

Correspondence

MENTAL ILLNESS UNDER THE MENTAL HEALTH ACT

DEAR SIR,

I read with interest Dr. Haldane's observations on the Mental Health Act, and I feel myself that there is a considerable problem involved in the interpretation of the expression "mental illness".

Most recently I have encountered the problem in relation to alcoholism, having seen two patients who had been compulsorily detained in hospital on account of aggressive and irresponsible behaviour whilst drinking. Both were established alcoholics but in neither case was there any evidence of dementia, delirium tremens or other psychosis which I would have thought necessary to justify detention under the Mental Health Act.

I did make a tentative attempt to get a legal opinion on this, but was advised that the decision was a clinical one. Is it? I do not recall problems arising in this way prior to 1959, and it was the law that was changed in that year, not the patients. If, in fact, the law was then changed to make provision for the compulsory detention of alcoholics and of the sexual offender mentioned by Dr. Haldane, then this should be made plain.

It would seem under the old Acts the function of the Board of Control in scrutinizing certificates did serve to achieve some standardization of practice but there is no longer any such co-ordinating body and it would seem that widely diverging views are now arising.

Yours faithfully,

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DEAR SIR,

Dr. Haldane has some misgivings about the psychiatrist having a psychopathic (sex offender) patient compulsorily detained under the Mental Health Act, possibly for an indeterminate period.

Allow me to exacerbate Dr. Haldane's misgivings. Loss of liberty is loss of liberty, whether the institution be mental or penal. While inmates in the good mental institutions have more freedom than in the good prisons, those in the bad wards of our worst institutions probably have a far more dire life than those in

our worst prisons. Also, perhaps paradoxically, in some things prisoners enjoy more protection of the law than certified patients, and a prisoner at least knows why he is detained and for how long. In the U.S.A. recently a man was discharged after thirty years from an institution for the criminally insane because he had the unique luck to find a lawyer who was able to prove that he had been detained by mistake (his casepapers had been mixed up with those of another patient). His steady efforts over thirty years to prove his sanity, and his loss of temper when he failed to do so had been all along regarded as confirmation that he suffered from paranoia.

The U.S.A. is more psychiatrically orientated and has graver problems of delinquency and mental health, but we possibly can see in an exaggerated way the shape of things to come, and perhaps learn some of the things not to do. For many years now, well-meaning American judges have sent delinquents to mental hospitals who do not cater for them, and this only upsets the routine of the hospital. A number of States have "psychopathic laws" under which a psychopath is held until the treating psychiatrist declares him cured. It was discovered only after a number of years that no psychiatrist, understandably, would take the grave responsibility of declaring a possibly dangerous patient "cured" and thus the patient remained detained. These laws, originally regarded as great advances, have by now fallen largely into disuse. An alcoholic who was arrested in Washington, D.C., for a minor offence had to sue for her legal right to plead guilty, since otherwise she might have been detained under the "Durham Rule" (which had until recently been regarded as an advance on the McNaughton because of its wider and more elastic concept of insanity). After much learned discussion and experimentation for the last twenty years, leading American jurists are gradually coming to the conclusion that the conservative McNaughton concept (in essence, that only open and flagrant psychoses constitute "insanity"), offers greater safeguards.

Another implication is highlighted by the fact that while the insanity plea in murder trials is usually entered by the defence, in the case of minor offences it is sometimes pleaded by the prosecution in the U.S.A.

Much could be said on these important issues. The price of freedom is eternal vigilance. The Courts are