Comments on the New Rhode Island Mental Health Law*

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In 1751, a petition was written to the House of Representatives of Pennsylvania so that "a small provincial hospital" could be built. It reads:

> That with the Numbers of People, the number of Lunaticks or Persons distempered in Mind and deprived of their rational Faculties, hath greatly encreased in this Province.
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> That some of them going at Large are a Terror to their Neighbors, who are daily apprehensive of the Violences they may commit; and others are continually wasting their Substance, to the great Injury of themselves and Families, ill disposed Persons wickedly taking Advantage of their unhappy Condition, and drawing them into unreasonable Bargains, &c.
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> That few or none of them are so sensible of their Condition, as to submit voluntarily to the Treatment their respective Cases require, and therefore continue in the same deplorable State during their Lives; whereas it has been found by the Experience of many Years, that above two Thirds of the Mad People received into Bethlehem Hospital, and there treated properly, have been perfectly cured.

These words were written by no other than the well known libertarian Benjamin Franklin.

Being asked to report on the Rhode Island Mental Health law of 1974, I certainly cannot describe the problem that we were faced with any better than it was done more than 200 years ago.

There is nothing particularly original about the law itself, as compared to its precedents, except that some of us think that it might balance conflicting viewpoints somewhat better than similar laws in other states, that it is less radical and—given the tenor of the times—less restrictive.

I'll just mention its main features:

(1) Definition of criteria for certification by behavioral standards, not textbook diagnosis.

(2) Right to treatment.

(3) Requirement of JCAH accreditation for recognized facilities.

(4) Three levels of admission:

- Voluntary
- Emergency certification
- Civil Court certification—*not* commitment.

(5) Establishment of Mental Health advocate's office.

(6) Immunity for physicians who do their jobs as required by the law.

(7) Periodic review and discharge procedures for patients, once admitted.

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* These remarks were delivered at the dinner meeting of the Symposium and are not covered in the Summary and Discussion.

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It might be of interest to report on the process by which one state managed to pass this law without any appreciable controversy or opposition. Such harmony is perhaps an original feature, not duplicated elsewhere. No more than a year ago, at the request of the Department of Mental Health, a dedicated young lawyer from the Rhode Island Legal Services presented at a public forum a draft for such a law, for possible introduction into the legislature at that time. A panel of experts of different hues proceeded to take that draft apart at that forum, the main objection being that, well-intentioned as his proposal was, it could possibly result in a person's "dying with his civil rights on" before he could obtain treatment, the right to which was so eloquently postulated. It soon became apparent that a person's civil rights and due process were too precious to be left to the psychiatrists and that the treatment of a patient was much too serious a matter to be left to the lawyers. Consequently, a committee of volunteers was constituted, with the self-appointed task to write a new draft law within a year, in time for the next legislature. The committee had representation from the bar, from psychiatry, psychology, social work, nursing, the Department of Mental Health, the Association for Mental Health, and the A.C.L.U., all under the chairmanship of a distinguished journalist, who kept us on the straight and narrow as far as common sense, style and language were concerned.

The many sessions we had, often burning the midnight oil, were among the great educational experiences of our lives. The subject has a way of stirring up feelings that bring out the worst and the best in people. It was a fortunate constellation of people who were able to rise above the grinding of a professional axe and to keep their attention focused on the subject at hand: how to reconcile a genuine right to treatment with genuine due process. We were trying to reach Isaac Ray's ideal of learning from each other, as described by Dr. Quen, but at times we grew desperate that the task could ever be done, and I don't think it can, entirely. There simply is no perfect solution. We did come up with a mutually agreed-on formula, without anyone's having to compromise his legal or clinical principles, but with everyone conceding points that made a practical solution possible. At times, the mental health professionals came perilously near the edge of their own sanity, trying to explain the difference between an eccentric and a manic to the lawyers—and there was no Benjamin Franklin among us to do it eloquently enough. At times, the lawyers thought that the mental healthers would never gėt into their heads the distinctions among "clear and convincing," "preponderance of evidence" and "beyond a reasonable doubt."

As a result of all these exertions, the product of our labors was accepted by the Department of Mental Health, introduced as an administration bill with the Governor's blessing, supported by all the professional and civil liberties associations in the State, read out of committee and enacted in the legislature without any opposition.

The text of the law has been distributed to you. If you have had a chance to give it any attention, we are looking forward with some trepidation to your impressions, in the secret hope that we may get a somewhat belated but free consultation out of them. So please speak up: we are fully aware that one's own children never seem to look quite as beautiful to other people.