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## Psychosurgery Will Face Key Test in Court Today

By JANE E. BRODY

Special to The New York Times

DETROIT, March 11—For the last 18 of his 36 years, Mr. L. has lived the life of a forgotten man. An alleged murderer and rapist who is reported to have a life-long history of uncontrollable rages, he has spent all his adult years behind the locked doors of a state institution for the criminally insane.

Until three months ago there seemed little chance that this man, who is said to have above-average intelligence, would ever be considered sufficiently "cured" to be released. Then he was selected to participate in a research project in which brain surgery might be used to try to control his violent behavior.

But no sooner was this door to a possible new life opened than it was shut by a court suit that challenged the project on ethical, legal and medical grounds.

Tomorrow a three-judge panel in Wayne County Circuit Court here will begin to hear the precedent-setting case, thrusting Mr. L. into the center of a mounting national controversy over the use of brain surgery to erase the symptoms of otherwise untreatable behavioral and emotional disorders.

At the center of the controversy is a debate over the purpose, effectiveness, side-effects—indeed, the very nature — of psychosurgery, a modern technique by which tiny portions of tissue deep in the brain are destroyed through surgery, electricity radiation or ultrasound.

Some 400 to 600 such operations are done annually in this country to treat such conditions as uncontrollable epilepsy, violent behavior, schizophrenia, severe depression and destructive hyperactivity.

On one hand, psychosurgery is decried as irreversible "mutilation" strongly reminiscent of those past lobotomies which, among tens of thousands of subjects, were a "number of emotional vegetables." On the other, the more refined brain operations done today are hailed as a godsend to the very sick who have no other hope for cure.

In between, experts in neurology, psychiatry, law and ethics are trying to assess the true value and potential of psychosurgery and define its proper role in the treatment of emotional and behavioral disorders.

While many shudder at the thought of making permanent surgical changes in the brain, the seat of the emotions and the personality, others note that traditional psychotherapy and drug therapy, not to mention mental illness itself, also make permanent changes in the brain.

The case here is part of a continuing struggle by some lawyers and doctors, and particularly a national activist group called the Medical Committee on Human Rights, to bring psychosurgery under tight public control, if not ban it altogether.

### Fear Use for Control

A leader in this fight has been Dr. Peter R. Breggin, a physician and novelist who is on the staff of the Washington School of Psychiatry and who entered his objections at great length into the Congressional Record last year.

Among the fears of those who have joined Dr. Breggin's cause are that psychosurgery might be used as a weapon for controlling violent prisoners, institutionalized patients or political activists (such a suggestion was raised in connection with the 1967 Detroit riots) and that medicine might use psychosurgery as an "easy way out" instead of trying to correct underlying social causes of mental illness and providing conservative psychotherapy for all who need it.

The proponents of psychosurgery reply that there are far easier ways than brain opera-

tions to control political violence; that correcting the sicknesses of society will do nothing to help patients already ill or whose illness is caused by brain disease; that long-term psychotherapy cannot realistically be made available to all who currently need it, and that psychosurgery may be the only hope for cure for some prisoners and hospitalized patients.

In addition to focusing attention on the role of psychosurgery, the case here raises a number of critical questions in psychiatry, law and medical research. Among them are:

QCan the state indefinitely detain so-called insane and dangerous persons in mental institutions without a realistic hope for adequate rehabilitative treatment?

QIf such persons are released without treatment, or if they are treated, released and then relapse, who will protect society?

QCan an involuntarily hospitalized or mentally ill patient or a prisoner give truly "informed, voluntary" consent to experimental procedures or radical therapies?

QWhat are the relative roles played by societal ills and organic brain disease in causing mental illness and what does this mean for methods of treatment?

Whatever the outcome of the case here, the consequences of the debate on psychosurgery will be felt by countless thousands of people—ordinary individuals with families and jobs as well as institutional patients and prisoners—whose lives are made wretched by behavioral or emotional problems that cannot be treated by traditional psychotherapeutic methods.

Research, too, is likely to be affected. As it was put by Dr. Jacques Gottlieb, director of the Lafayette Clinic, a highly respected research facility here: "The adventure of research is becoming more and more difficult with more and more stumbling blocks, and it is frightening to the young men who want to become investigators."

### A Research Proposal

The case of Mr. L. began with a research proposal from the state-funded Lafayette Clinic, a highly respected psychiatric research facility, to attempt to treat uncontrollable violence in state hospital patients by one of two methods: psychosurgery or an experimental drug imported from Germany. The goal was to "cure" as many patients as possible

of their violent tendencies and restore them to society.

The patients selected to participate in the study (about two dozen in all) would be given their choice of therapies. Psychosurgery, they would be told, is a rather risky procedure that in some cases can have unpredictable effects on the personality. The drug therapy is associated with a number of adverse side-effects, among them sexual impotence. In either case, there is no guarantee of cure.

Mr. L., the first patient chosen for the study, selected psychosurgery and was transferred from Ionia State Hospital to the Lafayette Clinic for observation and tests. Dr. Ernst A. Rodin, chief neurologist at the clinic and director of the project, explained that the patient was to have 10 electrodes, each with four contacts, implanted deep within his brain in the parts believed to control emotions and aggressive behavior.

The electrical activity, or brain waves, emanating from these various points in the brain would be studied under a variety of circumstances to see if abnormalities could be found that were linked with the patient's outbursts of violent behavior.

If an area of abnormality was thus identified, a tiny section of brain tissue—probably less than six-hundredths of an inch—would be destroyed surgically. If the operation worked, the patient would be slowly reintegrated into society. If it failed, he would be sent back to Ionia.

But before any electrodes could be implanted in Mr. L's

brain, Gabe Kaimowitz, a civil liberties lawyer on the staff at Wayne State University, filed a suit contending that the patients at Ionia (all potential subjects for the study) were being unconstitutionally detained and should be released; that no person involuntarily detained could consent to any form of experimentation, and that psychosurgery, in any case, was against public policy and must be stopped.

"Psychosurgery is designed to correct or control behavior," Mr. Kaimowitz said. "There is no manifestation of disease or illness as we know it. It should be prohibited until such time as it is shown to have a specific curable effect."

Dr. Judd Marmor, professor of psychiatry at the University of Southern California, pointed to the difficulties of relating specific brain wave abnormalities to deviant behavior. "Many people have brain wave abnormalities without any abnormal behavior, but if you only study sick people the assumption is made that any brain wave abnormalities you find are a cause of the behavior problem, he said in a telephone interview.

Dr. Vernon H. Mark, a Harvard neurosurgeon who perhaps has done more than anyone to popularize the notion that psychosurgery might be used to treat violent behavior, is in practice far from carrying out that idea. Dr. Mark, who three years ago published a book with Dr. Frank R. Ervin called "Violence and the Brain," operates only on private patients with uncontrollable temporal lobe epilepsy and brain tumors patients in whom violence may or may not be a factor.

"If we're using a medical treatment, we have to use it on people who are sick," he said, adding that it is not known whether people with uncontrollable rage but without epilepsy have recognizable brain disease.

Nonetheless, his operation on 11 patients involving destruction of tiny portions of the amygdala, a section deep in the brain that seems to relieve aggressive behavior, demonstrated that such surgery could control rage attacks.

But while few object to Dr. Mark's careful approach in treating patients with clearly defined organic brain diseases, those who apply psychosurgery beyond this narrow range are being subjected to severe criticism.

#### Claims 90% Success Rate

In Santa Monica, Calif., Dr. M. Hunter Brown, a neurosurgeon in private practice, specializes in psychosurgery on patients with incurable schizophrenia and violence. He said that so far his operations,

which involve up to six sites in the brain, have been successful in more than 90 per cent of cases.

He has reported similar success with a one-site procedure on 110 patients with severe emotional imbalance. He said that following surgery his patients have the "full range and balance of normal emotions," that while they no longer fly into a rage over trivial things, neither are they so passive that they fail to react to conditions that would anger a normal person.

Among Dr. Brown's 280 psychosurgery patients have been some prisoners and institutionalized patients. But a proposal to extend this treatment to other prisoners in the California state system was halted following objections from the Medical Committee for Human Rights that prisoners, faced with a possible ticket out, would be willing to subject themselves to excessive risks.

Another project that has been attacked as "unjustifiable" is a series of 30 to 40 brain operations, done by Dr. Orlando J. Andy at the University of Mississippi Medical School in Jackson. Dr. Andy said he operates "as a last resort" on people—children and adults—who suffer from uncontrollable destructive hyperactivity. In an interview he said that three-fourths of his patients show fair to good results with minimal adverse effects.

To his detractors, Dr. Andy says, "They do not understand the type of behavior problem we're dealing with. They should see what the surgery can mean to the patient and his family."

The British have done considerable work on patients with long-standing psychiatric illnesses, such as recurrent depression, obsessional neurosis and anxiety. One team, describing psychosurgery on 210 patients, reported significant improvement in more than half the depressives and neurotics and in 40 per cent of the patients with anxiety.

But in general, Samuel Shuman, Wayne State University law professor who is representing the Lafayette Clinic in the case, concedes that published studies of psychosurgery leave something to be desired.

"That's why a place like the Lafayette Clinic should do this research. It has the competent professionals, the necessary equipment and the ability to do adequate follow-up," he said.

Mr. Shuman hopes that the case here will result in the establishment of a consent mechanism that would allow a procedure like psychosurgery to be done on institutionalized patients.

He agrees with his opponent

in the case, Mr. Kaimowitz, that "doctors should be held accountable to the public for what they do" and that the "elite specialists" who do medical investigation need "input" from the broader scientific and lay community.

Despite the problems still to be resolved, Mr. Shuman believes that as far as Mr. L. is concerned, "There's good reason to believe that psychosurgery could not make him worse off than he is, having lived a living death for the last 18 years."

Mr. L's court-appointed attorney, Robert Burt of the University of Michigan Law School, has some doubts, however. "There's a sparkle to this patient that might be gone as a result of surgery," Mr. Burt said. "He sees himself as very charming, and I'm not sure he wants to lose this."

At the start of the project, Mr. L. was eager to have the surgery. He felt he could not cope with the stresses of the outside world without treatment. His current feelings, following the publicity around his case, are not known.

Mr. Burt believes his client must be given a chance at long-term, intensive psychotherapy or else released. "If treatment is not available in a state institution, he cannot be kept there," Mr. Burt said. "He has to be released and given the opportunity to commit a crime."

Mr. Burt is not even sure that if Mr. L. is released, he would really be free to consent to psychosurgery "as long as the possibility of a civil commitment hangs over his head."

But the dilemma goes further than that. Should Mr. L. be released without treatment and should he then commit a crime for which he is convicted, he would be sent to prison, where his chances of ever being "cured" would be even smaller than in the state hospital.

To Dr. Henry K. Beecher, Harvard anesthesiologist and an expert on the ethics of human experimentation, "The waters are muddy. I would be loath to use individuals labeled criminally insane but, on the other hand, here are people who are sick, intolerably sick. Where can they go? Are we going to cut off every avenue for rehabilitation? Talk about civil liberties—it would seem that the hope for relief is a rather important one."

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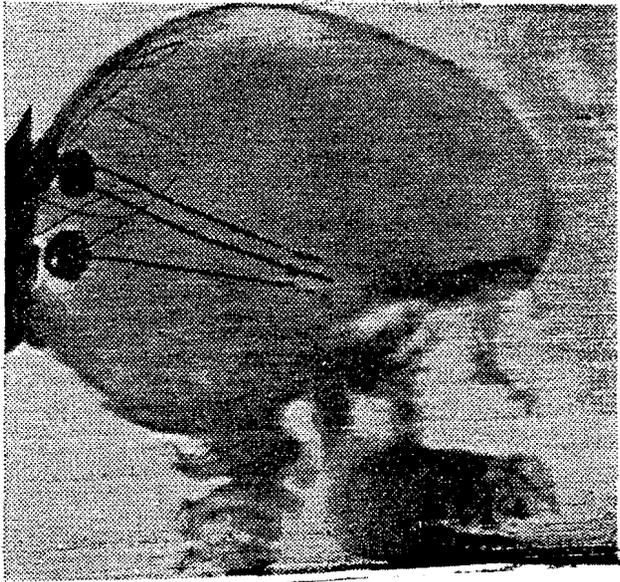
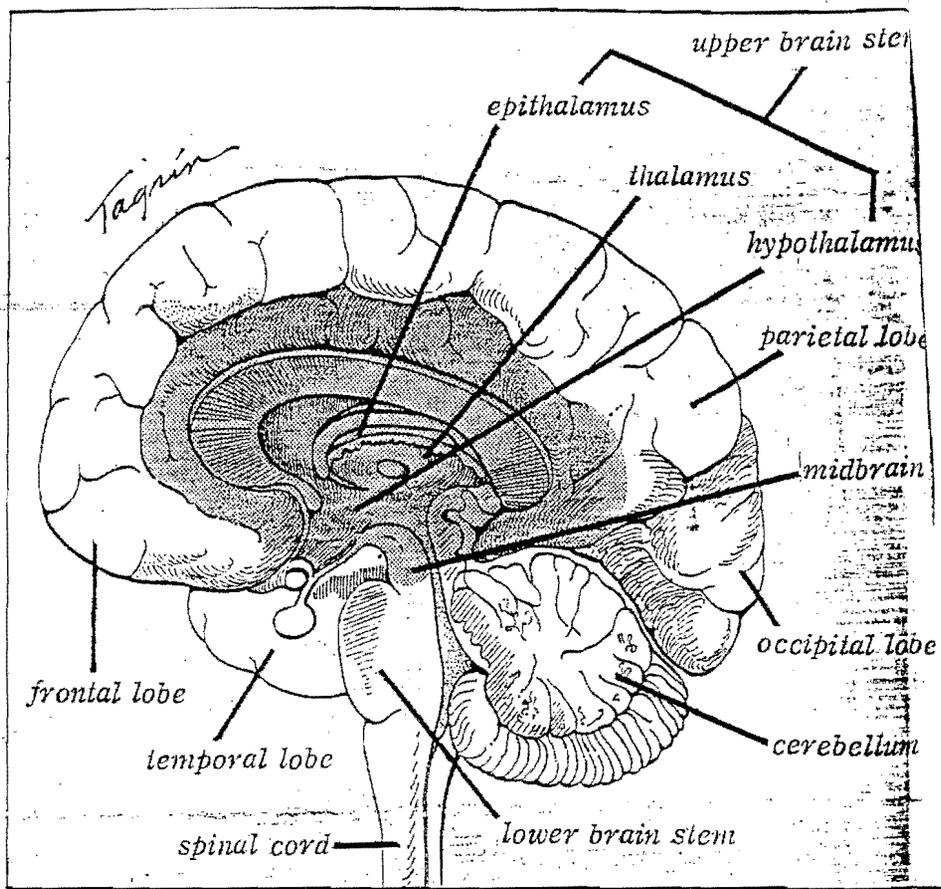
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Source: "Violence and the Brain" by Vernon H. Mark and Frank R. Ervin, Harper and Row.

In the various geographical regions of the brain shown above, the shaded area represents the limbic system, or emotional brain, the region where most psychosurgery operations are done. The limbic system is believed to exert an important influence over emotions and aggressive behavior. At left, X-ray picture shows electrodes implanted deep within the limbic brain to test patient for brain wave abnormalities that might determine the site for

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