Reply

DEAR SIRS

Dr Bridges is perfectly entitled to question the legal barriers or safeguards (depending on your point of view) set out in Section 57 of the Mental Health Act, and placed between the consenting patient and the clinical team recommending the surgical destruction of brain tissue for the treatment of mental disorder.

The commitment of the Geoffrey Knight Unit to the welfare of seriously mentally ill patients and Dr Bridges' therapeutic enthusiasm command respect from those who are familiar with this work. It is just such enthusiasm, regrettably associated with some distortion of the evidence for dramatic effect, which is likely to be seized upon by those who have reservations about permitting the interface between the mentally ill and vulnerable patient and a committed and convincing therapist to be regulated only by established professional ethics. Dr Bridges' statistical analysis of the mortality rates of patients before and after the amendment of the Act is methodologically unsound. One cannot compare the death of two referred patients who did not proceed to surgery with one death as a direct result of the operation. The small numbers cannot be interpreted meaningfully.

The Commission has consistently attempted to interpret the provisions of Section 57 in as flexible, responsive and humane a way as possible subject, of course, to the proviso that no deviation from the legal requirements of the section is permissible, however attractive that might be in an individual case.

We are always ready to consider suggestions for improving the way that the Commission operates the provisions for consent to treatment of the Act; changing them is a matter for Parliament, not the Commission.

The Royal College of Psychiatrists and other interested bodies and individuals may wish to consider proposing alternatives to the safeguards in Section 57, including giving consideration to whether developing psychosurgical techniques should be available for patients whose capacity to consent is questionable. However, these issues are not primarily the responsibility of the Commission except insofar as it has been directed to carry out the duties of the Secretaries of State under Section 120(1) to keep under review the exercise of powers and discharge of duties under the Act.

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Diminished responsibility: is it 'substantial'?

DEAR SIRS

As a practising forensic psychiatrist, I am not infrequently, called to Court on homicide cases to give expert opinion evidence as to whether the accused, at the time of the offence, was suffering from an abnormality of the mind, such as would substantially diminish his responsibility for his actions (Homicide Act, 1959). Recently I have been involved in several cases in which the main medico-legal argument has revolved around what is considered to be 'substantial'.

A typical case is as follows. Following a marital separation, perhaps accompanied by infidelity, the husband becomes emotionally distraught. He is unable to accept that his wife has left him, and a tragic homicide in the end occurs, probably under the disinhibiting effects of alcohol. In such cases the husband, in the period leading up to the offence, generally has a history of agitation, low mood, periods of tearfulness, disturbed appetite, sleep etc. He can thus be classified as suffering from a 'depressive disorder' of reactive type and can be categorised as having an 'abnormality of mind'.

If it is accepted that he is suffering from abnormality of mind, then the argument follows that due to this 'abnormality of mind', his judgement and ability to think through the consequences of his actions has to be, to some degree, impeded. Therefore an element of diminished responsibility must be present. The key question that then arises is whether his responsibility for his actions has been 'substantially' diminished or not. The forensic psychiatric expert witness is often expected by the Court to give a definitive answer to this question. In my experience, responses such as "I am not certain" or "It depends on what you mean by the word 'substantial' ", albeit that this is what the psychiatrist may really feel about a particular case, are liable to result in increased pressure from Counsel, and possibly the judge, to give a definite opinion one way or the other.

The above question, which can take a philosophical or semantic direction, is of great importance. If it is accepted by the jury that the word 'substantial' does not apply, then a murder verdict and life sentence will ensue. If, on the other hand, the word 'substantial' is thought to apply, then there will be a verdict of manslaughter, possibly a sentence of three to five years, and of course eligibility for parole once one third of the sentence has been served.

In the process described above, the forensic psychiatrist plays a key role in a medico-legal game of high stakes, which is quite far removed from medical or psychiatric expertise. At the same time, I remain fairly convinced that although success of a diminished responsibility defence should depend

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