does Section 139 give to psychiatrists, as individuals, in everyday practice?

In a recent judgment by Judge Henry in the case of *Furber v. Kratter* the protection from litigation for those implementing the Act may be less than first appears. Furber was an in-patient in Moss Side Special Hospital when she attacked a nurse in a vicious and unprovoked manner. The event was witnessed by Dr Kratter. Furber was placed in a seclusion room for 16 days as a result of her disturbed behaviour. She asked the High Court for leave to commence proceedings for negligence; which in law she would be required to prove that the event had caused temporary or permanent physical or mental injury. She also asked leave to commence proceedings for false imprisonment; which would require, in the setting of a detained patient in a Special Hospital, to show that she was held in unacceptable conditions of detention.

In his judgment Judge Henry referred to *Winch v. Jones* (1986) which looked at the purpose of Section 139 and the reasons why a statement of claim by a patient should be struck out. He decided that a patient who was asking leave under this Section does not need a stronger claim than would be ordinarily required. The Section was to protect against the possibility of a mental patient making wild or exaggerated allegations which are eventually found to be baseless. However, on the other side of the coin, it was appreciated that mental patients are more vulnerable than the general population to exploitation or abuse. Lord Justice Parker stated that the purpose of Section 139 was to prevent persons being exposed to or harassed by clearly hopeless actions. The test to apply for leave of the High Court "is not a trial of the documents and nor is it in any way a dress rehearsal of the strengths and weakness of the action. It is instead a relatively wide meshed sieve through which claims are processed, and many claims may properly get through it even though the judge granting leave may think that the claim at the end of the day may fail". He should only refuse leave of the action if it is unfair to the defendants. Section 139 refers to proceedings rather than the individual causes of action which in the case of *Furber v. Kratter* were overlapping. There may be occasions when leave is granted for one proceeding but not another.

The result of this judgment shows that the Section 139 gives very little immunity from prosecution even if the actions were performed in apparent good faith and with apparent reasonable care. The section appears to protect doctors only from wilful or exaggerated claims by detained patients but it does not provide any greater degree of protection.

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References

Furber v. Kratter (1988) QB CO559.
Winch v. Jones (1986) 1 QB 296.

Section 136 of the Mental Health Act

Dear Sirs

I read with interest Dr Wallis's account on the Royal Society of Health dealing with Section 136 of the Mental Health Act (*Psychiatric Bulletin*, March 1989, **13**, 144–147). I would like to concur with Professor Bluglass's reported statement that Section 136 is used outside London and, indeed, its high rate of usage in a rural area has been documented (Fahy *et al*, 1987).

A colleague and I are currently looking at the converse of this situation, i.e. how an area with a below average usage of Section 136 deals with community psychiatric emergencies.

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Reference

Fahy, T. A., Bermingham, D. & Dunn, J. (1987) Police admissions to psychiatric hospitals, a challenge to community psychiatry? *Medicine, Science and the Law*, 27 October (4N), 263–268.

*Training in community psychiatry**

Dear Sirs

The move to community based care has been widespread, and is not likely to reverse. It exposes psychiatrists to an experience often very different from that gained in a traditional mental hospital training. Established psychiatrists have adapted their practice to encompass current ideas, but training has been slower to adapt to the changing educational requirements of juniors, who will spend much of their working lives in such a system. Connolly & Marks (1989) have begun the debate on types of training for community care, and have produced a long list of areas in which they believe knowledge to be required.

It is prudent to look at the experience of those for whom the practice of community-based psychiatry is long established. In the United States there are several training programmes in community work. One of the longest established, at the Johns Hopkins

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