possibly have a diploma in tropical medicine or an ophthalmic surgeon a diploma in industrial health. But under the Royal Commission's scheme a man who has gone up the ladder to gain registration in one specialty may find the utmost difficulty in getting into another.

Though the colleges have often been criticized for the number and variety of the diplomas they offer, the bestowing of these qualifications is at least in competent hands and is a matter for the profession alone. The same might not be true of vocational registration. The report recommends that the General Medical Council should be the vocational registration authority, and it is certainly hard to see how any other existing body could take on this function. But the G.M.C. has a lay element and obligations to the laity that have nothing to do with vocational registration. It serves to protect the public from unqualified practitioners, while vocational registration should serve to inform other medical practitioners of a person's attainments. Or is it the intention that State employment should depend on vocational registration? Will a man who has spent 20 years practising medicine in the tropics, for instance, find that on his return here he must start at the beginning again, undergo some years' supervised training, and finally get on a vocational register before he can engage in any form of independent practice in the Health Service?

If the question of vocational registration has caused anxiety out of proportion to its real place in the report the reason is twofold. Though many other countries have found it to be a useful certificate of completed education and though Britain would find it convenient if she entered the Common Market, the temptation it presents to a Government as another form of control over the medical profession has already proved to be irresistible. For only the B.M.A.'s intervention last autumn prevented the introduction of legislation "as soon as possible"[5] to create specialist registers far in advance of the education whose completion the registers are supposed to certify. Any Government is bound to find a scheme of registration a cheap and convenient substitute for education. Secondly, while the splitting up of medicine into a variety of specialties is an inevitable consequence of its own development, the possibility of transferring from one to another does still exist—to the great benefit of medicine itself—despite the greater hindrances to it than formerly. But the fear is that vocational registration as conceived by the Royal Commission could virtually eliminate that kind of cross-fertilization.

1 Royal Commission on Medical Education, 1965-68, *Report*, Cmnd. 3569. London, H.M.S.O., 1968.
2 *British Medical Journal*, 1970, **1**, 379.
3 *British Medical Journal*, 1968, **2**, 65.
4 *British Medical Journal*, 1969, **4**, 247.
5 *British Medical Journal Supplement*, 1969, **4**, 5.

Legality of Sterilization

Since the end of the Second World War the legality of sterilization has proved a regular and recurrent source of controversy in medical and legal circles. Unfortunately the argument has never risen above the speculative, and in 1960[1] our legal correspondent asked for either Parliament or the courts to declare the law urgently, whatever it might be—a call he repeated with no less force in 1966.[2]

Surgical operations have never been given a proper place in the English scheme of jurisprudence. The problem is made more complex since the common law defines two different kinds of assault. In the first category the consent of the victim provides a defence, but in the second the offence consists in the infliction of such a degree of physical harm or so outrages public policy that the consent of the victim cannot and should not provide an answer to the charge. The line between the two categories is a narrow one indeed: an assault at boxing is negatived by consent while one at a prize-fight is not.

In drawing the dividing-line the degree of harm inflicted is certainly one relevant matter, but public policy may also be legitimately taken into account. That is shown by a case[3] where the Court of Criminal Appeal refused to disturb the conviction of a man who for his own sexual gratification caned a consenting 17-year-old girl. The degree of physical harm was slight, but the indecent circumstances were held by the court to render what might otherwise have been perfectly permissible an assault.

The crux of the matter is, therefore, the view that judges take, as *custodes morum*, of what is or is not undesirable conduct. So the legality of certain surgical operations can be brought in doubt if their purpose offends public policy. Back in 1604 Lord Chief Justice Coke had little doubt that where "a young strong and lustie rogue, to make himself impotent, thereby to have the more colour to begge or to be relieved without putting himself to any labour, caused his companion to strike off his left hand," the two of them were rightly convicted of mayhem. Similarly when Victorian soldiers persuaded dentists to extract their front teeth so that they could no longer bite cartridges, both parties were guilty of crimes.

It was these two quaint precedents that Lord Justice Denning followed when in a dissenting judgement in a Court of Appeal case[4] in 1954 he made some remarks which are generally taken to be the corner-stone of the view that sterilization is illegal. A wife was petitioning for divorce on the grounds of her husband's cruelty, in that in the fourth year of the marriage he had been sterilized by a surgeon. The judge's view of the facts—namely, that the operation had been performed to spite the wife as the husband had become jealous of the affection she lavished on their first baby—inevitably came to colour his view of the law. "If a husband undergoes an operation for sterilization," he said, "without just cause or excuse, he strikes at the very root of the marriage relationship. The divorce courts should not countenance such an operation any more than the criminal courts." Lord Justice Denning went on to limit severely the category of "just causes." He acknowledged that preventing the transmission of hereditary diseases could be such a cause, but he then continued: "Where a sterilization operation is done so as to enable a man to have the pleasure of sexual intercourse without shouldering the responsibilities attaching to it, it is illegal. The operation then is plainly injurious to the public interest. It is degrading to the man himself. It is injurious to his wife and any woman he may marry, to say nothing of the way it opens to licentiousness; and, unlike contraceptives, it allows no room for a

1 *British Medical Journal*, 1960, **2**, 1516.
2 *British Medical Journal*, 1966, **2**, 1610.
3 R. *v.* Donovan (1934) 2 K.B., 498.
4 Bravery *v.* Bravery (1954) 3 A.E.R. 59.
5 R. *v.* Cowburn (1959) Crim. L.R. 590.

change of mind on either side. It is illegal, even though the man consents to it."

The other two members of the court dissociated themselves from this inclement view of the law, but with one exception it remains the sum of judicial dicta on the subject. In 1959 the Court of Criminal Appeal was faced with a case[5] of a psychopathic sexual offender who was prepared to undergo castration; but it was not to be lured into giving its imprimatur; and, of course, sterilization and castration are very different.

In 1960 the medical defence societies sought the opinion of a distinguished silk, now Mr. Justice Stirling, and it was his view that sterilization is not unlawful, whether performed for therapeutic or eugenic reasons, provided there was full and valid consent from the patient. His colleague, advising on the law of Scotland, added the caveat that the operation must be performed "by a responsible surgeon for a reason substantial and not immoral by present-day standards."

The view that sterilization is illegal when performed merely for contraceptive reasons has now gone in default. The story might be very different in a case where the operation was done on an unmarried person to enable him to embark on a career of promiscuity, but it is inconceivable that a judge could nowadays hold that an operation for sterilization of either spouse (with the consent of both) when they had decided their family was large enough constituted an offence. The law, it may be thought, has not changed so very much: rather is it the case that public opinion now demands that the category of "just causes" be extended beyond those that Lord Justice Denning could or would envisage in 1954. Private policy, not public policy, should now be the relevant consideration. There is no ground, social, economic, medical, or legal for thinking otherwise.

Colour in Rhodesia

The decision taken last week by Birmingham University to withdraw its sponsorship of the medical school at the University College of Rhodesia is a sad end to a relationship that might have brought great benefit to Southern Africa. But there can be no compromise on racial discrimination. No British university could continue to sponsor an institution where this doctrine gained a footing, and London University followed Birmingham in deciding to end its own special links with the Rhodesian college.

The University College of Rhodesia and Nyasaland, as it then was, began work in 1955 under the wing of London University. Its charter specifically declared it to be open to students irrespective of race, creed, or colour. In association with Birmingham University (and with the concurrence of London) the medical school opened its doors to students in 1962. The first 25 students, though mainly of European stock, included several Africans and Asians. Their progress through the medical course and excellent results in the final examination for the Birmingham M.B., Ch.B. in 1968 reflected nothing but credit on the school and everyone associated with it. Though political unrest had clouded the country, it was possible just over a year ago to write that it had not seriously impaired the development of the school.[1] But now it appears that the Rhodesian authorities intend to incorporate as a planning principle an arrangement whereby patients will be allowed to decide the colour of people who are going to treat them and of students who are going to be taught upon them. It is hard to see how medical men could consent to work and teach without protest under such conditions.

The consequences for the Rhodesian medical school must be serious, though less than they might have been for the students on the medical course there, of whom there are said to be 169, two-thirds of them white and one-third non-white. The only medical degree obtainable is that granted by Birmingham University, and it is now to be withdrawn for those students entering the course after this March. Presumably the University College there will hold its own examinations for a medical degree, and though that would be recognized in Rhodesia its acceptance in other countries, at least for the time being, must be problematical.

The Government of Rhodesia has faced the medical profession there as well as individual doctors with a challenge they cannot ignore. Any kind of racial discrimination is especially repugnant to a profession whose members are pledged through their traditions and ethics to make their services available to everyone regardless of "religion, nationality, race, party politics, or social standing," to quote the World Medical Association's Declaration of Geneva. To consent to arrangements by which patients can discriminate on racial grounds against doctors, one's professional colleagues, is wholly contrary to the great traditions of medicine.

Dangerous Doctors

Clearly something had to be done about doctors who cynically over-prescribe drugs to addicts. Last month a three-day hearing by the Disciplinary Committee of the General Medical Council in the case of Dr. Wood (*Supplement*, 14 March, p. 85) showed how far the present system had failed. Despite the cases of Drs. Petro and Swann, and despite the fact that Dr. Wood had been named two years ago in an article in the *News of the World* on doctors over-prescribing hard drugs, Dr. Wood had gone on supplying addicts month after month and the police had been powerless to stop him. That the G.M.C. had no wish to play a more active role had been made clear by its president when he stated[1] "This council is not required to act as, if I may so put it, a police authority for the medical profession."

So the profession should not be surprised that the Misuse of Drugs Bill[2] contains provisions giving the Home Secretary power to suspend a doctor's right to prescribe certain classes of drugs. The decision must first be approved by a panel of three doctors and later be confirmed by a tribunal of four doctors and one lawyer. There is a right of appeal to an advisory body consisting of one lawyer and two doctors, one of whom must be in the Government Service—and the advisory body may confirm the decision of the tribunal or order the case to be reheard by the same or another tribunal. This complicated structure has been devised to cope speedily with perhaps four or five cases a year, and it provides yet another example of the present trend away from the process of the law. Partly because of the expense and delays of the English legal system more and more matters are being settled by arbitration or by *ad hoc* bodies; and our society has grown to accept that decisions which may profoundly affect the

[1] *British Medical Journal*, 1968, **4**, 658.

[1] *British Medical Journal Supplement*, 1969, **2**, 137.
[2] *Misuse of Drugs Bill*, London, H.M.S.O., 1970.
[3] *Drug Addiction*, Second Report of the Interdepartmental Committee. London, H.M.S.O., 1965.