

Commission of Canada, 130 Albert St, 7th floor, Ottawa, Canada K1A 0L6

To review, to expound, to react. I react because I sense a danger in this report. It is a danger of a very general kind. I can describe it in the following way. Society has a problem. In this case, some of its members die. The problem is (or is seen to be) increased by developments in technology and by, at least as measured by more than decades, a rising standard of life. Medicine contributes with a capacity to extend life with pain-killers and tranquillises. Easy life leads on to easy death. At this point a strange dichotomy appears. Individually we trust our doctor; collectively we distrust the technology doctors wield. On the other hand we say we distrust lawyers but seemingly ever more increasingly place our faith in their magic. And that magic's most potent form is the rule of law. We act as if every social problem can be cured by a law. And if it fails then the answer lies in a different medicine, a new law.

A former chairman of the English Law Commission (and there is no reason to think that Canadians suppose otherwise) once defined *law reform* as 'recommendations for changes and improvements in any part of the law which can appropriately be put forward by a body of lawyers on the basis of legal principle and pragmatic common sense, after due public consultation. The brief thus arrogated by the profession extends beyond technical accomplishment, ie beyond legal principle. The brief includes the ideas of 'appropriate', 'pragmatic common sense' and 'due' consultation with such people as respond to the methods chosen by the body of lawyers.

The danger in this is that we are relying on a body of people whose training, experience and intellectual tools are not in any way related to the subjects upon which we call on them to pronounce. In doing so we exclude the very people who have some experience of these matters. Pursuant to the assumption that all are equal, of the cult of individual rights, we disregard competence. I do not argue that the medical profession is always correct but I do say that as a policy we ought to beware of the rule of law (and of lawyers) because where there is law there are conflict, sanctions and penalties. And I say that lawyers (when they are not concerned with status and rights) think about those things. I do argue that the medical profession is more likely to provide a rule of harmony or of compassion or of co-operation. Law is a

means; those are desirable objectives.

Measured by what some will see as these idiosyncratic standards this Report of the Canadian Law Reform Commission on euthanasia, read on its own is, surprisingly, not altogether unhelpful. It does what such a body of lawyers ought to do: it points out ambiguities and logistic difficulties in existing law. Its prescriptions tend either to leave the law alone or to provide a greater immunity from the criminal law for Canadian physicians. In places it even recognises that the law cannot always tell people what they ought to do. What it fails to understand is that in matters of life and death the central issue is not whether there is a criminal homicide but more simply whether there is life or death. But then the central failure of law is that it cannot recognise facts without deontic consequences. In that limitation lies the danger of the universal use of the lawyer's medicine.

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## Human Experimentation and Medical Ethics

Editors, Z Bankowski and N Howard-Jones, 505 pages, Geneva, SF30, (£10.50 from HMSO, London) Council for International Organizations of Medical Sciences, 1982

This volume is unfortunately topical and members of the UK Medicines Commission currently considering new guidelines for human volunteer experiments could find it a useful primer. Within the recent past two students have died in the British Isles as a consequence of their participation in volunteer drug studies. The lessons to be drawn from these two tragedies are still not clear. However, they are certainly not those intemperately expressed by the leader writer of *The (London) Times* who suggested that only pharmaceutical company employees should take part in drug studies. The whole issue of human volunteers is a complex one which this collection of papers explores in some detail. Particularly interesting are the papers which deal with fact rather than opinion and I single out for mention the chapter by N Howard Jones on historical perspectives on human experimentation.

Our forebears had a more robust attitude to adequate motivation of

research subjects. The condemned Newgate prisoners who volunteered for experimental variation in 1721 in return for their liberty (if they survived) probably had few second thoughts. Fascinating also is the account of 'auto-experiments' popular with physicians in the 19th century. These feats of daring are still in vogue in many physiological laboratories. A short history of drug disasters in the 20th century makes interesting reading since most of these large-scale disasters were caused by too little experimentation rather than too much. Dr Howard Jones quotes the US elixir scandal of 1937 in which an untested diethylene glycol solution of sulphanilamide was marketed, killed over one hundred patients, and led to the establishment of the Food and Drug Administration (FDA). However, he omits to mention that twenty years later a very similar large scale disaster occurred in France when 'Stalinon', an untested organic tin compound, was marketed for treatment of furunculosis.

It is inevitable that disasters and tragedies focus attention on human experimentation more clearly than abstract debates on the moral issues of informed consent. If medical research is to continue productive, human experimentation will have to continue and probably expand. If armchair theoreticians react by tedious and restrictive regulations of such experimentation, then no real benefit will result. Let us hope that common sense on such issues as risk and benefit, incentive and compensation, will prevail and that the principles elaborated in this consensus volume will be incorporated into a working arrangement.

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## Making Babies: The Test Tube and Christian Ethics

Editors, Alan Nichols and Trevor Hogan, 116 pages, Canberra \$A7.95 Acorn Press, 1984

In Australia theology is taken seriously. A report of the Commonwealth's National Health and Medical Research Council, published in 1983, recommending the setting-up of a National Research Ethics Committee, lists theology among the disciplines to be represented on it. This is despite the