

a matter of urgency so that parents, doctors and the rest of us know where we stand and what we may do. Such clarification would perhaps indicate the circumstances, if any, under which a baby may be caused or allowed to die. This would then be the law which would be as applicable to parents as to doctors.

As I have said elsewhere, to call for such clarification finds all the usual moulders and makers of law running for cover. But some law or code must be drawn up if we are to avoid the situation Professor Davis adverts to.

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## Medical ethics – 'Trad and trend'

SIR

Your principal editorial in the March issue (1) does well to draw attention to the two diverging concepts of medical ethics, roughly trad and trend.

Your contributors have evident dilemmas. 'Sometimes I have to remind myself to consult the patient' writes a clinician. A professor of sociology explains 'While codes of ethics appear to exist to protect the client, in practice they have a great deal more to do with the protection of the profession'.

From my viewpoint now in another discipline I find that the patients, whatever their intelligence, overwhelmingly revere and trust their own doctor and the medical profession; yet, I sense patients' vague but kindly doubts about medical ethics. According to the outlook of the speaker, I have heard such descriptions as: sanctuary of the Hippocratic altar; medical freemasonry; the doctors' rule-book. All said without acrimony, usually with puzzled amusement.

Perhaps with modern levelling, 'the obligations of a moral nature which govern the practice of medicine' are now as much on patient as on doctor,

calling for better mutual understanding.

Sir, you may yet edit a *Journal of Ethics in Medical Practice*.

### References

- (1) Anonymous. Two concepts of medical ethics [editorial]. *Journal of medical ethics* 1985; 11: 3.

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## Murder into manslaughter

SIR

In his review of Susanne Dell's *Murder into Manslaughter* (1) Paul Sieghart expounds some serious misconceptions concerning what happens to people convicted of murder and manslaughter. I would like to put the record straight:

1. There has never been a time when all murderers were hanged, even before 1957,

2. A judge can only send a mentally abnormal person to a mental hospital provided he has two medical recommendations and the offer of a vacancy.

3. Sieghart is wrong in suggesting that officials in the Department of Health and Social Security determine whether offenders go to hospital or to prison. It has never been the case that a Special Hospital place was made 'whenever the courts wanted one'. What did happen in the 1970s is that vacancies were not offered in Special Hospitals for those who did not require special security even though the original charge had been murder. A typical example would have been of a depressed killer whose only victim was his wife, no other person was at risk and there was an expectation that the patient would respond to treatment in a matter of months.

4. The Butler Committee not only recommended no 'radical reforms' in this area but made no recommendations

concerning the means of allocating beds in Special Hospitals. Neither did the Mental Health Act 1983 make any change to the statutory duty of the Secretary of State in this respect. Department of Health and Social Security officials act on behalf of the Secretary of State who is accountable to Parliament for his decisions or those taken on his behalf.

### References

- (1) Sieghart P. *Journal of medical ethics* 1985; 11: 48.

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## Response to Dr Hamilton

SIR

1. Before 1957, hanging was the mandatory sentence which all judges had to pass on all murderers. Thereupon, they were hanged unless the Home Secretary exercised the Royal prerogative of mercy.

2. Quite so, and my review did not suggest otherwise. But what Ms Dell's research seems to show is that, if there are no prospects of a vacancy, there will be no medical recommendations.

3. So, if hospitals – including Special Hospitals – do not offer vacancies, people get sent to prison when they ought to be sent to hospital.

4. The Butler Committee drew attention to this state of affairs in its interim report, and made recommendations designed to resolve it. Among the reforms which the Committee proposed was a new law of insanity, and an end to the mandatory life sentence for murder – radical, surely, on any view. These reforms have still not been carried out – not even in the Mental Health Act 1983, which provided the last major opportunity. For all that, the Secretary of State is indeed accountable to Parliament. One can only hope that Ms Dell's book will increase the Parliamentary pressure on him to do something about it at long last.

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