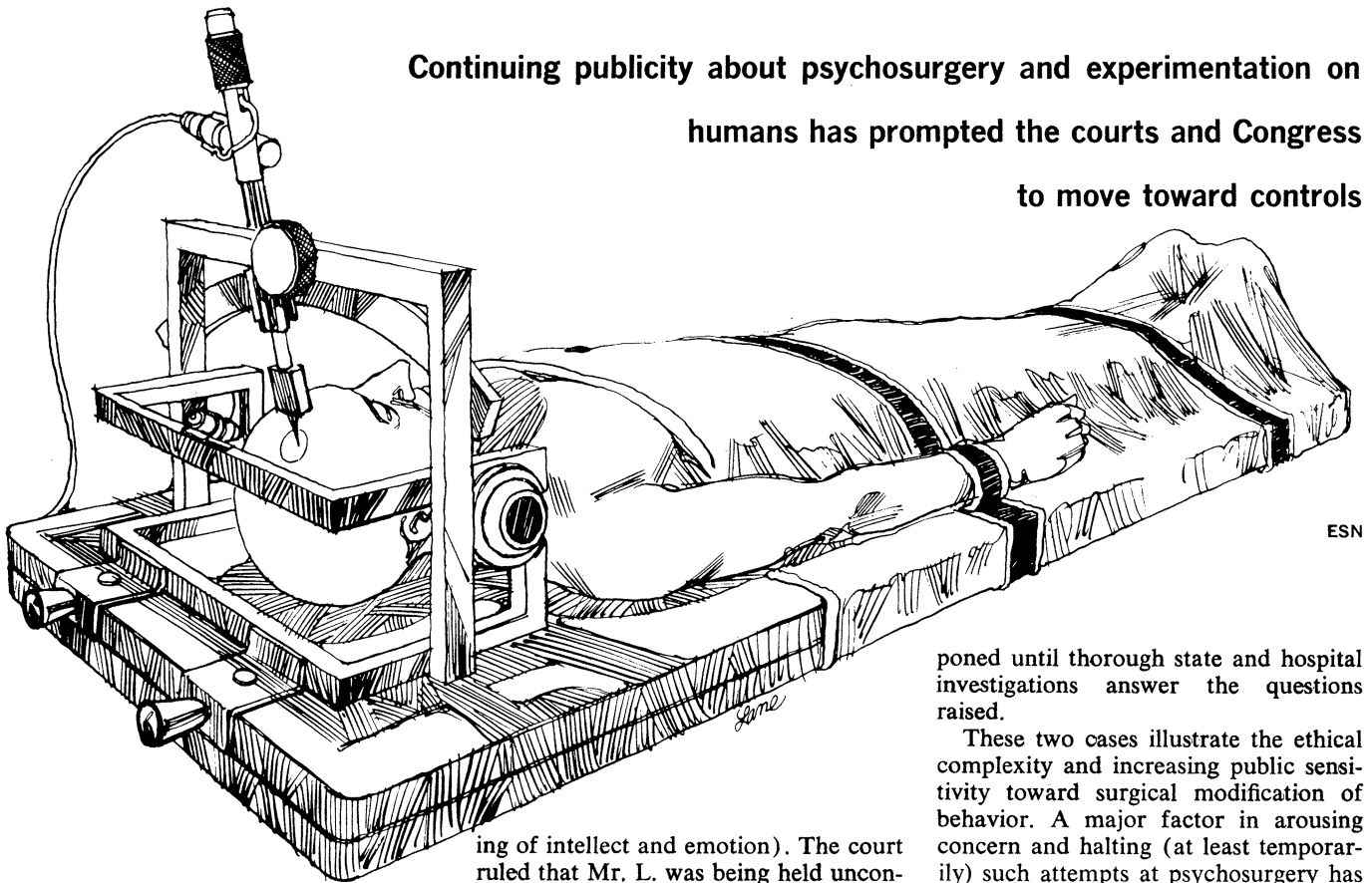


# Psychosurgery, the courts and Congress

Continuing publicity about psychosurgery and experimentation on humans has prompted the courts and Congress to move toward controls



ESN

by Robert J. Trotter

Mr. L., a 36-year-old mental patient, has lived the last 18 years in Ionia State Hospital in Michigan. He has a history of uncontrollable rages and is alleged to have murdered and then raped a nurse. Mr. L. had little hope of release until he recently volunteered and was selected to take part in a research program. The Lafayette Clinic at Wayne State University in Detroit had received \$228,400 from the Michigan legislature to compare psychosurgery to drug therapy as treatments for violent behavior. Mr. L. opted for the surgical procedure, which if successful would allow him to be reintegrated into society. If unsuccessful, he would go back to Ionia.

Before the operation could be performed, however, Gabe Kaimowitz, a Michigan Legal Services lawyer and member of the Medical Committee for Human Rights, found out about it and charged that the patient was being held on an obsolete law, that the circumstances made informed consent impossible and that public funds should not be used for such operations. The case went to court and the patient changed his mind about the operation, claiming he was not fully informed about the effects of psychosurgery (possible blunt-

ing of intellect and emotion). The court ruled that Mr. L. was being held unconstitutionally and ordered his release (although he may now go to prison for murder and rape). The publicity surrounding the case forced the Michigan legislature to withdraw support from the research.

John Gavin, a 22-year-old mental patient, has been in and out of mental institutions since 1968. During a recent hospitalization he blinded himself in one eye and injured the other eye by either burning himself with a cigarette or smashing his head against a wall (reports are conflicting). Because drug therapy and other treatments have failed to help, Gavin's parents and hospital authorities decided in March that brain surgery was necessary to control him. "This is one of the severe, intractable cases where this kind of surgery may be appropriate," said Donald P. Becker, a neurosurgeon at the Medical College of Virginia in Richmond. "We couldn't stand to see him tear himself apart piece by piece," said Gavin's mother.

But before the operation could be performed, anonymous phone calls (possibly from one of Gavin's fellow patients) alerted the Virginia attorney general's office, the hospital and the Washington Post. The caller raised ethical and legal questions about the operation's necessity and the patient's ability to give informed consent. The planned psychosurgery has been post-

poned until thorough state and hospital investigations answer the questions raised.

These two cases illustrate the ethical complexity and increasing public sensitivity toward surgical modification of behavior. A major factor in arousing concern and halting (at least temporarily) such attempts at psychosurgery has been the work of Washington psychiatrist Peter R. Breggin. For the past two years he has been preaching long and loud against all forms of psychosurgery. His message has been delivered in person at scientific meetings, in newspapers, magazines and journals, on television in England, in his novels and at great length in the Congressional Record (SN: 3/11/72, p. 174). Breggin's most recent hearing was last month before the Senate Health Subcommittee, chaired by Sen. Edward M. Kennedy (D-Mass.). Attacking a variety of psychosurgical procedures and practitioners, Breggin charged: "If America ever falls to totalitarianism, the dictator will be a behavioral scientist and the chief of police will be armed with lobotomy and psychosurgery."

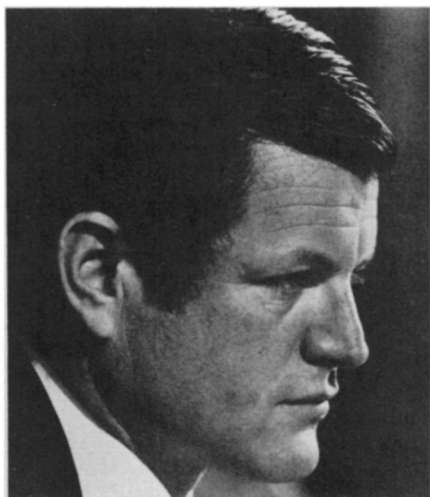
Telling the other side of the story were Robert G. Heath of Tulane University and Orlando J. Andy of the University of Mississippi Medical Center. Since 1950 Heath has been developing techniques for implanting electrodes in the brains of patients (SN: 4/22/72, p. 263). His work involves localizing the pathways of emotion and feeling in the brain. Once the pathway is pinpointed, an electrode can be inserted and various feelings (pain or pleasure) can be elicited. He has performed this type of operation on 65 patients, and he emphasized the widespread thera-

peutic power of such stimulation. He gave an example of two chronic marijuana users. "Since this treatment program was carried out, and since they were stimulated particularly in the pleasure circuitry, neither one of them has wanted to touch marijuana. The pleasure with marijuana did not begin to approach the stimulation of the pleasure sites." Breggin believes the implantation of the electrodes is more destructive than beneficial.

Andy, a major target of Breggin's criticism, told the committee that he has performed 30 to 40 psychosurgery operations since the early 1950's. Of these, 13 or 14 have been on children between the ages of 6 and 19. "We are dealing," he says, "with those patients by far who have been abandoned by the psychiatrists and in many cases have been institutionalized."

Andy said he believes psychosurgery should be used on patients considered to be a detriment to themselves and society. It should be used for custodial purposes when a patient requires constant attention, supervision and an inordinant amount of institutional care. It should be used, he went on, when patients require so much medication that it makes them nonresponsive and non-communicative. "Finally, it should be used in the adolescent and pediatric age group in order to allow the developing brain to mature with as normal a reaction to its environment as possible."

Many practitioners and proponents of psychosurgery agree, at least in part, with Andy. When the situation meets these requirements and when all other forms of therapy have failed, they feel surgery is indicated. Opponents of psychosurgery ask: "Who is to decide that all other forms of treatment have been tried?"



*Kennedy: "Scientists have developed some very powerful tools, tools that have the potential to affect, and perhaps even alter, each of our lives. We must as a society decide how these tools are to be used."*

Neither the medical profession nor the Government imposes any form of control over such operations. The medically ignorant patient must rely on the word of the doctor. Most psychosurgeons do go through elaborate patient selection procedures and most medical facilities maintain close watch over such operations. But all that is really required is consent of the patient, or when that is not possible, consent of the next of kin.

This lack of control was a major topic of discussion at the hearings. Willard Gaylin, president of the Institution of Society, Ethics and the Life Sciences at Hastings-on-Hudson, N.Y., noted that "the kinds of controls in psychosurgery have been casual to the point of irresponsibility." Follow up and peer review have been very poor. Gaylin does not believe psychosurgery should be abandoned but says, "I am not sure it has been given enough safeguards."

In fact, there is no way to prohibit psychosurgery by a private doctor, said Bertram S. Brown, director of the National Institute of Mental Health. Not enough is known, he said, about brain functioning to justify psychosurgical procedures unless there is very strong evidence of organic pathology in the brain.

Brown said the goal of psychosurgery is to pinpoint the locus of undesirable behavior in the brain and destroy only those tissues and nerve cells—leaving other functions and behaviors unaffected. "Frankly," he concluded, "the current practice of psychosurgery falls short of this goal." He called for a study of the estimated 500 annual psychosurgery operations that take place in the United States before any new procedures for overseeing psychosurgery are recommended.

Not everyone, however, is willing to wait for a private study. The Kennedy subcommittee's hearings on psychosurgery, for instance, were only part of six days of hearings on human experimentation and biomedical ethics. More hearings are scheduled, and legislation on the subject is expected to follow shortly from Kennedy. Even if it doesn't, a flurry of legislation has already hit the floors of both the Senate and the House (see box). Much of it deals directly with psychosurgery, but some—spurred by disclosure of the Tuskegee Syphilis Study—deals with the whole area of human experimentation.

It seems apparent that a growing number of legislators feel some sort of controls should be imposed on human experimentation and psychosurgery. Most of the proposed bills apply only to federally funded work, but many lawmakers believe that any forthcoming Federal guidelines would be followed by private practitioners. □

## Proposed legislation on biomedical ethics and psychosurgery

**S.J. 71:** Since 1967 Sen. Walter F. Mondale (D-Minn.) has been proposing legislation that would establish a National Advisory Commission on Health, Science and Society. Last year his bill passed the Senate (SN: 12/4/71, p. 377). It was reintroduced again in March and has a good chance of passing both the Senate and the House. If it does, it would set up a 15-member committee to investigate the ethical, social and legal implications in biomedical research and technology. The two-year investigative committee would make recommendations to the President and Congress.

**S. 878:** In February Sen. Jacob K. Javits (R-N.Y.) introduced a bill to amend the Public Health Services Act. The bill would deny Federal funds to any organization involved in activity with human subjects at risk in research. The term "human subjects at risk" means an individual who may be exposed to the possibility of harm—physical, psychological, sociological or other—as a consequence of any activity that goes beyond the application of those established and accepted methods necessary to meet the individual's needs.

**S. 934:** In March Sen. Hubert H. Humphrey (D-Minn.) introduced legislation that would establish within the executive branch a National Human Experimentation Board. This board would set guidelines for any human experimentation using Federal funds.

**S.J. 86:** After the Health subcommittee hearings on psychosurgery, Sen. J. Glenn Beall Jr. (R-Md.) introduced a bill calling for a two-year moratorium on the use of Federal funds and facilities for projects involving psychosurgery. During the moratorium, the Secretary of Health, Education and Welfare would compile and analyze data on a sufficient number of cases involving psychosurgery in order to "present to Congress his views and recommendations as to the circumstances, if any, when it is appropriate to perform psychosurgery."

**H. 5371:** In March Rep. Louis Stokes (D-Ohio) introduced a bill that would prohibit all forms of brain surgery that controls or alters a person's behavior. "My bill," he said, "would outlaw this dangerous and immoral practice. It would fine doctors and institutions up to \$10,000 for each operation. A psychosurgery commission would collect the fine on behalf of the patients, and could go to court to obtain injunctions to stop performance of this operation. The commission would be made up of nine nonprofessional members, three of whom represent minority groups."