† Sir George Grey.

"No, I did not mean that, for when I mention that these poor "persons were kept in damp cellars for twenty years, and some of "them chained by the leg and other limbs, and wallowing in "their own filth, I can scarcely suppose that such things would "be tolerated.

"With respect to these single patients, not only is their case "a very helpless one; they are not able to do anything for them-"selves, they are far removed from the protection of their "relatives and others, by the circumstances in which they are "placed, of isolation, and which are most unfavorable to their "recovery. Sometimes they are living in a remote part of the "country; and even when they are not hardly treated, they see "no one but the attendant, they never hear any voice but the "voice of the attendant, and many of them fall into a low, irre-"coverable melancholy, which would oftentimes have been "entirely obviated if they had been placed in more favorable "circumstances, and most undoubtedly, if they had been placed "in an asylum."*

May I not now ask the people of this land, if the lunatics of England, under the more enlightened and advanced legislation of the recent past, have enjoyed as a lawful right, in all asylums, the careful official visitations, at least four times in each year, each one separately and privately, by a member of the Board of Commissioners of Lunacy, selected from the highest names in England, is it not time that American Legislators and Statesmen begin to ask whether their suffering and afflicted countrymen, brethren of their own blood and kinsmen, shall not have this wise, humane and beneficent safeguard, as a protection, not alone from the inhumanity and abuses of attendants and keepers, but as one of the safest and most beneficent means of preventing the horrible abuses incident to "mechanical restraint," the horrors of "seclusion," or the abuses of improper restraint? Read that whole volume of evidence taken before that Commission, and see the testimony of such men as Dr. John Conolly, whose name, in English lunacy history, should be written in letters of gold, for his humane and successful efforts to break up the idea of "me-

* pp. 35, Report Select Committee.

chanical restraint" and "seclusion" in the treatment of lunatics in asylums in England; R. Monckton Milnes, Admiral Saumarez, Gilbert Bolden, and other lustrous names; and of Dr. John C. Bucknill, Mr. Andrew Doyle, Dr. James Coxe and others, at the sessions of July and August of the same Committee, continued by Act of Parliament, which was followed by a report destined to make such onward march in lunacy reform in that country.

The Acts of 4th and 8th of August, 1845, passed by the British Parliament, as the result of Lord Ashley's resolute support of the movement based upon this action, have well been styled "The MAGNA CHARTA of the Liberties of the Insane."

From this starting point came the subsequent amendments of August 26th, 1846, and the more important legislation of 1853, constituting what is known as 16th and 17th Vict., c. 96 and 97. These Acts, with the 8th and 9th Vict., c. 100, and 15th and 16th Vict., c. 48, constituted, with the Acts relating to criminal lunatics, the then existing English Lunacy Code.

It is well to note that in this early British Legislation certain forward steps were undertaken, prominent among which I regard the following as the most important:—

(*a*) Those laws provided, that medical men should specify the facts upon which their opinions of a patient's insanity were based, distinguishing those observed by themselves from those communicated by others.

(*b*) A medical officer was directed to visit all persons in the district, whether in the workhouse or not, *every quarter*, and report to the guardian or overseer those who, in his judgment, might be properly placed in an asylum.

(*c*) The system of a Board of Commissioners in Lunacy was substantially adopted as a part of the British system, thus assuring visitation, supervision and re-examination.

(*d*) Important limitations and restraints were placed upon medical men, upon the visitation, inspection and discharge of patients, and an increase of powers given the Visitors and Commissioners in Lunacy.

In February, 1859, the English Commons appointed a Select Committee to inquire into the operation of the then existing

laws, which resulted in a report recommending the following among other subjects, for consideration and action:*—

1. Worthy of consideration whether the certificate should be verified before a magistrate, so as to enable him to determine whether the Act had been complied with.

2. That the certificate authorizing detention be limited to three months, and unless then renewed, the patient to be discharged.

3. The order to state the time when the patient was last seen, and not to be effective unless the applicant had seen the patient within three months.

4. A copy of the order and certificate to be sent to the Commissioners within twenty-four hours, instead of within seven days.

5. The patient to be visited as soon as possible, by the Commissioners, or by some person acting directly under their authority.

6. The person who signs the order for admission to a private asylum to visit the patient at least every six months (a clause that was in the old law of England drawn by Mr. Gordon, but omitted in the legislation of 1845).

7. Patients to have a prima facie right to receive visits from and correspond with friends.

8. Making it a penal offence for any medical man to receive a patient in a single house without apprising the Commissioners of it.

This was followed by the Statute of 25 and 26 Vict., Chap. 3, "Entitled an Act to Amend the Law Relating to Lunatics," which imposed decided safeguards to prevent the improper admission of patients into asylums. Increased visitations of asylums by Commissioners were ordered. I notice a few of the more important provisions.

(*a*) Patients were admitted upon an order of a relative or friend, with a statement of all the facts of the case. This statement had to be supported by the certificate of the medical practitioners, who, having examined the patient separately, within seven days previous to the reception, state that he is a

* 1 to 8, p. 104, Parke, History of the Insane in British Isles.

person of unsound mind, and a proper person to be detained under care and treatment. It must also specify the grounds upon which their opinion has been formed, viz., the facts observed by themselves or communicated by others, and distinguishing between the same.

(*b*) Provisions for the visitation and careful examination of each asylum, public or private, at least four times a year, by at least two of the Commissioners in Lunacy.

(*c*) Under the Act, regulations were adopted by which all letters of patients addressed to the Commissioners in Lunacy, Committees of Visitors, etc., must be forwarded unopened.

All other letters must be forwarded unless the Superintendent otherwise direct, by an order endorsed upon such letters by the Superintendent, in which case such endorsed letters should be laid before Commissioners or Visitors at next visit.

In 1877 the public mind of Great Britain became much excited, akin to the feeling now existing in the American States, upon the subject so admirably described by General B. F. Butler in his Inaugural Address as Governor of Massachusetts, as one in which "the asylum doors opened too easily inward, and with too great difficulty outward," which was followed by the appointment of another Select Committee, known as Mr. Dillwyn's Committee, based upon a popular distrust of Asylum management on the part of asylum superintendents, and culpable laxity and negligence, not to say gross misconduct, by asylum employees and attendants.

The Report of that Committee may be worth an examination, as showing the change in English popular feeling. Some suggestions of that Report, at least, deserve our thoughtful attention:—

(*a*) That the patient should be visited at least once in each six months by the person who signed the original order.

(*b*) That a carefully prepared report or statement be made up and sent to the Lunacy Board, at the end of the first month after the patient's reception, of his actual condition.

(*c*) The right of any person, on showing good cause there-

for, with the sanction of the Commission, to send two medical men to test the mental condition of any patient under control.

(*d*) That the personal examination of Chancery Lunatics be extended by the Commission to all lunatics, irrespective of the possession of property.

(*e*) Greater freedom of patients in Asylums, and of their visitation by friends, and in correspondence, and additional safeguards against the undue or unnecessary infringement of personal liberty.*—

In the Bill of 1881, drawn by Mr. Dillwyn, he proposes, among other things—

(*a*) That no person should be confined as a lunatic except upon an order of a Judge or Justice, and that order based upon the certificate of two medical men, one of whom should be the medical officer of the district, and then only upon due notice by the Judge or Justice; and that such order should not be made except at the instance of a near relative or of some solicitor of repute.

(*b*) For violent lunatics he proposed the plan of an emergency certificate, justifying the detention of persons who had paroxysms of lunacy for twenty-four hours, but no longer, except upon competent authority.

(*c*) As to discharges, that patients could be discharged on the order of a Judge at Chancery, a Stipendiary Magistrate, or a county court Judge, who should order two medical men to visit the lunatic, and report on the case. That such Judge, after communicating with the Lunacy Commissioners might order the lunatic to be liberated within ten days.

From this brief review of the progress of lunacy legislation in England, let us for a moment turn our eyes to our own country.

Take my own State of New York: and while she has adopted a code of lunacy laws containing many wise and humane provisions, there is as wide a gulf as that which divided Lazarus and the rich man, in the parable of our Saviour, between the rights, the safeguards and the steps

* Parliamentary Debates, 3d Series, Vol. 221. Tuke's History of the Insane, p. 198 *et. seq.*

taken legally to protect the insane in their rights, and punish those who trample upon or abuse them, in England; as provided for by the laws of New York.

1. There is no provision for the careful and personal examination of every patient confined in asylums, public and private, at all adequate to the wants, the welfare and the adequate protection of the insane.

I take the occasion to say that there is, probably, no more humane, kind-hearted, thoughtful man, than our present State Commissioner in Lunacy for the State of New York; but what can one man do—with ten times the zeal, the energy, the courage and the skill of Dr. Stephen Smith, who is now that officer—acting alone?

We need, in New York, a Commission in Lunacy nearly as large as that of England, to do the work thoroughly and well.

It is said that the Superintendents of Asylums, as a class, and even as a body, are opposed to this supervision and this visitation, and to a Board of Commissioners in Lunacy. I am loth to believe the statement.

Supervision of superintendents is as necessary, is as important, is as vital to the rights, and the proper protection of the insane, as is visitation and careful examination of the patients themselves.

If it be true that superintendents are so indiscreet as to oppose properly organized Lunacy Commissions for supervision and visitation, with the plenary powers of the English Commissioners, that fact should at once decide every doubtful mind that the hour had come for legislative interference.

A Superintendent of an Asylum, under the laws of most of the American States, is an *absolute monarch*, so far as the inmates of the Asylum over which he presides are concerned.

Happy, indeed, is the condition of the patients, if he is a wise, a humane, a kind and tender master, educated in the noblest methods of treatment, watchful of the wants and careful of the unfortunates under him.

Horrible indeed the fate of the insane, if, destitute of these characteristics, and careless of the rights and wishes of his

patients, he suffers even the abuses that come from brutal attendants, and the awful horrors of chains, punishments and mechanical restraints.

That men placed by law in such positions of tremendous responsibility should be subject to no restraints or supervision, such as would be exercised by a carefully selected Board of Commissioners in Lunacy, is as untenable in these United States, as it would be in England, where the idea would not for a moment be tolerated.

Gov. Butler, of Massachusetts, in that fearless Inaugural Address, that has arrested the attention of the people of this country quite as much as of Massachusetts, calls, with clarion voice, for reforms, which, to use his masterly words:*—

"This pitiable and helpless class are, more peculiarly than any other, the wards of the State, appealing to us to care for them, by every sentiment of sympathy and justice.

"They have been treated with slight variation for fifty years, since the establishment of the first hospital at Worcester, substantially in the same manner of confinement, save in the earlier days the paucity of their numbers gave opportunity for more assiduous care.

"All classes of the afflicted with mental disorders have been sent to and received in the same hospital, whether incurable or chronic, the violent with acute mania, the demented or imbecile. Those with mania for crime, those insane only from religious fervor, the pauper and degraded men and women, all herded together, separated only by necessities of restraint and safety."

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"In the early days of our hospital treatment we are told, by the reports of the learned physicians who had them in charge, that a very large per cent. of cases of insanity might be and were cured, and the percentage was stated to be as large as seventy-five, and afterward sixty per cent.

"We are now told, by the latest reports of their scientific successors, that sixty out of every one hundred afflicted must

* Address of Gov. Butler, pp. 79 to 82, also pp. 84 and 85, and pp. 86 to 87.

die insane. In every other department of therapeutics, increased knowledge of physiology, more accurate acquaintance with the causes of disease, the many additions to the materia medica, have softened, ameliorated and checked the ravages of other sickness, lessened its fatality and increased the number of cures. Is it not to be hoped that even experience, research and scientists are at fault when they pain us with so startling and terrible an announcement.

"Oh star-eyed science, hast thou wandered there,
To waft us back the tidings of despair?"

"May we not inquire if some change of treatment or of confinement will not bring alleviation? Is not the experiment at least worth trying? Can we not, by classification and putting together those in one institution who give hopes of recovery, in another those who are violent and need physical restraint, and in still another those afflicted with dementia or imbecility, who are harmless and need no restraint, but care only?"

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"All these establishments for the insane have large quantities of land. If you are called upon, as you will be, to furnish further accommodations for the insane, why not do so by the Swiss system of families, in cottages, for the harmless and quiet, which may be cheaply constructed?

"A family of harmless chronic insane, for whom no physician is needed, could be taken care of by a single man and woman, and the cottages being contiguous, they may have a common dining room for all.

"Thus they might have all the comforts of home, so that life would be to them quiet and endurable, even if without hope of change, save the last.

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"There is another matter, of very important concern, which I commend to your consideration, in relation to the insane establishments, as well private as public, and that is, their doors open altogether too easily inward and with too great difficulty outward, in the reception and discharge of their inmates. An allegation of aberration of mind is easily made, and quite as easily proven by experts, and although it may amount to no cause for incarceration, yet the very expert who

gives his testimony is now allowed to adjudicate upon it sufficiently to sentence the accused to what may be perpetual imprisonment.

"In no other case is the liberty of the citizen so loosely guarded, or so much in danger. Nor is his personal liberty allowed to be interfered with in other cases, without the assistance of counsel, and full right and opportunity to appeal to the highest court. For the patient to get away from the hospital, especially where it is making money by keeping him, is difficult, because of the temptation to hold him, where those procuring the incarceration may be willing to pay a large sum for the care of the prisoner.

"I submit that this matter ought to be carefully guarded by legislation, giving every facility for setting at large the imbecile and harmless insane, whenever they become hopelessly incurable, and relegating them, as other harmless people are, to the home care of their friends and relatives, who are bound to support them."

"Allow me to quote the statute of New York now in force, for the apprehension and confinement of alleged lunatics.

CHAPTER 446, LAWS OF 1874.

Physician's Certificate. Approval of Judge.

1. "No person shall be committed to or confined as a "patient in any asylum, public or private, or in any institution, "home or retreat for the care and treatment of the insane, "except upon the certificate of two physicians, under oath, "setting forth the insanity of such person.

"But no person shall be held in confinement in any such "asylum for more than five days, unless within that time such "certificate be approved by a judge or justice of a court of "record of the county or district in which the alleged lunatic "resides; and said judge or justice may institute inquiry, and "take proofs as to any alleged lunacy before approving or "disapproving of such certificate; and said judge or justice "may, in his discretion, call a jury in each case, to determine "the question of lunacy."

Qualifications of the Physicians.

2. "It shall not be lawful for any physician to certify to the "insanity of any person for the purpose of securing his com- "mitment to an asylum, unless said physician be of reputable "character, a graduate of some incorporated medical college, "a permanent resident of the State, and shall have been in the "actual practice of his profession for at least three years. And "such qualifications shall be certified to by a judge of any court "of record.

"No certificate of insanity shall be made, except after a "personal examination of the party alleged to be insane, and "according to forms prescribed by the State Commissioner "in Lunacy, and every such certificate shall bear date of not "more than ten days prior to such commitment."

3. "It shall not be lawful for any physician to certify to the "insanity of any person for the purpose of committing him to "an asylum of which the said physician is either superintendent, "proprietor and officer, or a regular professional attendant "therein."

11, of the same Act, provides as follows:—

"If any lunatic committed under the provisions of this article, "or any friend in his behalf, be dissatisfied with any final "decision or order of a county judge, special county judge, "surrogate judge of the Superior Court or Court of Common "Pleas of a city, or police magistrate, he may within three "days after such order or decision appeal therefrom to a "justice of the Supreme Court who shall, thereupon, stay his "being sent out of the county, and forthwith call a jury to "decide upon the fact of lunacy.

"After a full and fair investigation, aided by the testimony "of at least two respectable physicians, if such jury find him "sane, the justice shall forthwith discharge him, or otherwise "he shall confirm the order for his being sent immediately "to an asylum. In case any county judge, special county "judge, surrogate judge of the Superior Court or Court of "Common Pleas of a city, or police magistrate, refuse to "make an order for the confinement of any insane person "proved to be dangerous to himself or others, if at large, he

"shall state his reasons for such refusal, in writing, so that "any person aggrieved may appeal therefrom to a justice of "the Supreme Court, who shall hear and determine the matter "in a summary way, or call a jury, as he may think most fit "and proper."

These provisions may be, I presume, taken as a fair example of the laws of the various States of the American Union, although many of the States contain other provisions, and differ in many respects.

Under this statute, great complaints have come to the public ear, of the improper incarceration of persons not insane, under the exceedingly loose provisions of the statute. Since your last session Judges of the Supreme and other courts in New York have, after full examination, discharged, as sane, several, I had almost said many, persons thus committed, some of whom, like Kieting, had been confined for many long months.

The cases at Utica Asylum have attracted great public attention, because a Judge of the Supreme Court, from a distant part of the State, made his writ of habeas corpus returnable at his, the Judge's home, and brought the patient and the Asylum authorities a long journey, contrary to the established practice in such cases.

I have not space, within the limits of such a paper as this, to even criticise these cases. It is, however, worthy of notice and remark, that in every case that has, thus far, come under my eye, the asylum authorities have insisted that the patient was insane at the time, and their view has been frequently sustained by the opinion of competent experts, notably in the Utica cases, the case of Henry Prouse Cooper, and some others, but that in all the cases tried by the court or by a jury the patients have been always declared sane and discharged.

Indeed, I am impressed with a profound fear that because of what has grown to be a popular distrust of asylum management, based on these and similar cases, when the pendulum swings backward, as it doubtless will—particularly if some mistake of court or jury as to the sanity of some of these parties may have instant and irrefutable public recognition—we may see the shadow turned backward upon the dial of asylum

reforms for another decade, and take years to recover again our present vantage ground.

There is no need for our disguising from ourselves the dangers that may come to this movement from the careless and wholesale discharge of persons pronounced insane by our most capable and conscientious experts and judges, by courts or juries, acting under the pressure of the popular clamor now raised against the law.

The lamented Beard, stricken down but yesterday, in the full vigor of his powers, and at the very threshold of a most brilliant future in this work, so near and dear to his heart, with Seguin (who is smitten with a blow more terrible than death itself), signed the commitment of Henry Prouse Cooper, after a long and careful study and diagnosis of the case.

If Cooper, now discharged as sane, should have fired the pistol at the head of the man at whom he drew it the other day, if, in a sudden outburst of madness, he shortly commits a fatal crime, or if any one thus discharged commits some startling crime, we shall see the same public now clamoring against the law shouting against the lunatic, and our efforts to protect and enforce their rights by wise and appropriate legislation be doomed to disappointment and defeat.

There never was a time when courts or juries, in the investigation of these cases, should be more cautious, wise and conservative than at the present, and the rights of the insane call as loudly for their proper care, treatment and restraint, if their mental condition requires it, as does the question of their rightful apprehension and confinement under existing laws.

I am, however, called here to speak for the insane and their rights, rather than for those declared sane by judges and juries, over the opinions of superintendents and experts.

On Jan. 4th, 1882, the popular feeling culminated and found expression in the following resolution, which passed the Senate of the State of New York :—

"*Resolved*, That the Attorney-General and State Commissioner in Lunacy be requested to report to the Legislature such amendments to the laws relating to the Insane as may be

necessary for the better perfecting of the same, and that they be further requested to make such report at as early a day as possible."

The letter of the Attorney-General and State Commissioner in Lunacy, of New York, soliciting an opinion, addressed to myself as President of the Medico-Legal Society of New York, was referred to the Permanent Commission of that body, and the Report of that Commission was made on January 3d instant, which gives definite shape and form to the issues, or some of them, which will come before the Legislature of New York at this session. I have laid a copy of that Report before this Association, through your Secretary.

To accomplish results we must, in matters of such enormous moment as those connected with advanced measures of Lunacy Reform, move with deliberation and caution. The most important step of all, in my judgment, is to secure, at as early a day as possible, a Board of Commissioners in Lunacy, with compulsory visitation, and careful examination of each patient confined in public or private asylums, at least twice a year, if unable to secure four times each year, as under the English law. This obtained, we should indeed stand on higher ground. Among the results of such a Commission, wisely chosen, would be—

1. The immediate detection and release of all sane persons improperly apprehended, in case such patients were unlawfully confined.

2. The orderly and prompt discharge of all persons who, properly or improperly confined, are fit to be released, which, in the crowded state of our large asylums, it is impracticable to suppose the superintendent can personally examine, and attend to all the other duties placed by law upon those officers.

3. Prompt and sure redress for cruel and inhuman treatment by attendants, which works so well in England, and which a superintendent is oftentimes powerless to detect or properly punish.

4. The gradual extirpation and abandonment of the use of mechanical restraints, as seen in many asylums, now demonstrated to be unnecessary and harmful, aside from its suffering

and horrors, with its cousin-german in atrocity, the punishment of "seclusion," which so often breaks down and extinguishes what little strength of intellect or light of reason is lingering in the benighted mind.

5. And, most important of all, that supervision and control over superintendents of asylums, so indispensably necessary for the welfare of the inmates, and the proper administration of remedial agents for the care and treatment of the insane.

In those States where the legislatures are willing to establish such a Board it should promptly be done, the present winter. In New York the movement is more likely to take the form of a Select Committee, after the plan of the English Parliament, and action upon their report, before this great step can be taken, though special legislation may, and doubtless will, take form this session, to relieve against great and acknowledged evils in the present law, concerning which the popular mind is now unanimous, or nearly so, for relief and reform.

If I were asked to classify those rights of the insane which, as a class, they have a right to look for stringent legislation to enforce and protect, and which it is the clear duty of the State to provide unasked, and enforce unsought, I should request you to consider among some of those I consider most pronounced and most indisputable, the following:—

1. It is the duty of the State to provide proper receptacles for the incurably insane patients, apart from those devoted to remedial treatment.

2. The criminally insane should also be properly cared for by themselves, under the most enlightened methods of treatment.

3. The right of mechanical restraint should never be enforced by the State, except absolutely and indispensably necessary for the welfare of the patient, and it should be forbidden by law.

4. "Seclusion," as a punishment, should be prohibited. Indeed, all punishment of the insane should be forbidden. If the insane are not responsible for offences against the law, they should not be at the mercy of attendants, keepers or superintendents, for petty offences or misconduct in asylums.

5. Practical provisions should be provided for the prompt punishment of all those who abuse, maltreat or harm the insane.

Any keeper or attendant who ever strikes an insane patient should be instantly discharged, no matter what the circumstances. It was well said by Theodore Meynert, of Vienna, "if there is any striking done in an asylum, let the attendant or keeper be the anvil, not the patient."

6. Legislation, if necessary, to provide that the confined insane should be furnished with employment, either mechanical, industrial or agricultural, and so far as possible, plenty of exercise in the open air.

7. Provision for intellectual culture, recreation, amusement, and every provision for their care, comfort and pleasure consistent with their unfortunate condition, and for the benefit and privileges of religious worship.

8. The right to send letters unopened, and that they be promptly forwarded and delivered to the Superintendent, to all Judges, the managers of the Institution in which they are confined, the Board of Commissioners in Lunacy, the Visiting Board, the persons on whose order or complaint they are committed, their own attorney or counsel, and to such other persons as they choose, upon the subject of their discharge or apprehension, which should be under supervision of the superintendent, and if thought by him improper to be forwarded, should be so endorsed by the Superintendent and forwarded to the Commissioners in Lunacy, thus endorsed.

9. Every insane person should have the right, at his own expense and cost, to have his mental state and condition examined by competent medical experts, of his own selection, disconnected with the Institution in which he is confined.

10. Legal provision should be made for the examination of every patient by competent examiners, privately, at least every six months, and I think four times a year, as under the English system; and this should be by persons entirely disconnected from or interested in the asylum in which the patient is confined.

11. The rights of the insane should be as strictly guarded and protected by the superintendents, attendants and courts as

possible, and their infringement or violation promptly punished, because of their defenceless position.

The provisions for the confinement of the insane rest upon principles in direct conflict with our fundamental law, and in open violation of the rights of the insane.

Insanity, since all recorded time, seems to have been the very cemetery of the soul, and over the door of the asylum, until a very recent day, and with a few rare exceptions, should be written that awful sentence of Dante, "Who enters here leaves hope behind."

Without a word, without a thought, we have stripped from the insane—no matter who, how gently bred, or reared, or nursed, our friend, our dearest kin—in a moment, every right, and the clang of the asylum door has had a more awful sound than the dull fall of the clod upon the coffin of our dead.

We must, however, now, in the march of the progress of civilization, come face to face with the question of what rights the insane really have, and what responsibilities we take upon ourselves, when, under forms of law, we, with strong hands, strike at the liberty, the property, the pursuit of happiness of the insane.

Has society the constitutional or moral right to seize and confine the harmlessly insane?

If there is no risk of the lunatic ever doing an act of violence, or infringing upon a social law, can the inherent right of the insane to freedom be broken by society, and upon what legal ground?

Under what plea can the liberty of the citizen be disregarded, when, from no fault of the lunatic, the mind has become diseased, if no cause exists for apprehension of violence or injury to the rights of others?

Is the State in loco parentis, and can she, justly and without infraction of natural rights, enfold her stricken one in her arms, as a mother, under the plea that it is for the greatest good of her child?

At all events, none can but say that if the strong arm of the law deprive of liberty the insane, for a misfortune and not for a sin, there rests the highest known obligation to make the

guardianship kind, merciful, maternal and tender, as human civilization and science can invent.

The record of man's inhumanity to the insane, throughout all the centuries, is too horrible to even refer to. The chains, the shackles, the horrors of the treatment of the poor, defenceless insane, is marked with atrocities and terrors that should put us all to the blush, which has come down, I regret to say, to our own time, and remnants of which exist probably at this moment.

It is not a generation ago, that a chain and ring was at each bed in an English asylum, and it is not two years ago that Dr. C. Shaw destroyed three hundred scientific tortures for the insane in one asylum in King's county, where 700 patients were kept.

Throughout all this country how many asylums have followed this example, and of the 100,000 insane in the United States how many are to-night in chains, and manacles, notwithstanding the demonstrations of the efficacy, the remedial value and the humanity of non-restraint in the care and treatment of these unfortunates?

Is the insane, by his condition, stripped of those legal rights, because of his misfortune, that would be freely given to him, under the same law, if guilty of crime, awaiting trial, who has his reason?

That quality of mercy which is not strained to him who is convicted of heinous crimes, is and has been for centuries denied to the innocent insane of gentler sex; the most defenceless, most helpless, have failed to excite even the tear of pity or the sigh of compassion.

See the awful indictment which the long list of unfortunates, living and dead, justly brings against the utter barbarism of our laws and our times. I therein read these terrible charges:—

You have deprived me of my liberty, placed me in close confinement, taken from me the companionship of those I loved, stripped me of my property, cut me off from all connection or correspondence, even, with the world or the friends of my youth or middle life, against my will, for no fault of mine, when my malady neither threatened injury to myself or to others.

If you had the right thus to strip me of all dear to me in this life, you owed it to me that your care should have been for my good, and I have been literally in a living grave, without hope.

Why manacle my limbs, and shut me off from those social pleasures and enjoyments of which I am capable; why place me in solitary confinement, and bring me into contact with raving maniacs, when science teaches, with an unerring light, that open doors, and labor, and generous diet, kind and humane treatment, would have restored me to reason?

You have driven out, by chains and inhumanity, my last hope of restoration; and ineffaceably marked me as the incurably insane.

I ought not to take my seat without paying a tribute to that conscientious, earnest worker in science, who has just closed a useful life, suddenly stricken down, in the very prime and vigor of his manhood, at the threshold of a great work for which he seemed admirably qualified, and destined to connect himself and his name indissolubly with lunacy reform.

Let us pause in our work to drop a tear upon the bier of George M. Beard, and to throw a sprig of evergreen into the still open grave of my long tried and faithful friend.

Your Association, Ladies and Gentlemen, has sustained, in his death, a great, an almost irreparable, loss, but, sad as is your affliction, it is as nothing to that which the world of science will feel at the vacant seat and voiceless pen of the gifted man. It seems but yesterday that I spent an evening with him and his charming wife, in his own home. He was full of his plans for usefulness and of the success of those things in science nearest his heart, and we sat till a late hour conversing on subjects he had studied, and his prospects and plans for the near future, so that the tidings of his death, last Tuesday, came upon me like a blow.

Wherever science has her votaries this lamented man had his admirers and friends, and at many a home in England, and upon both continents, the telegraphic announcement of his death will meet a response akin to that you now feel, at what seems the untimely death of our beloved friend.

Ladies and Gentlemen of the National Association, in full

sympathy with your movement, and wishing it a great success, I shall be more than repaid if any words or labors of mine shall have aided you in your labors, or encouraged you in your work.