

prognoses is the most effective use of scarce resources' leads necessarily to the statement, as is implied, that 'more patients per unit of resources can be treated in this way than by any alternative approach'. Second, neither statement can be equated with efficiency (as is implied by the second sentence) and third, since efficiency is concerned with maximising social benefit from the available resources, then if society wishes to place a higher value on certain individuals or (more likely in the context of health care) on groups of individuals, then this will be and should be reflected in efficiency.

Such muddled thinking is but an example. The author seems not to understand the concept of efficiency nor to accept the notion of scarcity of resources. But since, as an economist, I accept both, I cannot recommend that readers of the *JME* devote their time – a scarce resource – to reading this book.

I have never before written such a negative review of a book. I hope I never have to again for it is not a pleasant experience.

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## Surrogate Motherhood

Martha A Field, 215 pages, London, £17.95, Harvard University Press, 1988.

In this readable yet scholarly book, Martha Field provides a welcome overview of the legal and 'human' aspects of surrogacy. In a compelling introduction she narrates vividly some of the real life conflicts which have arisen from surrogacy, culminating in the well-known case of Mary Beth Whitehead, who, after entering into a contract to act as a surrogate mother for William and Betsy Stern, refused to hand over the baby, after birth, to its biological father. The resulting conflict, which became known as the case of Baby M, brought surrogate motherhood to public attention in the USA and elsewhere.

The major part of the book consists of an examination of surrogacy and reflections on the law's response to it. Professor Field considers surrogacy in general and then looks in some detail at surrogacy contracts. Of its nature

surrogate motherhood is impossible to ban effectively – indeed its very existence is hard to assess as it can be achieved without medical intervention. But contracts for surrogacy, which apparently emerged in the 1970s, seem to raise new problems. How should society treat these contracts? The options available to a legislature are to ban all such contracts, making them illegal; to allow them but to make them completely or partially unenforceable by one or both parties; or to apply the usual principle of contract law and to enforce them accordingly.

The author examines considerations of public policy which might demand the outlawing of surrogacy and then analyses the true nature of surrogacy contracts. Are they contracts for sale? If so they must conflict with the legal provisions which prohibit baby-selling in most States of the Union. Are they contracts for services? If so it may be argued that they exploit women and commercialise child-bearing in an undesirable way – since they will usually involve the use of poorer, disadvantaged women by more privileged and affluent couples. A counterargument presented here is that legal prohibition of surrogacy would be unduly paternalistic since surrogacy can be and often is entered into freely – to the woman's advantage or for altruistic reasons.

An interesting feature of the book is the consideration of the constitutional aspects of surrogacy; does the US Constitution support the right to surrogacy through the 'right to procreate', through the fourteenth amendment, providing for 'equal protection', or through the application of the 'due process' clause to the notion of a man's right to have issue which is biologically his? Can the Constitution not be used to support the right of a surrogate mother not to be deprived of her child if she changes her mind and wishes to keep it? These arguments, though of varying effectiveness, are instructive, especially for public lawyers, but Martha Field concludes that they are unlikely to be helpful in the determination of surrogacy disputes.

She then examines the relevant factors which the courts may consider, apart from contract, in custody disputes between biological father and surrogate mother. The judgement of who is the 'better parent' is notoriously difficult and fraught, as the book ably demonstrates, with unconscious prejudices about life-styles and cultural norms – such as those demonstrated in

the Baby M case, where Mary Beth Whitehead's fitness for motherhood was judged and found to be inferior by predominantly middle-class judiciary and professional witnesses.

In conclusion, the author recommends that surrogacy contracts should not, on balance, be made illegal but that they should be unenforceable against the surrogate mother if she changes her mind; she can then keep the child, subject to returning payments received by her. In the absence of contractual considerations, the painful dilemmas of custody of the child should be resolved by adopting a number of clear rules – especially by a presumption that the 'primary caretaker' has a right to the custody of the child – in the case of a newborn child usually the mother. Other rules, regulating visiting rights and financial obligations, are also suggested, so as to minimise the suffering and doubt of all parties but especially of the child.

These recommendations are clear and the arguments leading to them well made. Some minor quibbles remain in the chapter which considers the effects of new reproductive techniques on the family falls somewhere between an adequate general discussion of the problems and a specific look at those linked with surrogacy; nor does the book examine the situation which will presumably, occur increasingly – the mother's position where she provides, as it were, merely a uterus in which a fertilised ovum is implanted and contributes no genetic material to the child she bears. Finally although the book deals with the 'human' issues, the author does not perhaps do justice to the ethical grounds for objecting to surrogacy. Subject to these minor criticisms, this book is an excellent and welcome addition to the literature on an important area of law and medicine.

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## Faces of Medicine: A Philosophical Study

W J van der Steen and P J Thung, 236 pages, Dordrecht, £38.00, Kluwer Academic Publishers, 1988

This is an interesting book and an unusual one. It is unusual, first because although written from a

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philosophical perspective its authors are well informed not only about developments within biomedicine but also about anthropological and psychosocial accounts of biomedicine. The issues raised are 'live' issues. It is an unhappy fact that many British philosophers who have addressed issues of health, illness and medicine have had only a superficial awareness of the substantial body of research on health paradigms, behaviour and policy. And second, it is unusual because it draws on a broad range of philosophical approaches, Anglo-Saxon and European, in an attempt to clarify and illuminate the issues selected for discussion. It is a bonus for someone – like this reviewer – who is unfamiliar with recent contributions from the Netherlands that the theses of a number of Dutch philosophers and analysts are introduced and dissected.

The book starts well with a crisp and authoritative introduction that reflects the authors' knowledge of work in a range of disciplines, from the medical to the behavioural and social sciences to philosophy. If anything, perhaps too much is promised. This is followed by five key chapters, dealing with 'cultural infusions in the philosophy of medicine', 'regular *versus* alternative medicine', 'concepts of health and disease', 'mind and body in science and philosophy' and 'mind and body in science'. Within these 'contexts' several themes recur: the salience of the cultural and the normative to medical science and practice; the significant but limited role of common sense in and around medicine; the lack of an integrative theory of mind and body, in medicine and elsewhere; the inadequacies of extant concepts of stress; and the neglect of ecology, 'as a discipline of biology', in medicine. There is strong support for the views that the 'achievements of medicine are but a minor factor in improving health at the population level', and that 'philosophy of medicine had better take this into account'.

Apart from appreciating its unusual features, I was extremely sympathetic both to the stance adopted by the authors and to the areas and issues chosen for analysis. The analysis itself is generally concise and clear. What is perhaps disappointing is that the authors are more adept at highlighting problems and exposing possible flaws in the arguments of others than they are at advancing constructive alternatives. They are inclined to hint at rather than pursue promising avenues of enquiry. Indeed, some Anglo-Saxon

philosophers will find their very succinctness frustrating. Less charitably, they might be accused of avoiding sustained argument.

This is an interesting book which undermines or questions much orthodox thinking in medicine and sets an apt and challenging agenda for future healing. The qualification that it will be up to others to develop and supplement *positive* arguments for items on this agenda should certainly not dissuade those committed to healing from reading it.

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## Terminal Choices: Euthanasia, Suicide, and the Right to Die

Robert N Wennberg, 246 pages,  
Grand Rapids, Michigan, USA, \$13.95,  
Wm B Eerdmans, 1989.

The title of this book gives no indication that the author, Professor of Philosophy at Westmont College, Santa Barbara, California, is also an ordained Presbyterian minister who therefore writes, with appropriate philosophical detachment, from an explicitly Christian perspective. While he is also on the ethics committee of Cottage Hospital, Santa Barbara, he is not personally involved in the provision of health care, and he consequently states that he begins with a focus on the patient, who, rather than the professional, is viewed as the 'central moral agent'.

As a result he sees the fundamental issue as being that of suicide and he devotes a chapter to its delineation in moral terms from other forms of voluntary dying. He then proceeds to discuss its ethical implications, to consider 'surcease suicide' (defined as suicide committed to avoid grave personal harm), passive euthanasia, the status of the permanently unconscious patient, and finally the problems postulated as arising with the possibility of the legalisation of voluntary active euthanasia. He ends with a bibliography of over 200 books and articles, but three-quarters of these are at least a decade old, and none of the articles quoted are from within the last five years, which inevitably gives rise to a somewhat dated impression.

His restriction of the use of the word 'suicide' to acts resulting from a conscious desire for death, which forms the basis of his formulation of an 'intent' to die, is confusing as it does not correspond to the usual legal distinction between intent and motivation. He specifically rejects the common sense or legal presumption that one should be deemed to have intended all the foreseen results of one's actions, preferring to distinguish between direct and indirect killings according to the principle of double effect. This may not appeal to the secular reader.

He makes some interesting points, as when he differentiates ordinary and extraordinary treatments according to the quality of the suffering entailed rather than the nature of the therapy, and when he draws an analogy between society's prohibition of euthanasia and of duelling: both activities involve the voluntary relinquishment of the right to life by consenting parties. His tone is kindly and his arguments measured, but while his commitment to a religious faith may put a more adequate emphasis on human relationships and connectedness than do recent writings stressing individual autonomy, the book is perhaps more likely to appeal as a source of philosophical support to those who already feel at home within a Christian framework than to influence the thinking or practice of those who would place themselves outside that tradition.

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## Danish Medical Bulletin: Journal of Medical, Dental and Pharmaceutical Sciences: Supplement No 1

Edited by Ole Vedel Rasmussen, 88 pages, Denmark, free of charge for foreign medical institutions on request: Danish Medical Association, Trondhjemsgade 9, Dk-2100, Copenhagen 0, Denmark, Ugeskrift for Laeger, 1990

It is a distressing reflection of our times that the use of torture is still practised –