

Recommendations of the College*

The views of the College have been requested in anticipation of the decision of the European Court of Human Rights. The Special Committee of Council has considered the changes in the present legislation that would be appropriate in the light of the Commission's decisions.

1. Restricted patients must have the opportunity of access to a judicial body. It was considered that neither the Divisional Court of the Queen's Bench Division of the High Court, nor the Crown Court would be appropriate to deal with the specialized, sensitive and difficult issues which these cases would pose. It is, however, important to reassure Crown Court Judges that they may safely make restriction orders without fearing that dangerous patients will be lightly set at liberty. Equally, psychiatrists, particularly in Special Hospitals, should have confidence, as far as possible, in the new procedures.
2. It is considered that Mental Health Review Tribunals should be strengthened by appointing Judges or Recorders to act as chairmen (with powers to operate a judicial procedure for Restriction Order cases). The strengthened Tribunals would also deal with all other applications as at present.
3. A restricted patient should have a periodic right to appeal to the Tribunal against continued detention on the grounds that his case does not continue to fulfil the requirements for detention under Part V, Section 60 (a) (i) and (ii) of the

*These recommendations of the Special Committee of Council on the Review of the Mental Health Act were approved by Council at its meeting on 16 June 1981, when approval was also given to the College's Recommendations for Mental Health Commissions (*Bulletin*, July, page 132).

Mental Health Act 1959. To justify continuing the detention the Tribunal would have to be satisfied that the patient was suffering from one of the four forms of mental disorder and that it was of a nature or degree that warranted the detention of the patient in hospital for medical treatment. The Tribunal would consider the dangerousness of the patient in relation to evidence supporting the opinion that the patient fulfils the other criteria.

4. The Tribunal should be empowered to discharge a patient absolutely if it is satisfied that there are no continuing grounds to detain him.
5. In cases where there is conflicting medical opinion, or where there are no grounds to continue the detention, although there is continuing evidence of mental disorder, the Tribunal would have the power to order a conditional discharge to operate once appropriate arrangements are made.
6. The Tribunal would have a further option, where appropriate, to order the removal of restrictions under Section 65, the patient remaining in hospital subject to Section 60 of the Act.
7. Recalled conditionally discharged patients should have the right to have the recall speedily reviewed by a Tribunal.
8. The Home Secretary would cease to have the authority to reject a Tribunal's decision, but should have the right of appeal against a Tribunal decision to a higher Court, within a specified period of time, during which the Tribunal's decision would not be put into operation (following notice of intention to appeal).

The College's concern in making these recommendations is to promote a procedure which would have the confidence of all concerned, but which would not lead to any mentally disordered patients being inappropriately sentenced to imprisonment.

Divisional Activities

South-Western Division

A few years ago this Division took a critical look at its bi-annual meetings, and what we saw was too often disappointing. We decided to set about improving the organization, and the social and scientific quality of the meetings.

The Spring meetings have been extended by two sessions on concurrent days, with dinner and jollification for members and guests in their overnight hotel in attractive places. Each session has become a mini-symposium, the subject being agreed after discussion by the Executive Committee. Where appropriate, outside experts have been invited to attend as guests and contribute papers. A long period is formally allocated for general discussion, and this has proved to be one of the most obviously appreciated changes.

The Autumn meetings have remained one-session affairs, but the habit of scrutiny by the Executive Committee seems to have stimulated local organizers, because there has been a sustained improvement in the quality of papers and organization.

Consultant members have been regularly reminded to encourage their trainees to attend; and those who have passed the Membership Examination in the past year are invited as guests to the Spring meeting. Trainees have also been invited to present papers. There has been some increase in trainees' attendance, but interestingly mainly of senior trainees, and some of them have been heard to allow that there may be more to the College than the Yellow Journal!

The results of the changes have been larger attendances and more participation from the floor. The social element