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Addresses.

LEGISLATION FOR THE INSANE IN MASSACHUSETTS, WITH PARTICULAR REFERENCE TO THE VOLUNTARY ADMISSION AND TEMPORARY CARE LAWS.*

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THE number of persons suffering from mental disease in Colonial times does not seem to have been sufficiently great to have made much of a problem. Neither the Colonial nor the Provincial laws make any reference to the class, with the exception of two provisions: one in the Body of Liberties (1641), providing that "Children, idiots, distracted persons and all that are strangers or new commers to our plantation shall have such allowance and dispensations in any cause, whether criminall or other, as religion and reason require,"¹ and the other in the Colonial Laws of 1641, providing that "Any conveyance or Alienation of land or other estaite what so ever, made by any woman that is married, any children under age, idiot or distracted person, shall be good if it be passed and ratified by the consent of a General Court."²

The first Massachusetts law providing for the

care of insane persons was passed in 1797.[†] The method adopted in providing this care is of particular interest, as it speaks eloquently of the general conception of insanity held at the time. In 1788, a law had been passed entitled, "An act for suppressing rogues, vagabonds, common beggars and other idle, disorderly and lewd persons,"[‡] which provided commitment to the house of correction by two justices of the peace. When, in 1797, the general court wished to provide for the insane, it amended the act of 1788 by inserting in the list with "rogues, vagabonds, common beggars and other idle, disorderly and lewd persons," the words "lunatic persons."

At the opening of the nineteenth century, insanity, in the opinion of most people, was a moral rather than a physical disease. Devilcraft was largely given up, but the theological idea that had taken its place—that insanity is pure mental and moral perversion, and represents the outbreak of the animal and violent elements of the fallen human soul which have culpably been permitted to get the upper hand of the higher attributes—was hardly more favorable to the sufferers from mental disease. To be sure, leaders in Europe had been urging that insanity was a disease comparable to physical disease. Rush had read a paper (1786) before the American Philosophical Society, "On the Influence of Physical Causes upon the Moral Faculty," and some practitioners were leaning feebly towards this idea. One physician "after forty years' experience" wrote (1806) that he was "not sure" but was "inclined to think in-

* Read before the Bristol North District Medical Society, April 15, 1915. Read before the Essex North District Medical Society, May 5, 1915.

† Laws of 1797, Chap. 62, § 3.

‡ Passed March 26, 1788.

sanity due to a morbid condition of the brain."⁷³ But the idea was not popular, and made little headway against the religious, moral and metaphysical notions of the time. Insanity was a disease of the mind, it was held, and the mind was the seat of the soul. The relation that the brain might have to all this was little regarded. That insanity was a moral disease found strong expression even as late as 1830. Coleridge, in his "Table Talks," probably expressed the opinion of most educated people of the time when he wrote:—

"Madness is not simply a bodily disease. It is the sleep of the spirit with certain conditions of wakefulness; that is to say, lucid intervals. During this sleep or recession of the spirit, the lower or bestial states of life rise up into action and prominence. It is an awful thing to be eternally tempted by the perverse senses. The reason may resist—for a time; but too often, at length it yields for a moment and the man is mad forever."⁷⁴

Thomas Cooper, M.D., (1831) in the preface to his translation of Broussais' "On Irritation and Insanity," speaks with intense feeling of the enmity of the clergy and the ignorance of the medical profession on the subject of the somatic nature of insanity, and so great did he feel the opposition and ignorance to be that he incorporated in the book a tract on materialism and a paper, "An Outline on the Association of Ideas."⁷⁵

John Barlow, in 1843, writing "On Man's Power Over Himself to Prevent or Control Insanity," said, "... the being sane or otherwise, notwithstanding considerable disease of the brain, depends on the individual himself. He who has given a proper direction to the intellectual force and thus obtained an early command over the bodily organs by habituating it to the process of calm reasoning, remains sane amid all the vagaries of sense; while he who has been the slave, rather than the master of his animal nature, listens to its dictates without question, even when distorted by disease—and is mad. A fearful result of an uncultivated childhood!"⁷⁶

The trustees appointed to superintend the construction of the Worcester Lunatic Asylum make note of this popular feeling in their first report, stating that "the universal opinion has been that it (insanity) was an awful visitation from Heaven, and that no human agency could reverse the judgment by which it was inflicted." They take a position against this view, but further in their report show how firmly entrenched the metaphysical conception must have been in that they were not wholly free of it themselves. In outlining their plans for the treatment of patients they provide, if necessary, an attendant to each patient, "whose duty it is to remain constantly at his side to occupy his (the patient's) attention with pleasant themes

... to soothe and pacify that portion of the mind which had been excited to frenzy and so to allow those faculties whose action remained undisturbed to gain the ascendancy."⁷⁸ Further, they are to provide for their patients beautiful scenery, so that "the restorative influences of nature may strike some chord in the heart as yet unbroken in the fatal struggle with worldly disappointments."⁷⁸

Amid such conceptions, the McLean Hospital was opened in 1818. Insanity being considered incurable, the hospital was planned to serve humanitarian purposes rather than medical. It is interesting to observe that no new legislation relative to the status of insane patients was considered necessary upon the opening of the hospital. The law of 1797 was still in force, and a new law had been passed in 1816 providing that any person acquitted of crime because of insanity might be committed to jail by any justice of the supreme judicial court until he recovered. But neither the law of 1797 nor the law of 1816 affected the McLean Hospital. Access to it was as free and upon the same basis as access to any hospital. The hospital was opened for the care of persons suffering from insanity whose friends or family desired them cared for, and it seemed quite logical and proper at that time that such persons should be received in the same manner as another member of the family might be admitted to the Massachusetts General Hospital.

During the late twenties, a new interest was aroused in the insane. Word came from the better hospitals of England and this country that the condition in its early stages was largely curable; that the insane neglected in cages and pens, cellars, outhouses, prisons and almshouses were hopeless, but much, if not all, of this could be prevented if insane individuals were given proper treatment sufficiently early. On the wave of enthusiasm created by this new idea, the Worcester Lunatic Hospital was ordered built, and was opened in 1833. All persons to be committed thereafter under the laws of 1797 and 1816 were ordered committed to the custody of the hospital at Worcester, and all confined in jails or houses of correction under order, decree, or sentence of any court, or any judicial officer by virtue of the above statute were ordered to be sent to the Worcester Hospital as soon as practicable.

Up to the time of the opening of the Worcester Hospital patients were committed by order of any two justices of the peace or by a justice of the supreme judicial court. With the opening of the Worcester Hospital, the power of committal was taken from the justice of the peace and bestowed as follows: "Judges of Probate in all counties except Suffolk—in Suffolk the Judges of the Municipal Court—in addition to the Justice of the Supreme Judicial Court and the Court of Common Pleas."⁷⁹ The law of

* Acts of 1883, Chap. XCV.

1833 further specifies that the judges shall commit those "so furiously mad as to render it manifestly dangerous to the peace and safety of the community that such lunatics should continue at large." It did not call upon the judge to decide, nor give him right to decide, whether the person before him were sane or insane, but whether he was "so furiously mad" as to be a danger to the community. The obvious intent of the law was not that the judges should control the admission of patients to the hospitals, but that they should be given power to commit those who might resist such admission and whose presence at large would be a danger. This law did not prevent the free access to the hospitals of those who desired such admission. Admission to the Worcester Hospital was as free and informal at this time as had been the admission to the McLean Hospital in the preceding fifteen years. That the law was so conceived and understood is borne out by the fact that the superintendent in his reports notes those who have been committed "by friends" without court action, and urges friends and relatives to bring their insane patients as early as possible.

Further evidence of this interpretation is the law passed in 1836, which provided that "the trustees may also, in their discretion, receive into the hospital for a less sum (than the actual expense) any poor persons suffering under recent insanity, whether supported or not by any town or city."[†]

Public care of insane persons was new in Massachusetts. There were no precedents to follow. It is not surprising, then, that a spirit of uncertainty as to the best method of procedure should be manifested in the changing of the laws from time to time during the early years of the hospital. In 1834, a provision was added to the effect that "Any person or persons making application (for commitment) must first give notice in writing to the selectmen, or either of them, in the town, or to the mayor of the city where such lunatic resides, of the intention so to apply" and that "satisfactory evidence that this has been done be presented to the judge."[‡] This provision was slightly changed in 1836.[§]

In 1837, trial by jury was provided for.^{||} This provision for a jury in cases of lunacy did not come from distrust of the hospitals or their officers, nor from any feeling that the determination of lunacy was a lay or legal rather than a medical matter. It must be held in mind that at this time access to the hospitals was free, and that the courts were called upon to decide merely whether a patient's madness made him a sufficient danger in the community to warrant his forcible detention. The suggestion for a jury trial came originally from Dr. Samuel Woodward, first superintendent of the Worcester Lunatic Hospital. In his fourth annual

report (1836) he had cited the fact that the courts have a right to commit any persons who are a danger to the community, had asserted his confidence in the courts, but had added, "the spirit of our institutions is adverse to the uncontrolled exercise, by any tribunal, of so great a power as this. It should guard with scrupulous jealousy against every possible encroachment upon the liberty of the citizen under whatever pretence; and we would respectfully propose such a modification of the statute as would in every case, recur to the individual or to his friends, if they should think proper to claim it, the right to have the facts in the matter of dangerous lunacy determined by a jury."⁹

In 1839, a law was passed authorizing the City of Boston to build a hospital.* Power of commitment was lodged with the municipal court. In 1840, this power of committal in Boston was taken from the municipal court and given to the police court "saving to the person complained against the right to appeal from such order to the Municipal Court of the City of Boston."[†]

By 1840, opinion in regard to the method of procedure seems to have been settled, and from that time until 1853, a period of thirteen years, no changes were made. In fact, no serious changes were made after the law of 1833 had been slightly amended in 1834. For a period of practically twenty years, the procedure outlined in these laws was followed, and the hospitals were permitted to perform their service without further legal obstruction.

The Worcester Hospital opened its doors under very favorable auspices. The plan for taking the insane from their former wretched surroundings, caring for them, and restoring them to health and usefulness was very popular. The hospital was hailed as the "state's greatest charity" and was a source of great pride to the commoner. But the hospital had been opened under a misapprehension, with hopes that could not be fulfilled, and the results of this, and the conscientious mistakes made by the early superintendents and trustees in encouraging these false hopes, are still to be noted today. The commissioners who had been appointed by the governor of the Commonwealth to supervise the erection of the hospital at Worcester,—Horace Mann, Bezaleel Taft, Jr., W. B. Calhoun,—said in their first report, "It is now most abundantly demonstrated that with appropriate medical and moral treatment insanity yields with more readiness than ordinary diseases." Further, that "fifty, sixty, and in some instances ninety per cent. recover in well regulated institutions." "As early as 1827," says Pliny Earle, "by a combination of fortuitous and favorable circumstances, Dr. Todd of the Hartford Retreat was able to report the recovery of 21 out of 23 recent cases of insanity received into that institution.

[†] Revised Statutes, Chap. 48, § 8.

[‡] Acts of 1834, Chap. CL.

[§] Revised Laws (1836), Chap. 48, Sect. 7.

^{||} Acts of 1837, Chap. 228, § 1.

* Acts of 1839, Chap. 131.

[†] Acts of 1840, Chap. 79.

This remarkable result was reduced to a formula, and the percentage (92.3) thus derived from less than one-quarter of a hundred cases was published and became more or less a criterion by which to measure the possibilities of all recent cases."¹⁰

As Earle points out, the decennium 1827-1837 was an age of big men—Woodward, Bell, Awl, Butler, Brigham, Kirkbride, Stribling, Ray, McFarland. These were men of rare abilities, loftiness of purpose, and enthusiasm. Their very enthusiasm, however, carried them into a competition that proved in the long run harmful. "Before each of them stood the stimulating and provocative precedent of erroneous percentages, and around each of them was the competitive ability of his colleagues in the specialty. It is no cause for marvel that under these circumstances a public opinion was formed upon the curability of insanity too favorable to be sustained by the experience of the future. This opinion was enunciated by a few superintendents at an early date, but considered as an established idea in the minds of the people, it was the fruitage of the decennium in question more than of any other in the whole history of the past; and thenceforward it has very generally been claimed that of all cases of insanity of less duration than one year, from 75 to 90% are susceptible of cure. For more than forty years with respect to a few, and more than thirty years in respect to many, this has been the shibboleth of the superintendents of hospitals and of other writers upon the subject of mental alienation; and especially has it been depended upon as one of the crowning arguments in favor of the establishment of new hospitals and the enlargement of old ones, and of appeals to hesitating and reluctant legislatures for additional appropriations of money for the completion of unfinished ones, for which the purse of the Commonwealth has already been taxed beyond the bounds of reason and of patient endurance."¹¹

The first annual report of the Worcester Lunatic Hospital states that of 25 recent cases, 12 had been discharged cured. The second report gives the total per cent. cured as 55.75; old cases cured, 20.5; recent cases, 82.25. The third report gives 82.50% of recent cases cured. In 1840, Dr. Woodward prepared a table which showed that 88% of those who had been insane less than one year were cured, 57% of those insane from one to two years, 37% of those insane from two to five years, and 11% of those insane from five to ten years. This table was used by Waterson in his "Report on the Condition of the Insane in Massachusetts in 1843," as an argument urging provision for greater facilities at Worcester,¹² and eleven years later, in the report of the commission appointed to report on insanity and idiocy in Massachusetts,¹³ the statement is still made that if the disease be submitted to proper remedial measures, three-fourths or nine-tenths may be restored, and this

proportion of the patients made again self-supporting members of society. Other hospitals throughout the country were making the same favorable reports. In 1841, Pliny Earle, later superintendent of the Northampton State Hospital, compiled the following table from the reports of the various hospitals:¹⁴

Asylum.	Time.	Percentage of Cures in Recent Cases.
Dr. Burrows'		91.32
Vermont State	3 years	89
Vermont State	1840	88.20
Massachusetts State	1833-40	87.20
Massachusetts State	In 1840	91.25
Ohio State	1839-40	85.50
Bloomington	In 1839	83.87
Retreat, Conn.	6 years	75.95
Retreat, Conn.	4 years	91.60
		Average, 87.10

There is no doubt that the superintendents in publishing such figures intended to be honest both with themselves and with the public. The error lay in the method of computation. The percentage of cures was based, not upon the number of patients admitted, but upon the number discharged, so that a hospital having received a hundred patients during the year, and having discharged 24, of whom 12 were cured, reported a percentage of 50 instead of a percentage of 12. A further mistake was made in counting the number of cases discharged instead of the number of patients. Six recoveries might represent but one person, admitted and discharged six different times during the year. In one hospital, one woman was reported recovered nine times in two years; in another, five persons 32 times; in a New York hospital, "for one woman, 46 recoveries were reported in the course of her life, and she died upon her 59th admission."¹⁵

Encouraged by the hope created by the figures given above, legislatures all over the country were quick to build hospitals, hospitals built were soon filled to overflowing, and additions or new hospitals were erected. During this period of confidence and expectation when the hospitals enjoyed the enthusiastic support of the community (1833-1858) the Worcester Lunatic Hospital was twice enlarged (1835, 1843); the Boston Lunatic Hospital (1836), the Taunton (1854), and Northampton Hospitals (1858) were built. So great were the demands made upon the hospitals that the superintendents soon became engrossed in the many detailed problems of hospital management. At the formation of the Association of Medical Superintendents of American Institutions for the Insane, in 1844, sixteen committees were appointed, only five of which pertained in any way to medical subjects, and one of these was on the "Moral Treatment of the Insane." The papers read at the meetings of the Association were largely upon subjects of hospital management, such as, "Proper Size of a Hospital," "Dietary," "Building," "Proper

Number of Patients to an Institution," "Relative Value of Different Kinds of Fuel for Heating Purposes." In the early meetings of the Association, little or no mention is made of legal matters, but later (1863-69), stung by adverse criticism, the Association found it necessary to devote a great deal of its time to the consideration of this subject. That the views of even these leaders of psychiatry were still tinged with metaphysical conceptions, even though they were urging the physical view, is evidenced in the causes of insanity assigned by them: "Indulgence in temper," "mortified pride," "agitation on the approach of matrimony," "metaphysical hair-splitting," "predisposition excited by novel reading," "the complete gratification of every wish of the heart." Another cause that is of interest today, although not a metaphysical one, is "changes from ordinary to vegetable and abstemious diet."¹⁶

The superintendents in the early days were autocrats. This is not surprising in view of the fact that at that time all physicians were more or less autocratic. Unlike the present day—when any person who has reached the high school age apparently has a right to opinions upon medical topics, and when there are almost as many views upon medical subjects as there are persons in the community—the physician was the only person in the community who was supposed to understand medical matters. When he took charge of a case he took command. He expected his judgment to be taken, and his directions to be obeyed. The superintendents were medical men, and medical men primarily, and they naturally felt that they alone should know what was best for their patients. They resented interference in the care of their public patients as they would have resented it in the management of private cases. This attitude was accepted by the public without question at first, but later came to be resented. One of the principal methods of treatment used at that time was the so-called "moral" treatment, an "entire change of surroundings, whereby all existing trains of associations are broken and the mind is introduced to new persons, new things and new scenes."¹⁷ In carrying out this plan of treatment, correspondence and visits of friends and relatives were frequently denied. The motives for such treatment were misunderstood, and further antagonism was aroused.

During the twenty years just discussed, the hospitals have had little or no opposition. It was becoming apparent, however, by the end of this period that the hopes held out in the beginning were not being fulfilled. It had been found that insanity was not so easily cured as had been supposed; that many of those who had been pronounced cured in the early beginnings had sooner or later become again insane; that aside from what had been accomplished from a humanitarian point of view, little had been accomplished of permanent value. The high hopes of 1833

were dashed by 1853, and the reaction that might have been expected, augmented by the ill-feeling that had developed as the result of the autocratic attitude of the superintendents, and the misunderstanding that had arisen from the isolation of the patients while being given "moral treatment," set in. Discontent and suspicion began to take the place of confidence and enthusiasm. This restlessness is noted in the legislation. Although there had been practically no change in the legislation for twenty years (1833-1853) in the ten years from 1853 to 1863, the method of procedure in insane cases is changed five different times.* The most noteworthy change was made in 1862, when the phrase in the early law, "so furiously mad as to render it manifestly dangerous to the peace and safety of the community that such lunatic should continue at large," was changed to read, "any insane person who in their opinion is a proper subject for treatment and custody." The law further provided that "in all cases the evidence and certificate of at least two reputable physicians shall be required to establish the fact of insanity."

This law was the first bolt, as it were, driven into the doors of the hospital, making more difficult their inward swing. From the opening of the McLean Hospital until the day this act was approved—a period of 44 years—admission to the hospitals had been without formality for those who desired admission or whose friends desired admission for them. The number thus admitted varied from year to year, depending upon the number of vacancies at the hospitals. The law required the hospital to admit all regularly committed to it as "dangerously mad," and the number of those commitments frequently left little room for voluntary, or, as they later came to be called, "bond" patients. Dr. Woodward drew attention to this repeatedly in his reports. In 1836, so many patients had been sent by the courts that only eight private patients could be admitted. He complained that chronic, incurable patients, at times idiotic and imbecile persons, not "dangerously mad" were being sent to the hospital, filling it up, crowding out the more hopeful early voluntary cases, and thus defeating an important purpose of the hospital. On one occasion he suggested that the trustees be given power to refuse admission to committed cases when the hospital was full, in order to obviate the necessity of discharging voluntary patients before they were fully recovered.¹⁸

And one is privileged to wonder if this abuse of the law and of the hospital was not in his mind when he urged that in certain cases the "furiously mad" and "dangerous" condition of a patient be determined by jury.

The effect of the law of 1862 was soon felt. Dr. Bemis, the superintendent, in his report for 1865,¹⁹ comments as follows:—

* Acts of 1853, Chap. 19; Acts of 1856, Chap. 108; G. S. (1860) Chap. 78, Sect. 8; Acts of 1860, Chap. 73, Sect. 10; Acts of 1862, Chap. 223, Sect. 3.

"The recent laws regarding the signing of certificates of lunacy by physicians have operated in an unfavorable manner upon the admission of a few patients into the hospital, and must prevent the early admission of patients afflicted with certain forms of mental disease. The necessity for two physicians to testify to some definite fact which is of itself sufficient to prove insanity, is easily fulfilled in cases of acute mania, when the mind of the patient is completely absorbed in his present feelings and impulses, and has neither power nor inclination to exercise caution. In other forms of insanity, however, equally destructive in the end to all the reasoning and controlling powers of the mind, proof is not so readily obtained; the evidence is cumulative, and the patient retains much of his capacity for concealing symptoms and eluding the inquiries of his physician, and often refuses altogether to see a medical man. In this manner the patient escapes the treatment calculated to remove his disease, until it has become incurable. Sometimes a well meant but mistaken friendship takes such a direction and exercises such an influence as to prevent the admission of the patient; or if it does not prevent admission, so disturbs the relation existing between patient and the hospital as to retard recovery and promote disorder and dissatisfaction. This difficulty is the source of great suffering to many families in this Commonwealth, who are obliged to bear the burden and anxiety consequent upon the care of some insane member, until the disease becomes continuous and incurable. Hospitals were undoubtedly created and endowed for the public good, and to answer a want felt by the community. Let the laws controlling admission to their wards be so humanely framed as to open their doors to any diseased member of society, and let the benefits, if any, be conferred alike upon every grade of mental suffering. Establish commissions for investigation, if necessary, guard them with the most zealous care; but while they are hospitals, make them also asylums, to which every sufferer may flee for comfort and help, or not longer enact laws which attach to the character and conduct of a residence in a hospital for the insane the stigma of prison life and discipline. Surround them with the most generous safeguards. Endow them with every facility for treatment and every comfort and convenience for their inmates. And by giving a generous impulse to public opinion, already favorable, assist in their elevation." The irritation that is detected in a part of this paragraph from Dr. Bemis's report is evidence of the pressure of adverse criticism that the hospitals were beginning to feel.

By 1863, the feeling had become sufficiently strong to force the passage of a resolution directing the governor and council to appoint a commission "to examine what changes, if any, are necessary in the laws regarding insane persons."* The commissioners appointed,—Josiah

Quincy, Jr., Alfred Hitchcock, M.D., and Horatio R. Storer, M.D.,—made a report²⁰ wholly favorable to the hospitals, but the defense of the hospitals that the commissioners felt it necessary to make speaks plainly of the change in feeling that had taken place in twenty years. "Are patients wrongfully detained in insane asylums?" is the question the commission first finds it necessary to answer. "It has been thought," says their report, "that there is a possibility that two physicians may be found who, either in ignorance of the varying and deceptive symptoms of the particular disease, or through interested motives, may certify to insanity when ungoverned passions or jealousy only render a removal from the family circle desirable, and that superintendents might be bribed to keep the person in confinement." The commissioners reported that they had found no such case, and that the character and interests of superintendents made such a contingency improbable. They found it necessary to say further: "It is the opinion that the care of the Massachusetts hospitals for the insane is, at the present moment, in honest hands. . . Too little allowance seems hitherto to have been made for the excessively delicate and responsible position here occupied by Trustees and Superintendents, who, if worthy of appointment to their posts, should also be thought worthy of confidence and trust."

The popular feeling that was beginning to gather at the time is still more clearly shown in the statement that "it has been suggested that so-called 'protectors' of the insane be appointed to have no connection with any hospital, either as officer or trustee, who should have authority at certain or at all times to visit these institutions and examine the patients in general, or particular patients, and decide the question of the propriety of their retention; and by special statute, that patients should from time to time be allowed to write letters to their friends and others." The commission replied that these "protectors" could be no more depended upon than the trustees and "cannot be supposed to be such judges of insanity as those who have made the disease a study and who have opportunity to observe the patients in question from day to day." The commission, among other things, recommended a commission in lunacy, license for private hospitals, requirement for the detention of any person alleged insane, the certificate of two responsible physicians and the abolition of commitment by judges save in criminal cases.

Following the report of this commission to the legislature, in 1864, a law was passed providing for the licensing of private hospitals.* Favorable to the hospitals as was the report of the commission, the public feeling was such that the legislature felt it necessary to pass a law providing that "On petition under oath to any Judge of the Supreme Judicial Court, setting forth that the petitioner believes that some person confined as insane in any hospital or other authorized

* Acts of 1864, Chap. 288, Sect. 8, 9.

† Acts of 1864, Chap. 288.

* Acts of 1863, Chap. 81.

place for the treatment or restraint of insane persons, is not insane, and is unjustly deprived of his liberty, the Judge may, in his discretion, appoint three commissioners to inquire into the alleged insanity of the person so confined."[†]

Continued and growing discontent with the hospitals is shown in the legislation of the next ten years (1864-1874). Changes in legal proceeding or antagonistic legislation directed at the hospitals or their officers was passed five different times in this period.[†] A feeling that persons were detained in hospitals and driven mad by their associates, developed rapidly and found expression in a commission appointed in 1874 to report "what alteration of or addition to the laws are necessary to guard the rights of the insane; what improvement may be made in the rules of the asylums touching attendance, general treatment of patients, and freedom of correspondence, and add all suggestions as their investigations may prove to be necessary. . . to guard and aid, etc. . . ."‡ The two commissioners, Nathan Allen and Wendell Phillips, made separate reports.²¹ Each found grave danger to personal liberty in the methods of commitment then in vogue. Allen notes "that there has grown up and existed for some time an antagonism of feeling and interest between hospitals, the superintendents and trustees as a body, and the general public." He quotes one trustee as saying, "It seems as if the public believed that every man connected in any way with a hospital for the insane had entered into a conspiracy to deprive the patients of all of their rights and to do violence to all the relations of life." The prejudice, he says, springs from an impression that the managers of hospitals are unwilling to discharge patients when they have recovered. As to the officers themselves, he says: "While they (superintendents, officers and trustees) have their rights, which should be respected and properly treated, they do not own the institutions, neither are the latter run for their emolument. While their opinions and counsels come largely into account and they have a controlling voice in managing the hospitals, there are other parties, inside and outside, who have rights therein, and whose opinions are entitled to consideration. The claim and interest of these latter parties are vastly greater and more important than those of the former."

Phillips reports that the present methods are wholly wrong and dangerous and liable to great abuse. He doubts if a physician should be applied to in any case. Samuel E. Sewall, whose letter to the commissioners is incorporated in their report, is even more emphatic in his denunciation of the system, stating that it is based upon the false principle "that personal liberty is of little consequence," and urges that the question of an individual's sanity should be left with the judges.

[†] Acts of 1864, Chap. 288; Acts of 1865, Chap. 208; Acts of 1867, Chap. 355; Acts of 1871, Chap. 321, Sect. 1; Acts of 1874, Chap. 303.

[‡] Acts of 1874, Chap. 303, Sect. 3.

The senate committee on public charitable institutions, to which the report was referred, reported²² that it did not think it expedient to recommend any legislation in accordance with the suggestion of the commission. It further stated that "many of the complaints brought to the notice of the commission were trivial, some more serious, but taken care of by Trustees, and that, considering the large number of persons dealt with, the complaints were comparatively few." The members asserted also their confidence in the superintendents and trustees.

This report marks the high water mark of ill-feeling and distrust. The tide turns. Until 1879, there was no new legislation affecting the status of patients, and in 1882 a period of constructive legislation began, which in the thirty-three years that have followed has made Massachusetts a leader in enlightened legislation dealing with the care and treatment of those suffering from mental disease.

During these years there have been other forces at work, and if ill-feeling and distrust reached its culmination in 1874, these new forces began to find expression about 1882. There were several tributaries to this stream. It may be said to have started with the abolition of the theory of demoniacal possession; to have been augmented by the work of Pinel in France, the Tukes and Connolly of England, who demonstrated that chains and cages and other forms of restraint were unnecessary in the treatment of the insane; to have been helped by the teaching that insanity is curable, although as we have seen, this hope was greatly exaggerated and led to a degree of harm; and finally the "general acceptance of the somatic and the rejection of the psychic theory of insanity by establishing psychology on the basis of physiology and pathology—a scientific movement anticipated by John Hunter, begun by Bichot and Esquirol, carried out by Griesenger and Virchow."²³ The researches into pathology, anatomy, physiology and psychology, and later those into bacteriology and psycho- and neuro-pathology, have brought the question of insanity from the cloudy mysticism of metaphysics into the light of scientific conceptions, and established it as a disease among other diseases, and its sufferers patients to be treated on the same general basis as other patients. This new point of view is reflected in the legislation and thought of the present day. As has been mentioned, it first found expression in 1882 with the passage of the law* restoring voluntary admission to the state hospitals, and has found expression since in the Emergency Act, the Observation Law, and finally in the Boston Police Law, the Seven-Day Temporary Care Law, and the establishment of a psychopathic hospital for the care of early cases of mental disease and for research into the causes of mental disease and the means of prevention.

Massachusetts has six laws providing for the

* Acts of 1881, Chap. 272, Sect. 7.

temporary care of insane persons: that for the apprehension of an alleged insane person, (Sec. 34, Chap. 504, Acts 1909), the Emergency Law (Sec. 42, Chap. 504, Acts 1909), the Observation Law (Sec. 43, Chap. 504, Acts 1909), the Boston Police Law (Chap. 307, Acts 1911), the Seven-Day Temporary Care Law (Chap. 395, Acts 1911), and the Voluntary Law (Sec. 42, Chap. 504, Acts 1909.) Of these six laws, four provide care without the necessity of court action. And it is in this that their great significance lies. This freer access to the hospitals seems like a new development. And for this generation it is a new development. As a matter of fact, however, it is but getting back to the fundamental conceptions of a hundred years ago. It has been pointed out how in the beginning access to the hospitals was free. Patients needing treatment could receive it without application to the courts. How for many years this continued, but how, through a growing prejudice and misunderstanding, due to the false hopes created in the minds of the people by superintendents who honestly entertained these hopes themselves; through the distrust which arose because friends did not sufficiently understand the object in isolating patients; through the fear that developed that individuals were being improperly confined, and that personal liberty was being violated, regulations pertaining to the admission of patients to the hospitals became more and more rigorous, until the time came when there was an almost insurmountable legal barrier about the hospitals. A medical matter became a legal matter. A judge who would hesitate to diagnose a case of heart disease exhibited no hesitancy in making a diagnosis of mental disease. And no matter what might be the opinion of some half dozen earnest and conscientious students of mental disease, the lay opinion of the judge decided the diagnosis. Happily this stage is being passed. It was well to have gone through it. The medical man, trained to note the physical and pathological aspects of the problems presented by his patients, and probably inclined to be a little careless of other considerations, has been taught that his patients do present other problems; that he is not a law unto himself, and that the personal liberties of his patients must be zealously guarded. The member of the bar, on the other hand, properly jealous of any violation of personal rights, has come to realize from the serious results that have followed upon unfortunate decisions, that the problem is after all a medical one, and one that only careful students of such conditions can hope properly to solve.

Considering the uncertainty in regard to the true nature of mental disease, the metaphysical and theological mysticism in which it was a generation ago enwrapped, it is not surprising that all this misunderstanding should have arisen. But as we have seen, the researches of the last twenty-five years have dispelled this mysticism;

have placed mental disease solidly in the ranks with other diseases; and have established the sufferers from such disease as patients, to be treated and cared for as patients. This conception is making it clear that an individual bereft of his reason has rights as an individual that must be protected, but that in protecting his rights as an individual we must not forget that he has rights as a patient, and that the hope of soon regaining his rights as an individual may largely depend upon the consideration that is given at a critical time his rights as a patient.

The Voluntary Admission Law provides that any person desiring admission to a hospital for the insane for the purpose of treatment may be admitted on his own application, providing he is sufficiently clear mentally to understand the nature of his act. The law further provides that no voluntary patient may be detained in a hospital longer than three days after that patient has given notice in writing that he desires to be discharged. Originally only those persons able to pay for the expense of their care and treatment could be admitted under this law, but in 1906 the act was amended so as to include all persons needing treatment. In an endeavor to see how generally this law has been used, Southard²⁴ has gathered statistics of admissions under it since 1895. From 1895 to 1899, 405 patients were admitted under this law to the state hospitals, including the McLean Hospital. From 1900 to 1904 there were 520. In other words, from 1895 to 1904 this act served in about a hundred cases a year. Beginning with 1906 there is a gradual increase, as shown in the following figures:—

Year.	Total.	Vol.	%
1906.....	2670	125	5
1907.....	3022	156	5
1908.....	3195	195	6
1909.....	3096	185	6
1910.....	3254	200	6
1911.....	3207	237	7
1912.....	3250	282	8
1913.....	4051	636	16

Since 1895, then, 5401 patients have been able to receive treatment in our state hospitals under this act without formal process of law. The law serves particularly those individuals who fear that they are becoming insane and wish advice and treatment. Many of these are psychoneurotic patients, who are not insane, but who much need proper and expert advice in order that they may successfully readjust themselves; some are patients in the early stages of mental disease and therefore greatly in need of care. Others who submit themselves under this law are early or mild dementia praecox cases, early depressions, and more frequently than would be supposed, early cases of general paresis. Eversole,²⁵ in a study of 389 voluntary admissions at the Psychopathic Hospital in 1913 found that 101 had been diagnosed "not insane," and 288 "insane." Of the 288 insane patients, 31 were cases of general paresis, and 66 cases of dementia praecox. None of the psychoneurotic patients, few of those suf-

fering from the earlier manifestations of mental disease, many of the early praecox cases, mild depressions, and cases of early general paresis would not be committable in the regular form, and would be unable to obtain treatment except for this law. And when it is considered that every patient suffering from the depressed form of manic-depressive insanity is potentially suicidal, and that every patient in the early stages of general paresis is capable of grave social and economic wrong, the value of such a law to the individual and the community becomes apparent.

The Boston police law, providing that the police of Boston shall bring to the Psychopathic Hospital all persons brought under arrest who appear to be suffering from mental disorder, need not be discussed at length as it applies only to the Boston District. It is of interest to note,²⁰ however, that of 1523 admissions to the Psychopathic Hospital last year, 426 were admitted under this law. The law is particularly significant in that it provides for these individuals as patients rather than as criminals. The mother who becomes suddenly insane and hurls her baby from a second story window, the man or woman who, suffering from delusions of persecution, endeavors to wreak vengeance on his imagined persecutor, the petty thief or shoplifter with grandiose delusions that she owns an interest in a large department store, the hallucinated individual who is found scouting about the Fenway looking for "the enemy," instead of being taken to jail to be associated with real malefactors until such time as they may be examined and regularly committed (in the summer time probably three or four days), are taken immediately to a hospital where they are understood and properly cared for as sick persons. Although this law is not applicable outside the city of Boston, the same ends could be gained in the outlying districts by a wider use of the seven-day law on the part of police officials and physicians.

The seven-day law is applicable in any part of the state. This law provides that "any physician, member of the board of health, or police officer in any city or town, an agent of the Institutions Registration Department of the City of Boston, or member of the district police, may request the superintendent or manager of any hospital for the insane to receive for a period of seven days and care for any person needing immediate care and treatment because of mental derangement."

This law serves both as an emergency law for use when courts are not in session, or when, for one reason or another, there would be considerable delay in commitment, and as a very useful observation law. The use as an observation law is probably the more general in those hospitals where it is most frequently used. We are getting past the point where we are willing to wait until a depressed patient attempts suicide, a patient suffering from delusions commits homicide, or a patient in an early stage of mental disease

ruins his family financially by foolish ventures, and are coming to see that both society and the individual are best served when these things are prevented. Sudden insanity is a comparatively rare thing. The beginning is usually insidious; for weeks or months before a frank attack the friends and family note that the patient is not "just himself," that his actions and conversation are somewhat peculiar or unusual. The patient himself is frequently puzzled, does not understand himself and wonders what may be the matter with him. In self-defense, however, he often asserts, if questioned, that there is nothing wrong with him. The family physician, if called, notes the peculiarities, has a feeling that the patient is "not just right," but does not feel that he can say that the patient is insane, and decides to wait for further developments. These developments come only too frequently in the form of some act that shocks not only the physician and family, but the community. Scarcely a day goes by that the newspapers do not carry one or more stories of suicide in fits of depression, or homicides by insane patients, or both. The people of Boston were recently shocked when they read in their morning papers that during the night a well-known and respected young man had murdered his wife and three children and had then committed suicide. The family physician had been observing the young man for several weeks, "had a feeling" there was something wrong with him, and had said to the wife that if he did not get better soon, he would send him to a hospital for observation. While the physician was waiting, the young man took his case into his own hands. Fortunately, accidents of this magnitude are not frequent, but the case is typical of its kind. And it is in such cases that the seven-day law can be used to advantage. In using the seven-day law it is not necessary to assert that the patient is insane; there is reason to believe that the patient is not right mentally, and in order to obtain a diagnosis and proper treatment and advice as early as possible he is sent to the hospital, where such advice and treatment may be received. The abuse of this law lies in physicians sending to the hospitals under its provisions, frankly insane cases about whose mental condition there is no doubt. Such cases should be regularly committed, as no advantage accrues to the patient through such period of observation, while the temporary care machinery of the hospital is liable to be clogged and made less efficient by any appreciable number of such cases.

Experience demonstrated that seven days was frequently not sufficient time in which to determine the patient's mental condition, and the time has therefore been increased to ten days by the present legislature.* This will be sufficient in the great majority of cases. Some cases, however, require weeks rather than days, and in such the voluntary law and the law providing

* Acts of 1915, Chap. 174.

TABLE I.—TEMPORARY CARE.²¹

	1909	1910	1911	1912	1913	1914
1. Sect. 42, Chap. 504, Acts 1909, Emergency.....	133	87	48	15	24	106
2. Sect. 43, Chap. 504, Acts 1909, Observation by Court...	5	19	47	64	83	152
3. Sect. 34, Chap. 504, Acts 1909, Apprehension alleged insane			5	7	11	18
4. Sect. 44, Chap. 504, Acts 1909, Temporary Care*.....	2	2	33	3		
5. Sect. 45, Chap. 504, Acts 1909, Voluntary.....	185	200	359	414	788	931
6. Chap. 307, Acts 1910, Temporary Care, B. S. H. Police.		129	261	344	403	436
7. Chap. 395, Acts 1911, Seven-Day Temporary Care*.....			92	416	897	1400
Total temporary care.....	325	437	845	1263	2206	3043
Total admitted without court action.....	187	331	745	1177	2088	2767
Cared for without action by court.....			387	577	1016	1512
Per cent. never requiring commitment.....			51.91	49.02	48.65	54.64

* Replaced in 1911 by No. 7, the seven-day temporary care law (Chap. 395, Acts of 1911) which has in turn been replaced by Chap. 174, Acts of 1915, increasing the time limit from seven to ten days.

court commitment for a period of observation, usually 30 to 60 days, complements the temporary care law.

A study of the temporary and voluntary care statistics in the state reveals some interesting facts.

Table I shows the number of patients admitted to the Massachusetts hospitals for temporary care since 1909. The number has grown from 325 in 1909 to 3043 in 1914. The laws designated as 1, 2, and 3 require action by courts. Admission under 4, 5, 6 and 7 is informal and without court action.

The number of patients admitted under the latter group has grown from 187 in 1909 to 2767 in 1914. Since 1909, 7295 patients have been able to receive treatment in the hospitals without formal application to the courts.

In 1914, of the 2767 patients admitted without court action, 1128 were discharged without commitment, 34 died before commitment, 235 signed voluntary requests and 115 voluntary patients continued their stay in the voluntary status, no commitment being considered necessary. Thus 1512 persons were able to secure the benefits of treatment in the hospitals for the insane without the delays, the legal exactions and the semi-publicity that comes with a procedure before a judge. This number, 1512, represents 54.64% of the patients admitted informally. In 1913 the number was 1916, or 48.65%; in 1912, 577, or 49.02%; in 1911, 487, or 51.91%. Since 1911, 3492 patients have found it possible to be admitted to the hospitals, to receive treatment and to be discharged without formal procedure.

Tables II and III show the distribution of the cases discussed under Table I.

TABLE II.—TEMPORARY-CARE CASES, 1912.* ²²

	Vol.	Emergency.	Temp. Care.	Total.
Boston	93	10	545	648
Westboro ...	58	3	44	105
Danvers	22	0	63	85
Taunton	7	0	50	57
Worcester ...	12	2	42	56
Northampton.	19	0	34	53
McLean	71	0	14	85

It is to be noted that the great preponderance of cases have been admitted to the Boston State Hospital, Psychopathic Department.

In 1912 (Table II) the Psychopathic Hospital received 648 temporary care cases. The other six hospitals of the state combined (including the McLean Hospital) received but 441. There was a difference of 543 cases between the number received at the Psychopathic Hospital and the number received at the Westboro State Hospital, second highest on the list.

TABLE III.—TEMPORARY CARE CASES, 1913.* ²³

	Vol.	Emergency.	Temp. Care.	Total.
Boston	448	18	628	1094
Danvers	25	0	80	105
Westboro ...	56	0	42	98
Taunton	5	0	77	82
Northampton.	22	0	50	72
Worcester ..	6	2	50	58
McLean	74	1	15	90

The same disparity is noted in the figures for 1913 (Table III). While the number of temporary care cases at the Psychopathic Hospital increased from 648 to 1094, the increase in all the other hospitals combined was but 64. The second highest number for any one hospital (Danvers State Hospital) was the same as in 1912, 105 cases. There were 260 more voluntary cases admitted to the Psychopathic Hospital

* Chap. 307, Acts of 1910 is omitted from consideration in this table as it is not applicable outside of the City of Boston.

than to all the other hospitals, and 314 more cases admitted on physicians' certificates.

As the Psychopathic Hospital is located in the most populous district of the state, is easily accessible, and is known as a hospital for the reception of early cases of mental disease, it is to be expected that it will always have the greatest number of temporary care admissions. But it is evident that these advantages cannot account entirely for the very great disproportion in numbers. The comparatively few cases admitted to the outlying hospitals on certificates of physicians for observation and advice would seem to indicate that the physicians in the districts of these hospitals either are not sufficiently familiar with these laws or are not fully aware of the benefits to be gained by their use. While the Psychopathic Hospital is a specialized hospital, organized to care for large numbers of early cases, there is no hospital in the state that is not capable of rendering an excellent service to its district in such cases, if called upon.

Several types of cases that are well cared for under these laws have been indicated. There is also another group of cases to which attention should be called, because it is an important group from the point of view of prevention.

The problem of mental disease has assumed such proportions in this Commonwealth—there were over 21,000 persons treated in our state hospitals last year; new cases are being admitted at a rate of over 3000 a year; over one-quarter of the total expense of the state goes for the care of the mentally deficient—that the only hope of coping with the situation is to attack it from the side of prevention.

In the last ten years, there have been admitted to the Massachusetts state hospitals 3096 patients under 25 years of age.

TABLE IV.—FIRST ADMISSIONS TO STATE HOSPITALS, BELOW 25 YEARS.²⁴

1904.....	273	1909.....	313
1905.....	281	1910.....	327
1906.....	241	1911.....	310
1907.....	295	1912.....	325
1908.....	257	1913.....	474
1347		1749	
Total, 3096			

The majority of these have been cases of manic-depressive insanity and dementia praecox. Of the two, the cases of dementia praecox have no doubt predominated. The real cause of this disease is not yet known. There are those, notably Kraepelin abroad and Southard²⁵ of this state, who emphasize the somatic nature of the disease. There are others,—Freud abroad, Hoch, Meyer and Jelliffe in this country, who emphasize the psychic origin. We need not enter into that discussion. Two things at least appear evident: (1) that heredity plays an important rôle; that the disease develops upon a background, as it were, of bad heredity; (2) that

undue mental strain is frequently the precipitating cause. Physical strain precipitates the disease in a certain percentage of these cases. The nervous and mental mechanism of these latter individuals is so unstable that without any undue mental strain they go to pieces "on the rocks of puberty," as it were, or at other periods of physical strain. There is little hope of accomplishing much with this class. But if a study were made of the above 3000 young adults, it would be found that a certain fairly large percentage of them had broken down in high school, others in early collegiate years, and still others on a change from a comparatively uncompetitive village or rural life to a competitive existence in a large city. "An ill-directed ambition has stimulated children of psychically poor rural stock to take up intellectual pursuits in the urban centers. Dementia praecox is not an infrequent result," says Christian,²⁷ writing of conditions in France. Observations in our own hospitals demonstrate the same facts, except that we should place the indictment not only against the "psychically poor rural stock," but psychically poor stock, either rural or urban. "... for the adolescent with some of the hereditary factors already outlined," writes Jelliffe,²⁸ "it is a fact, the significance of which cannot be controverted, that fatigue is a highly important element in their mental breakdown."

The problem of prevention therefore becomes a problem of avoiding undue strain in susceptible individuals. And this raises the question as to how susceptible individuals may be known. The work of Meyer and Jelliffe on pre-dementia praecox stages, or the early personality study of dementia praecox cases is suggestive in this regard, and to those who feel a responsibility in this matter, I should recommend the study of these papers.²⁹ It is possible here to go into the subject but briefly. Two types of personality, it would seem, can be distinguished among these individuals, the so-called "shut in" personality, and the precocious. Many of those who come to the hospitals from the schools and colleges have been exceedingly bright students, frequently leaders in their classes, but there has been a restless feverishness about their work, an insatiate appetite for book knowledge and the accumulation of facts. The accumulation of facts gives them a show of brilliance, but the facts they have gathered are ill-judged and poorly synthesized or not synthesized at all. Such rapacious and unstable students should arouse suspicion. The other class presents much the opposite appearance—they are moody, frequently sullen, desire to be left alone, do not mingle with their mates, are day dreamy, inclined to immature philosophizing; prefer "thinking" to "doing"; frequently show unsteadiness of occupation and inefficiency, exhibit morbid interest in their bodies, are faddists in regard to such things as food, bath, exercise, are irritable without cause, sullen when opposed. In other words, these children are frequently the "queer" and "peculiar"

children. Not all dementia praecox cases exhibit these early signs. Bond and Abbot,³⁰ in a study of the early personality characteristics in dementia praecox and manic-depressive patients, concluded that normal personalities are found fairly frequently in both diseases; that abnormal personalities are much more frequent in dementia praecox; that certain abnormal traits—reticence, peculiarity, precocity—are found in much larger proportions in dementia praecox than in manic-depressive; and that the “shut-in” personality and the tendency to it is found almost exclusively in dementia praecox. Their final conclusion was, however, that not more than half of the dementia praecox cases exhibited these early personality traits. Granting that only half can be thus early differentiated, much room is still left for accomplishment.

If we may hope to prevent the ultimate breakdown of these children as they approach adult life, it is important that the family physician, who knows the family so well, should understand the significance of these early signs of danger ahead, so that where a child of known bad heredity is found exhibiting these traits, advice may be sought as readily and as freely as advice would be sought in a case of suspected tuberculosis. These children, urged on by their mistaken and ambitious parents to pursuits that are beyond them, go to pieces; while, so far as we know, many of these children directed into channels of less strain and competition might live out their entire lives without insanity. Is it not reasonable to hope, therefore, for the time when physicians will be as keen and careful and skilled in detecting the early signs of mental disease as they are now in detecting the early signs of tuberculosis, and when by a closer co-operation between the family, the physician and the hospital, these cases can be studied and the family be given proper advice as to the future safe training of the child? This co-operation is made possible by the present voluntary and temporary care laws.

In conclusion it may be said that the present voluntary and temporary care laws are valuable because:—

1. They tend to express in legal form the modern conceptions of mental disease; and without endangering the personal liberty of any individual,
2. They at the same time emphasize the patient's cause as a patient;
3. They make it possible to provide early treatment, which is the most hopeful treatment;
4. They afford protection to the patient both from himself and from unprincipled members of the community quick to take advantage of his illness;
5. They afford protection to the family and community against the acts of the patient;
6. They obviate in a large number of cases the delays, legal exactions, semi-publicity, and stigma of having been declared insane;

7. They remove the hospitals from the isolation they have suffered in the community and make it possible for them to take their place as hospitals in fact as well as in name, a more integral part of the social fabric;

8. They make possible a wider coöperation between the hospitals and the lay and medical public, which will yield to the Commonwealth which supports them a greater usefulness;

9. And finally, by means of a wider understanding of the more fundamental facts in regard to mental disease on the part of physicians, coöperating with the hospitals, through the more frequent use of these laws it may be possible to prevent certain forms of mental disease.

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