Brit. J. Psychiat. (1975), 126, 102–4

Correspondence

Letters for publication in the Correspondence columns should be addressed to:
The Editor, British Journal of Psychiatry, 17 Belgrave Square, London, SW1X 8PG

THE COURT OF PROTECTION AND ALCOHOLICS

DEAR SIR,

Like many psychiatrists, I have frequently had recourse to the Court of Protection about the affairs of patients suffering from senile dementia.

I thought my colleagues might be interested in recent correspondence I have had with the Court about taking over the affairs of an alcoholic (a middle-aged engineer with inveterate or 'delta' alcoholism.

I wrote to the Court of Protection last June as follows:

'I wonder if you would be kind enough to express an opinion about the Court's attitudes to compulsorily taking over the affairs of alcoholics?

'Mr. ..... is typical of many alcoholics in that he is well enough to understand and manage his affairs when he is not drinking, but he suffer when sufficiently drunk from a transient toxic psychosis which seriously interferes with his reasoning and judgement. Alcoholics (unlike the rest of us) are in and out of this toxic state so frequently that their general ability to manage their affairs often shows a marked and obvious deficit.

'As a doctor I am most interest in *treatment* and I would look upon the Court of Protection Order as a possible means of salvation for this man. I think he might well share this view with me and even welcome such control.

'Would you be kind enough to express an opinion:

1. when such a person resists the Court taking over, and
2. when such a person welcomes it.'

I received the following reply:

'Section 101 of the Mental Health Act 1959 provides that the functions of the Court shall be exercisable where, having considered medical evidence, the Judge (in practice the Master concerned) is satisfied that a person is incapable by reason of mental disorder of managing and administering his property and affairs. Before consideration can be given to any order being made, it is therefore necessary that the medical evidence filed should refer to a mental disorder which renders the person incapable of managing his affairs. "Mental disorder" is defined in Section 4 of the Act as "mental illness, arrested or incomplete development of mind, psychopathic disorder and any other disorder or disability of mind".

'Having explained when the Court has power to make an order, I will endeavour to answer the question you raise. The fact that during drinking bouts a person becomes incapable of managing his affairs would not in itself justify the appointment of a Receiver. If, however, there is a continuing degree of impairment resulting from these bouts, or there is a pattern of irresponsible conduct arising out of his addiction, then it would be a case in which the doctor would appear to be able to furnish the required medical evidence. It may well be that one or both of these facts will be present in cases where a patient has been admitted to hospital.

'As to the last paragraph of your letter, there is basically no difference in the Court's approach whether a person welcomes or resists an application to the Court. It is the nature of the medical evidence which determines whether or not an order is made, assuming, of course, that there is property of some sort which requires to be dealt with. If a person does object to an application it is, of course, possible that he will contest it, and he may be able to obtain conflicting medical evidence to the effect that he is capable of managing his own affairs. Whether or not an order is made in these circumstances rests with the Master concerned after he has considered all the evidence filed.

'It is difficult to reply more specifically to your letter, but I hope this will be of some assistance to you.'

My colleague, Dr. H. M. McBryde, took the matter further, to enquire:

'. . . whether "income" as well as "property" may legally come under the control of the Court of Protection, suggesting that a psychiatrist may need to control not only an out-patient alcoholic's assets but the amount of money he handles from week to

week. Dr. McBryde suggested that effective control might mean releasing only sufficient money as "pocket money" leaving all legitimate bills to be paid by a Receiver.'

The Chief Clerk replied:

'When an originating application, accompanied by medical evidence of incapacity, is issued, it normally asks for the appointment of a Receiver, and such an order is usually made. The Receiver, when appointed, is authorized to receive all dividends, interest and income (including Social Security benefits, if any), and there follow maintenance directions appropriate to the particular circumstances of that case, e.g. allowing the patient's net income for his maintenance. It is then for the Receiver to make suitable arrangements for the patient's maintenance within the directions given. The Court itself does not receive income or capital. In the case of capital, express directions are, if necessary, given to the Receiver from time to time for dealing with any assets which require to be dealt with.

'If then a Receiver is appointed, he can normally prevent a patient from having access to large sums of money, and in many instances he can exercise a very tight control. There are cases where a Receiver does in fact do this. You will appreciate that the extent of the control depends on where the patient is living and what arrangements can be made in the circumstances of that case, and that it may be difficult for the Receiver to counter all the subterfuges to which an alcoholic may resort to obtain drink. However, the appointment of a Receiver, after medical evidence has been produced to the effect that the alcoholic is through mental disorder incapable of managing his affairs, is frequently found to be an effective method of restricting the patient's consumption of alcohol.'

This is of course a controversial subject: many psychiatrists will not use the Mental Health Act for detaining an alcoholic unless he has a separate, fairly identifiable disease, like manic depression, as well. I take the view that, provided the alcoholic by virtue of alcoholism or other illness is clearly mentally ill, the Mental Health Act should be used in his interests. My justification has been the views of the alcoholic when he regains his liberty: to date the 6 patients I have been instrumental in detaining have not subsequently felt that I acted incorrectly. Two of them were most grateful.

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STUDENT HEALTH SERVICES

DEAR SIR,

In his rejoinder to Dr. John Payne's letter (*Journal*, September 1974, **125**, 330–331), Dr. Myre Sim's confusion of 'psychotherapy' with 'medicine' leads his argument to a biased and misleading conclusion. Anyone who has read a general textbook on community psychiatry would appreciate the importance of the support given to the patients by 'psychologists, social workers, welfare officers etc.'. Without their assistance, one would seriously doubt whether the psychiatrist alone could deliver care effectively and extensively.

Secondly, Dr. Sim questions the psychiatrist's participation in the training of lay therapists because once 'trained', 'one has precious little control over them'. His fear gives us an impression that he is advocating a secret cult which most forward-looking professions would avoid adopting. Medically qualified practitioners have been involved in the training of speech therapists, occupational therapists, physiotherapists etc., and *vice versa* (I deliberately choose these paramedical professions called 'therapists', for illustration). I find it difficult to accept Dr. Sim's singular exclusion of psychotherapists. In my opinion, it is only through joint consultation between professions that control could be judicially exercised. It is for this purpose that the Trethowan Committee was set up.

Thirdly, as regards the recent psychopharmacological advances, non-medically qualified pharmacologists, biochemists etc., have made an equally substantial contribution, although their involvement in the treatment of patients is indirect.

Lastly, Dr. Sim has rightly pointed out that lay therapists are created out of the public's demand. Does he imply that the psychiatric profession has failed the public, who therefore have to look elsewhere to seek consultations? If that is unfortunately the case, are these lay therapists fulfilling a role complementary to that of the psychiatrist? Perhaps, Dr. Sim, or other members of the psychiatric profession should examine the *modus operandi* of their profession in order to make a valid diagnosis and treat the disorder accordingly.

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DEAR SIR,

Mr. Leung's letter illustrates some of the difficulties facing the layman in his appreciation of psychiatry as a branch of medicine. The professions of speech

https://doi.org/10.1192/bjp.126.1.102 Published online by Cambridge University Press