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Amy Hermanson, 1979-1986

CHRISTIAN SCIENTISTS CONVICTED IN DAUGHTER'S DEATH

Observations of the Trial by Rita Swan

On June 30 Christian Scientists Christine and Bill Hermanson will be sentenced for felony child abuse and third-degree murder by a Sarasota, Florida, circuit court jury. They had let their seven-year-old daughter, Amy, die of diabetes without obtaining medical care for her. They were convicted April 18 by a Sarasota, Florida, circuit court jury. I was able to attend all of the trial except opening arguments.

The Hermanson case was the first Christian Science case to come to trial since 1967 when

Dorothy Sheridan was convicted in Barnstable, Massachusetts, for letting her daughter Lisa die of pneumonia. In 1969 Christian Scientist Emerson Sortore was indicted in Anchorage, Alaska, for letting his daughter Kimberly die of meningitis. In that case, however, the father pled no contest to the charges on condition that the conviction would be overturned when the Alaska legislature passed a religious immunity law. So there wasn't a trial; the prosecutor just spoke briefly before the judge to explain the state's position.

Amy's small world

Amy Hermanson died September 30, 1986. She had touched many with her love, vivacity, and

SINGLE TOPIC ISSUE

The Christian Science church continues to demand unique privileges for its healers and parents. The conviction of the Hermanson's could well be a landmark case as the first of Christian Science parents in over twenty years.

There have been numerous convictions in the 1980s of parents from other denominations. The Faith Assembly convictions in Indiana appear to be a major factor in the reduction of children's deaths there. **CHILD's** goal is to reduce needless suffering and deaths due to religiously influenced medical neglect. We hope the Hermanson conviction is a major step forward.

In our next issue we will cover recent deaths in Florida, New Jersey, Indiana and Minnesota. We will also report on legislative efforts in Colorado, Iowa and Ohio.

talent. She took piano, harp, violin, and drawing lessons. She was highly intelligent in academic subjects too. Her favorite song was "It's a small world, after all" from Disneyworld. Her next door neighbor, Polly Perino, had taken many high-quality photos of her, which CHILD and the mass media have used. They have made us aware of how much we all lost with her death.

Her father Bill was vice-president of a savings and loan. Her mother Chris owned and operated the Fine Arts Academy where music and art lessons were given. Bill was also listed in the phone directory as a Christian Science practitioner. Apparently he was working toward church accreditation as a full-time healer. Chris had converted to Christian Science as an adult. Reportedly, all of her blood relatives were mainline Protestants, and her father was diabetic.

Prospective jurors object to law

On April 10 jury selection began. Judge Stephen Dakan had previously ruled that the Hermansons could use Florida's religious immunity law as a defense at trial. Dakan read the law to all members of the jury pool and said they would have to follow it in deciding the case. Many objected to the law and were excused because they said they could not follow it. It took two and a half days to pick a jury of three men and three women. All of them were parents.

Mack Futch and Deno Economou were the prosecutors. Edward Booth, Charles Arnold, and Thomas Dart were the defense attorneys. Dart is a Sarasota Christian Scientist, while Booth and Arnold head a defense firm in Jacksonville. Several attorneys defending Christian Science parents in other states attended the trial and assisted the Hermansons' defense team.

The death scene

The first witness called by the state was James Homick, a paramedic for the Sarasota Fire Department. He received a call about Amy at 1:48 p.m. on Tuesday, September 30, 1986; he got there at 1:53. Amy had no pulse or respiration. She had mottling and pooling of blood. Her eyes were dilated and fixed. There was emesis (vomit). Her lips and extremities

were blue. Her skin was ashen. She had been dead for twenty minutes.

Mrs. Hermanson was in another room. "The Reverend" (Florida's Christian Science Committee on Publication Frederick Hillier) would not let him talk to Mrs. Hermanson.

Charles Arnold cross-examined. His first question was: "What kind of home do the Hermansons live in?"

Homick replied that it was a luxurious home in a very expensive neighborhood. I couldn't imagine why the defense wanted to establish that!

Other questions Arnold asked included the following. Was anything out of place about the home? What room was Amy in? Did Homick see Mr. Hermanson coming to the home at 2:12 as he was leaving?

Objection to "gruesome" photographs

The second witness was Bruce Lighthead with the Sheriff's office. He went to the Hermanson home at 3 p.m. Amy was lying prone on her parent's bed. Amy had no clothes on; the bed had no sheets. The bedsheets had been put in the bathroom.

Lighthead took photos of Amy on the bed. Futch asked permission to introduce the photos into evidence. Dart objected to the photos as inflammatory, gruesome, and prejudicial. The judge ruled that the photos were not necessary to Lighthead's testimony and therefore could not be admitted.

Lighthead continued. The sheets were soaking in several "buckets" with black vomit on them. Amy's body turned dark gray even though they put it in refrigeration by midafternoon.

Effects of diabetes

The third witness was Dr. James C. Wilson, an MD and forensic pathologist who did the autopsy on Amy. He did an excellent job of explaining juvenile-onset diabetes to the jury.

Futch asked if the photos would assist him in explaining his findings to the jury. Wilson said they would be helpful. They showed a slightly distended abdomen, weight loss, and slightly sunken eyes indicating dehydration. Some of the findings supported a "long-term illness."

The judge allowed him to show the photos to the jury. The defense argued that they were "cumulative" to his testimony and therefore unnecessary, but Wilson nevertheless said they would help him. So he paced back and forth in front of the jury pointing out features of the photos that explained what had happened to Amy.

He explained how her body was being poisoned by ketones over several weeks. He told about the tremendous amount of dried fecal material trapped in her colon. That was why her body changed to gray black color so rapidly after death, even though it was refrigerated. When he opened her lungs, a strong, fruity odor came out.

Parents request pathology findings

Wilson said that the Hermansons initiated contact with him, asking him to call them after the autopsy findings were made. So he returned their call. It seemed to him that both were on the line during the entire conversation.

The Hermansons said that they had noticed a "change" in Amy at the time school started. She was lethargic and slow. She had lost weight. She was not able to deal with school as well as she had in the past. She put her head down on the desk and fell asleep a lot at school. She came home from school and went to sleep right away.

Amy had complained to them of constipation. She vomited on Sunday and Monday. Amy was incoherent on Monday night. She was drinking fluids incessantly and urinated constantly. It seemed as if the fluids were going right through her.

Wilson said a child with juvenile-onset diabetes feels very sick, but would not necessarily be in acute pain.

Credentials questioned

Dart cross-examined. "Your specialty is dead bodies, right?" (Quotes are taken from my notes and may not be perfectly verbatim.)

Wilson disagreed and went into a long, leisurely explanation of all the different areas of expertise pathologists had. Dart had opened the door for an expert witness to discourse upon his credentials and build his credibility with the jury. If Dart hadn't been a Christian Scientist, he might have been able to get across the point that Wilson was not an endocrinologist, i.e. one who specialized in diabetes, and thereby cast doubt upon his lucid, step by step account of how diabetes affects body organs and systems.

Dart tried to show that Wilson habitually testified for the state, but Wilson replied: "I may be called by either side. My findings are for whoever asks for them."

Death natural?

Dart: "Did you call this a 'natural death' on the autopsy report?"

Wilson: "Yes, natural in the sense that it wasn't a homicide."

Dart: "Would the vitreous fluid, urine, and blood sugar tests be all you would do to confirm the diagnosis of diabetes?"

Wilson: "No. I also considered the dehydration and weight loss."

Dart: "Would the dehydration and weight loss alone be enough to confirm the diagnosis of diabetes?"

Wilson: "No."

Did Amy choke to death?

Dart: "Could she have died of aspiration?"

The defense had told the press before the trial started that Amy had died from choking on vomit rather than from diabetes.

Wilson: "In my judgment, within the degree of reasonable medical certainty, she did not die of aspiration. I believe that the aspiration was an agonal situation. It was part of the death process as all systems broke down. Actually, everybody dies from heart failure."

Dart: "Did the Hermansons tell you about Christian Science treatment?"

Wilson: "Yes, they said Amy had an identity problem and whatever needed to be brought out would be brought out through Christian Science work." The Hermansons had had Christian Science practitioners working for her since Monday, September 22.

Dart asked him about diabetic deaths he had examined. Wilson said he had examined a great many; he mentioned a young man in Ohio who had quit taking his insulin and died.

Dart asked about a local diabetic death. Wilson told of a man coming to the hospital with flulike symptoms during a flu outbreak. No lab work was done. He was released from the hospital. Two days later he died at home of diabetes.

His widow has filed a civil suit against the doctors and hospital and therefore Wilson declined to give further details about it. From the defense side of the audience, I heard a loud cynical comment, "Of course."

Amy's deterioration recounted

The next witness was Helen Falb. She seemed very nervous and forgot some important details. Neighbors said she was nursing a baby, and the court would not allow her to bring the baby to the witness room. She had worked for the Hermansons' Fine Arts Academy for almost a year. Previously she had worked for the state in Child Protective Services (CPS) and, according to a friend, has spent many sleepless nights berating herself for not reporting Amy to CPS. She met Amy in November, 1985. Amy came to the academy after school every day. Amy was very friendly both with children and adults.

In August, 1986, Chris, Amy, and Eric (Amy's big brother) came to her home to plan the year.

Falb noticed an emotional change in Amy, which she described as "very subtle."

Two weeks before she died she noticed dark circles under her eyes and weight loss. She noticed a substantial deterioration in the last week. On September 22, Amy was asleep on a mat at the academy. That was unusual behavior for her.

Too sick for school, Amy kept at mother's work place

On Friday, September 26th, Amy was at the academy all day (because she was too sick to go to school). She was emaciated. "Her appearance was skeletal." This was the first chance Falb had had to talk to Amy alone. Falb asked Amy what was wrong. Amy told her she had been vomiting a lot. She had been unable to sleep for a few nights. She also said her stomach hurt. She was drinking a soda with her head in her hands.

Amy usually went to the video store next door to get cokes and candy bars. Or she would play the piano.

Deno: "How different was Amy's condition the last week?"

Concern over serious condition

Falb: "It was dramatically different. She was very pale and had lost a great deal of weight."

Deno: "Did you express your concerns about Amy to anybody?"

Falb: "Yes, to many people."

Deno: "Did you express your concerns about Amy to the Hermansons?"

Falb: "No."

Deno: "Why not?" The defense objected, but was overruled.

Falb twisted her hands together and choked out her answer: "I knew their religious beliefs. I knew how they felt about it. I knew they were writing my paycheck."

Arnold cross-examined. He asked what classes Amy took at the Fine Arts Academy and who from. He asked if Falb had left the Academy by her own choice. Falb said she had.

Arnold asked if she had considered Amy's condition life-threatening. Falb admitted that she hadn't. Arnold also got her to concede that the changes she had noticed in Amy prior to the two-week period she thought were emotional changes.

Deno asked if she considered Amy's condition "serious" for weeks. She said, yes, she had.



Chris Hermanson

Mother told to take Amy home

The next witness was Vicky Neuhaus. Her testimony was incredibly powerful. She was an attractive blonde, simple, pure, and good. She broke down and cried about Amy on the stand. Her daughter had taken piano lessons from Chris for five years. She herself took organ lessons from Chris.

Vicky last saw Amy on September 24. Chris came to Vicky's house with Amy to give an organ lesson about lunchtime. As soon as Vicky opened the door, she could see that Amy was emaciated and quite sick. She asked why Amy

wasn't in school. Chris said she was tired.

Vicky told Chris that she did not want to have the organ lesson and that Chris should take Amy home immediately.

"I'm just a mom," Vicky said to the jury, "and I work with kids all the time."

Chris insisted that Amy would be fine and that Amy would stay in the living room while they went on with the organ lesson.

Mother advised to take Amy to a doctor

During the organ lesson, Amy crawled in on her hands and knees and begged her mother to take her home. Vicky said, "Chris, she's obviously very ill. You should take her to a doctor." Chris again insisted that Amy would be fine and smiled at her.

The defense shouldn't have even asked questions of such a dramatic and credible witness, but Dart cross-examined. Didn't they in fact finish the organ lesson? And "would it be unusual for a child of that age to crawl?"

He also asked her if she had children and what their ages were. She has three kids, ages 16, 8, and 4. Dart invented a zany new theory on the spot, I imagine, and asked her if the four-year-old might have been playing with Amy in the living room and gotten her to crawl around!

Vicky: "No, he wasn't even in the house that day."

Dart asked her how she could be sure of that years after the fact.

Vicky said she always took him to his grandparents before she had her organ lesson. With every passing minute, Vicky looked more credible and Dart looked more foolish.

I also felt quite a contrast in Vicky's parenting and Chris's. Chris dragged her daughter around from house to house; she let Amy lie around the Fine Arts Academy for hours every day, eating junk food and drinking pop. Vicky provided the loving attention of grandparents for her child

even for the brief time she was occupied with an organ lesson.

Report "unfounded"

The next witness was Amy's aunt, Leslie Morton. She was the one who called CPS and reported Amy's case a few hours before she died. She told CPS that Amy had lost 10 pounds in the previous two weeks, that her eyes were sunken and functioning separately, that she could barely walk and frequently had to be carried. After Amy's death CPS ruled the report unfounded because of the religious immunity law. In other words, by CPS standards, no child abuse or neglect had occurred. The defense insisted that she could not tell the content of her report to CPS, but she was allowed to mention the fact that she made such a report.

She was the only one of Chris's relatives who would testify for the state. Morton testified that she had many conversations about Amy's illness with Chris's mother and sister the weekend before Amy's death. They knew diabetes ran in their family and considered the possibility that Amy had diabetes.

Leslie spoke to her pediatrician on Friday about Amy's symptoms and called CPS anonymously on Friday, September 26, to ask if such a case could be reported when religion was involved. She finally called CPS with the particulars on the following Tuesday.

Booth cross-examined. He asked, "Have you known Chris and Bill to be opposed to medical care?"

Morton: "They do not believe in it at all."

An old lady sitting on the defense side of the audience with a *Christian Science Sentinel* in hand said, "Bravo." When Morton walked off the stand, the lady called her "a bastard" and "a bitch."

Ill at school for weeks

The next witness was Nancy Strand, who was a physical education teacher at the private Julie Rohr Academy where Amy went to school. She

had Amy in classes for two and a half years. Amy made 1's and 1+'s, the highest grades in phys ed. Grades are based on attendance and participation.

But when school began in 1986, Amy was too tired to participate. About three weeks before her death, she came to phys ed complaining of not feeling well and being very tired. Sometimes she slept outside with her head down on picnic tables.

"...she feels a lot better [at] home..."

Once Strand told Chris of her concern that Amy was missing so much class. Chris replied, "Yes, it's funny, but she feels a lot better when she's home." Chris claimed that Amy's problems were emotional, that Amy did not like the new routine in third grade.

Deno: "Did you believe that Amy's problem was just emotional?"

Strand: "No."

Deno: "Did you believe it was serious?"

Strand: "Yes, because it seemed to be getting worse."

Arnold cross-examined. "But at no time did you think it was life threatening, did you?"

Strand: "No."

Arnold asked her about her ability to observe Amy while she was teaching phys ed. Strand explained that an aide stayed with Amy while she worked with the other children.

Arnold produced school records showing Amy bumped her lip and was given ice at 2 p.m. Didn't that indicate she was participating in phys ed, he asked.

Strand: "No, because that's when phys ed was over."

Continually tired at school

The next witness was Laura Kingsley, Amy's

language arts and home room teacher for third grade. She cried on the stand describing Amy as "very bright, very creative, a very good student."

Kingsley described Amy in September as lethargic. She laid her head down on the desk often, which was unusual for first period. She had dark circles under her eyes. Kingsley also noticed a fruity odor on her breath.

Amy came back in the afternoon for art and French. She often had her head down on the desk, but would sometimes look up and answer a question that stumped others.

Several illness reports given

During the last two weeks of Amy's life, Kingsley sent accident and illness reports on Amy to Principal Julie McCue several times, but McCue did not report the case to the state. McCue was a personal friend of the Hermansons, and both Hermanson children were enrolled in her private school.

Kingsley also sent Amy to the school office sometimes. "I knew she couldn't have her temperature taken or be told anything about her illness [because of her parents' religion]," she said. Perhaps the office let her lie down and sleep.

An "emotional problem"

Kingsley also talked to Chris Hermanson once about Amy's illness. Amy was clinging to her mother and didn't want to go to school. Chris said it was an emotional problem.

After that conversation, Kingsley made elaborate efforts to interest Amy in school and get her to feel good about school. They had a new student from Iran, and Kingsley asked Amy to escort the student and help her make friends. Amy seemed proud to be given that responsibility.

Kingsley did not really think that Amy's problem was emotional. She noticed that Amy seemed much thinner and taller and related it to concerns about her own son. She had been afraid he had anemia because he had gotten so much taller and thinner over the summer.

Arnold cross-examined. Amy had been put in a third grade class although she was only seven. Arnold asked if it wouldn't be a hard adjustment for seven year olds to be in third grade.

Kingsley held her ground and said several seven-year-olds were in the class and placed there because of their ability to handle the work.

Arnold suggested that several of the third graders were complaining about the new routine. "Didn't they have to carry their books around or shift classrooms or something?" he asked. "Aren't lots of kids reluctant to go back to school? Don't they cling to Mama? Isn't that common?"

Kingsley: "No, that's very uncommon. At the beginning of school, they're usually excited about it."

Arnold: "You agreed with Mrs. Hermanson that it was an emotional problem, didn't you?"

Kingsley: "After Chris told me it was emotional, I approached it that way, but I did not think it was that."

Arnold: "You did not think Amy's illness was life threatening, did you?"

Kingsley: "No."

Contrast in treatments

Arnold: "Didn't you think your own son had anemia because of a summer growth spurt? And isn't it common for children to become taller and thinner over the summer?"

Kingsley: "I had my son tested by a doctor, and his symptoms went away."

Arnold: "Would you say that Chris Hermanson is active in the life of her child?"

Kingsley: "Yes."

Deno reexamined: "Did you consider Amy's problem serious?"

Kingsley: "Yes."

Deno: "Did you consider it to be anemia, in other words a physical problem?"

Kingsley: "Yes."

Reported extreme loss of weight

The next witness was Gary Christman, who operated the Critics' Choice Video next door to the Hermansons' Fine Arts Academy. He saw Amy several times a week.

Four to six weeks before her death, he noticed a change in Amy. Her skin color was blue. Her "little arms" were "toothpicks." She had lost a lot of weight. Her "little socks" wouldn't pull up on her legs. You could almost see her teeth through the skin of her cheeks. Her clothes didn't fit right. He noticed the fruity odor on her breath several days before her death.

Christman saw her lying curled up in a ball at the door of the academy a week before her death at 3 or 4 p.m. About six weeks before her death (in August), he saw her asleep in the back seat of the family car.

Proper care assumed

He considered Amy to be seriously ill. But he did not report her condition to Protective Services because he "just figured that with these times people took care of their children when they were ill."

Arnold cross-examined. "Do you know how long she was left in the car unattended? You observed her for only a few seconds, correct?"

Christman: "Yes."

Deno reexamined: "Did you ever see her get up out of the car?"

Christman: "No."

Character witness called

The defense then asked permission to present a defense witness who would be out of town next week. Barbara Fleck, owner of a business, took the stand. She had known Chris Hermanson for

fifteen years. Her daughter took piano lessons from Chris.

Barbara described Chris as "serene, peaceful, kind, compassionate, honest, and very civic minded." They were fellow members of Zonta, an organization for business and professional women.

She described Bill Hermanson as "amiable, very well-liked, compassionate, civic minded, very hard working, honest," etc. She served on the United Way board with him.

On September 20, 1986, Zonta had a meeting to stuff envelopes for a fund raiser. Amy was brought to the home where some Zonta members worked for three or four hours. Fleck said Amy was lively, talkative, a sweet, adorable, happy, healthy little girl.

Deno cross-examined. Fleck admitted September 20 was the only day she ever saw Amy and that she wasn't watching her continuously.

Amy's choice to pass on

The next witness was Gayle Whitmire, who taught music at the academy. In August classes Amy had cried in frustration over a computer music game. Amy was thinner; you could see bones sticking through the back of her clothes. She had dark circles under her eyes.

After Amy died, Gayle asked Chris whether the academy should be kept open. Chris said, yes, that was the best thing you could do for her.

Gayle spoke about going to the Hermanson home two days after Amy died to offer condolences. Chris told her that Amy had been healed in Christian Science the morning of her death. Chris said that Amy talked about taking a trip to Alabama. Chris claimed that Amy made her own decision to pass on and understood what her life would be like on another plane of existence. In her final moments, according to Chris, she sat up in bed and said to her brother, "Eric, I want you to understand; Eric, understand."

Booth asked whether she thought Amy was

seriously ill. Gayle replied, "I wasn't looking for my students to be ill, so I didn't interpret her thinner figure as a sign of a serious illness."

Booth asked her to concede that grieving parents could be so distraught they'd say about anything. He also asked her about the Christian Science church's reliance on the Bible. Gayle was indignant; she wanted to point out that their religion was not based on the Bible.

Meeting called to explain Christian Science healing

Her husband John Whitmire was the next witness. He was meticulously accurate, specifying exactly the limits of his knowledge and his memory. He was fair to the Hermansons, but did not let the defense attorney push him off his testimony.

He recounted that two days after Amy's death the Hermansons called a meeting at the Academy. He and Gayle both went. Chris stated that Amy had been tired for a few days, that she and Amy had taken a trip and had a nice mother-daughter time together, and that they had first retained a Christian Science practitioner to treat her on September 22.

Bill Hermanson explained Christian Science to the group. He said that the current issue of *The Christian Science Sentinel* focused on healing and that he was having a bunch Federal Expressed in so that everyone could have copies.

Father questioned on symptoms

Bill and Chris said they thought Amy was healed by Christian Science Tuesday morning. They were accustomed to seeing that moment of release and healing when Christian Science was applied.

Since John is diabetic himself, he asked Bill Hermanson if Amy experienced excessive thirst and frequent urination, classic symptoms of diabetes. Hermanson said she had had those symptoms for about two weeks.

A day or so later John made extensive notes about the meeting.

Booth cross-examined and tried to discredit his memory. Booth pointed out that John had said "one to two weeks" in his deposition rather than "about two weeks." John claimed that his notes would be more accurate than his deposition. Then Booth pointed out that John had mentioned "a Boston practitioner" treating Amy, when the practitioner was actually in Indiana.

Medical care for parents

The last witness on Thursday was Mary Christman, who testified outside of the jury's presence. Most of her testimony dealt with bizarre theological beliefs, which I didn't think were even germane to the judicial issues, but the state strongly wanted to get her testimony in because she told about the Hermansons using medicine for themselves.

Mary went to visit Chris a few days after Amy's death. "I didn't go as judge and jury; I went as a mother who had lost a child," she said.

Chris told her that Amy was fine; Amy had just passed over to another plane. Chris missed the physical contact with Amy, but it was Amy's choice to pass on.

Mary said she should have gotten insulin for Amy. Chris said Amy's body would have rejected the insulin because Bill had Novocain for dental work and his body rejected the Novocain.

Mary said, "You've got to give a child a chance. She should have been given insulin. How do you know her body would have rejected insulin? You could have at least tried."

Chris said Amy had made drawings showing she understood what it meant to pass on and what her experience would be like on the other plane of existence. Shortly before Amy passed on, she sat up in bed and said, "Eric, I want you to understand." Chris claimed that Amy was fine at home but became sick because of negative vibrations received from outside the home.

Painkillers used

Mary told her that Amy had looked like "a refugee from a death camp" and must have been

in great pain. Chris said, "There is no such thing as pain." Mary said, "My God, Chris, then why did you have anesthetic for Cesarean sections and Bill have Novocain?" Chris said that was a different situation.

The defense objected at great length to her testimony because Bill Hermanson was prejudiced by the conversation and had not been present during it. The defense said her testimony would necessitate separate trials for the two defendants and that if they had to be separated at this point, a mistrial would have to be declared. The judge indicated that the prosecutor could take that risk if he cared to.

Booth said of Mary, "I don't blame her for being inflammatory. After all, she's a woman."

Damaging testimony barred

On Friday the defense claimed that the C-sections story was a surprise to them and by Florida law, the state should have informed them that Christman would testify about that. The defense pointed out that she had been asked in her deposition for everything she could remember and had not mentioned it.

The state sheepishly admitted that they had neglected to give the defense this information because they learned it only a few days before trial. After extensive wrangling, the state gave up on getting Christman's testimony to the jury.

Christian Science nurse was called

The next witness was Mary Jane (Molly) Sellers, a Christian Science nurse. She is not medically trained and cannot diagnose. She bathes and shampoos patients. She instructs family members in care and food. She assists patients in going to the bathroom.

Deno worked through that with her so that the jury would understand that Christian Science nursing was quite distinct from medical nursing. He also asked her to distinguish a Christian Science practitioner from a medical doctor.

On September 30 Sellers got a call on her answering machine from Mrs. Hermanson about

needing care for her sick daughter. At 10 a.m., Sellers began calling the Hermanson home repeatedly and finally got through at 10:25 to Mr. Hermanson who said diabetes had been mentioned to them as the illness Amy had.

Nurse describes what she saw

At 10:50 she reached the Hermanson home. She went to the master bedroom where Amy was lying. Chris had her arm around Amy.

The bedding had been taken off the bed. Amy had no clothes on. She was loosely covered with a sheet. Sellers found her feet very cold and asked Chris if socks could be put on them. This was done.

The bedding and clothes were in the bathroom because of Amy's vomiting and urinating.

Chris said to Amy, "If you can hear me, squeeze my hand." Amy did not answer; Amy did not squeeze her hand.

Chris said that Amy had had problems at school, that she did not like a teacher. Chris said that for the past few days Bill had had to carry Amy to the bathroom, but at 6 a.m. that morning she had walked into the bathroom under her own power with her mother's assistance.

The Hermansons gave Amy a chocolate milkshake at 6 a.m. It was the last food she had.

Sellers tried to give Amy water. She used a straw to place a drop of water between her cheek and her gum. As I recall, one drop was all Sellers could put in her mouth (because she was in a coma, though Sellers didn't use that word).

Amy's cat Daisy jumped up on Amy's bed and snuggled up to her. Sellers talked to Amy about her "little friend" coming to see her, but Amy did not respond.

Chris left the bedroom soon after Sellers arrived and went somewhere else to get some rest. Frederick Hillier, practitioner, church lobbyist and public relations manager, also left the room, leaving Sellers alone with Amy.

Nurse asks for ambulance-- Boston called first

Sellers watched the pulse in Amy's throat getting weaker and weaker. Her breathing was very still, low, and weak.

She saw Amy vomit the milkshake from her nose and mouth. She went to Hillier and said, "I have to call an ambulance." Hillier told her that he would have to call Boston first. While he called Boston on one line, Chris called her Christian Science teacher on another line.

When Hillier got off the line, he gave permission for her to call the ambulance. "It was perhaps only two minutes, but it seemed like twenty," she said of the delay.

As noted in previous testimony, the paramedics reached the home five minutes after Sellers called, but estimated that Amy had been dead for twenty minutes. She was probably already dead by the time the vomit came out.

Court hearing to order medical care

When Sellers left the home after 2 p.m., she saw Bill Hermanson coming home. (He was returning from the court hearing which was supposed to order medical intervention for Amy.)

Deno asked her, "During the entire time that you were with Amy, did you ever see Amy move?"

Sellers: "No."

Deno: "Did you ever hear Amy speak?"

Sellers: "No."

Deno also established that Sellers was in the bedroom with Amy from 10:50 until after 1:48 when Sellers called the paramedics.

Courageous testimony

Nurse Sellers was an electrifying witness. The entire defense table sat rigid, their bodies bent toward her and eyes focused on her throughout her time on the stand. She was pulverizing them, and they knew it. I marvelled at her composure facing all her fellow Christian Scientists. "This is

the end of her career," I whispered to a local CHILD member. She was a beautiful woman--the classic Christian Scientist for whom the religion has worked. She was 72 years old, but looked 50. Her mother was 102 and still going strong with Christian Science. The impeccable details of her memory came forth effortlessly. She was very sure of her testimony, but not at all overbearing, punitive, or biased. All the jurors seemed to be taking notes as fast as they could move their hands.

Deno asked her if she had wanted to call an ambulance before she voiced her feelings to Hillier. She said she didn't think so.

Deno asked if she was at all times concerned about Amy's health. She agreed that yes, she had been highly concerned about it during her entire stay at the Hermansons' home.

Credentials challenged

Christian Scientist Dart got up to cross-examine. I whispered to my friend, "He'll try to prove she doesn't exist." Sure enough, he asked her if she was really a church-accredited nurse, how long she had been one, if practitioners were accredited by the church, if she often worked in conjunction with practitioners, etc. He asked if she was listed by the church as an accredited nurse; she said she was and had graduated from the church's training program for nurses in 1974.

Then he walked dramatically to the other side of the courtroom, picked up a magazine, and returned to her. He announced that it was the September, 1986, issue of *The Christian Science Journal* and asked her if her name was listed in it. She said she was listed in later issues. He pressed her obnoxiously, "But you aren't listed in this issue, are you?"

California listing overlooked

She said she was still listed under California in that issue because she had recently moved to Florida from California.

Dart had mud on his face again. She was obviously a genuine Christian Science nurse or the Hermansons would not have contacted her.

He asked her if the Hermansons were relying on Christian Science to heal Amy. She said she assumed they were.

She had a British accent. I wondered if she had practiced CS nursing in Britain or Canada where the church tells parents to get seriously ill children to a doctor. Dart could possibly have drawn on that difference to prove she had assessed Amy's condition and what to do about it by foreign, irrelevant assumptions.

Also, if Dart had been well-prepared, he would have certainly cross-examined her on her call for the paramedics. The tape recording had her saying to them, "A little girl wasn't well and has just taken a turn for the worse." Under Hillier's thumb, she had parroted the Christian Science party line that all the members die in the blink of an eyelash. But Dart didn't mention her description on the tape.

Prosecutor alerted by omission

When the defense submitted their witness list in the fall of 1988, Deno noticed that the nurse's name was not on it. With that clue, he called her in and she told what had happened.

Deno told me he planned to call her as a witness because he needed someone who was there during the last hours of Amy's life. He said he didn't think she would lie, but if she did, he wouldn't be able to repair the damage because he could not impeach the credibility of his own witness.

Deno considered her the star witness, and she was. She convicted the Hermansons single-handedly. She was a Christian Scientist who would not lie or hedge, even with her own church, in a sense, on trial.

Did Amy choke to death?"

The state's last witness was Dr. Malone, a professor of pediatric endocrinology from the University of South Florida in Tampa. Of course, he had high credentials on juvenile-onset diabetes. Mack had chosen him for his fatherly manner. He used his hands a lot. He came down to Sarasota regularly and treated diabetic

children. He testified that diabetes could be treated successfully with insulin up to the point of death.

Booth cross-examined. "Did the vomiting cause her death. . . ? Didn't you state in your deposition that she could have lived a day or two longer if she had not choked?" Malone conceded the latter point.

The state rested its case, and the jury was dismissed for the day.

Judge weighs call for directed verdict

Booth then called for the judge to direct a verdict of not guilty. He cited *U. S. v. Ballard* as proof that the jury cannot be allowed to decide whether religious beliefs are true or false. Booth said the state had failed to prove a *prima facie* case that the defendants were not entitled to the religious exemption.

Booth claimed that all the defense had to show was that they were following religious beliefs in withholding medical care and that the state's own witnesses had conceded that. He said Chris and Bill had nothing besides their religious beliefs that they could offer as a defense.

Judge Dakan turned to the state and, to my perception, tried to rip the case apart. "What is the culpable negligence that the state has established here? What are you trying to prove? What does the evidence show? I guess the state has produced a medical expert [Malone] who said most parents recognize serious symptoms one or two weeks before death would occur." It sure sounded to me as though Dakan was ready to throw the case out, but he deferred on the motion for dismissal until Monday.

Alternate plans to get barred testimony in

Barely noticing the testimony actually given the jury on Friday, the press had a field day with the state's "blunder" that kept Christman's testimony about the parents having dental work and Cesarean sections away from the jury. Deno and Mack told reporters they would attempt to get this information in through rebuttal witnesses or by cross-examination of the Hermansons. That

afternoon they subpoenaed the medical records of Chris Hermanson, so the defense knew full well what would happen if Chris took the stand.

I never thought these incidents were as damning as the state and the press did. I knew that Christian Science dogma allowed dental care and a medical doctor's attendance at childbirth. But it would have been hard to explain to the jury why Christian Science theology won't allow insulin for a diabetic child but does allow the filling of teeth.

Time for the defense

On Monday, April 17, there was Mary Jane Sellers sitting placidly on the defense side of the audience. Didn't she know what she had done to her fellow Christian Scientists?, I wondered. Had she turned back into a Christian Science zombie?

Both the state and the defense stipulated that the Christian Science religion is a well-recognized religion within the state of Florida. Possibly the state could have forced higher courts to scrutinize the constitutionality of Florida's religious immunity law if the state had refused to concede this point. The state could have argued that the religion was not "well-recognized" because the term is meaningless and because the state has no business determining which religions are well recognized and passing out special privileges to them. But given the reluctance of Florida's conservative courts to challenge anything legislators do, it would have been a risky strategy and would have subjected the jury and us to the Christian Science church's forte--parading their respectability.

"The defense rests"

Then came a surprising development. Booth announced, "The defense rests." The only witness they ever put on was Barbara Fleck.

The jury was excused and there was a recess. The defendants and their supporters were ebullient. Potential defense witnesses who had flown in from several states and had not been allowed to attend the trial hitherto came in. Nathan Talbot, chief spokesman for the church, and several others hugged and kissed the

Hermansons. Amy's parents, who had sat stoically through the most grisly details of her illness and death without a twinge of emotion, were now grinning broadly. They were convinced they had won.

Laws encouraged parents' actions

Booth argued again that the judge should direct an acquittal. Booth said the facts that the Hermansons were Christian Scientists and that they were relying on spiritual means for healing their child had been well established. He pointed out that Florida courts can even appoint a Christian Science practitioner to treat illnesses.

The state, said Booth, has told Christian Science parents that they can safely rely on their religion. The law does not forbid what the Hermansons did; it specifically encouraged them.

Conditions for immunity cited

In response, Deno argued that the law granted religious immunity only on condition that a sick child getting spiritual treatment be reported to CPS. Since the parents and Christian Science officials had not reported Amy's illness, Deno argued that the parents were not entitled to immunity from prosecution.



Bill Hermanson

Specifically, Florida law 827.07(2)(d) says the following:

"A parent or other person responsible for the child's welfare. . . legitimately practicing his religious beliefs, who by reason thereof does not provide specified medical treatment for a child shall not be considered abusive or neglectful for that reason alone, but such an exception shall not: a. Eliminate the requirement that such a case be reported, b. Prevent the department from investigating such a case, or c. Preclude a court from ordering, when the health of the child requires it, the provision of medical services by a physician. . . or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization."

Legislative intent examined

The legislators had said on a tape that they intended to create a defense to felony child abuse when they passed the religious immunity law in 1975. In 1981, they had moved the religious immunity law from the criminal code to the juvenile code, which perhaps showed some second thoughts, but they had not created a separate definition for felony child abuse. It must be taken from the juvenile code to which the religious immunity law was moved. For whatever reason, the judge had ruled that the religious immunity law did offer a defense to the criminal charges against the Hermansons.

But surely the legislature did not intend for Christian Science children to die of untreated diabetes. It had, perhaps more clearly than any other state, tied religious immunity to a reporting requirement so that the state could get timely medical care for the child.

The judge, however, was indignant. "That's the first time I ever heard this requirement in all the many years this case has been around," he fumed. There was no evidence that the Hermansons had impeded a CPS investigation or court order, while the reporting related to juvenile court proceedings and was irrelevant to a criminal case, he claimed. (Of course, he was the one who had ruled that they could use something from the

juvenile code as a defense to criminal charges in the first place.)

The meaning of "legitimately" emphasized

Deno brought up the word "legitimately" in the phrase "legitimately practicing his religious beliefs" and argued that it meant "lawfully," not just "conscientiously" or "sincerely."

Then the parties haggled over whether the Hermansons were being accused of culpable negligence, willfulness, or both. Booth argued that willfulness meant "with bad purpose." He also told about a Florida Supreme Court ruling that had just come down relating to a woman who left babies in a car for three hours while she went to a motel room with her boyfriend. The temperature in the car reached 108 degrees and the babies died. But the high court had overturned her conviction and said she was not guilty of culpable negligence. Booth said if that wasn't culpable negligence, then the Hermansons' actions couldn't possibly be culpable negligence. Booth said culpable negligence involved a "gross and flagrant disregard of human life." He said, "You can't be guilty of culpable negligence when you're doing an act permitted by the laws of Florida."

The judge then made his ruling. He summarily declined "the state's novel argument that the reporting requirement should apply" because "that requirement goes primarily to the duty of those who have reasonable cause to suspect that a child is abused or neglected."

Case not dismissed

But the judge refused to dismiss the case, citing as authority a case neither party had mentioned: *State of Florida v. Nasra* from the 1970s.

The defendants were stunned. "Well, let's get right on with [jury instructions] then," Booth said. The parties retired to the judge's chambers to argue over jury instructions.

I spoke with Patrick Deering, an Assistant State's Attorney. He was convinced the defense had decided not to put on the defense so that the facts of the Hermansons' use of medicine could

not be put before a jury. I felt that, even beyond that issue, the defense attorneys knew that Christian Science sounded crazy and they were going to have a hard time explaining it to the jury.

The church had prepared a videotape about Christian Science to show the jury. Pat had viewed it and reported to Deno that it had no religious content. It was full of shots of the elaborate architecture and opulent decor at church headquarters in Boston. It had several minutes of *Christian Science Monitors* spewing out of the printing press. It showed people singing. But it explained virtually nothing about the church's beliefs and certainly didn't explain why people should withhold insulin from a dying child. In my view the omissions were deliberate.

State not allowed to cite Florida Constitution

I waited in the State's Attorney's office. When Deno returned after hours of jawboning with the judge, he was exhausted. He said the judge prohibited any mention of the ambiguity raised by the phrase "for that reason alone." Dakan also ruled that the religious defense was not an affirmative defense that the defense had the burden of proving, but that the state had the burden of disproving. In other words, the state had the burden of proving that the Hermansons were *not* practicing their religious beliefs when they withheld medical treatment from Amy. Finally, Dakan prohibited telling the jury about Article I of the Florida Constitution which stated: "Religious freedom shall not justify practices inconsistent with public morals, peace, or safety." Statutes are supposed to derive their authority from the Constitution, but not in Dakan's courtroom apparently. All afternoon Deno, Mack, and several other prosecutors met, trying to figure out what was left to stand on for closing argument.

Tuesday morning my hosts, the Perino family, and I came early. I told Polly she deserved the best seat in the courtroom. Until then, Polly had not been able to attend the trial and I was not allowed to tell her about it because she was listed as a rebuttal witness. It was extremely frustrating to be staying right next door to the

Hermansons, to come from the courtroom each day emotionally drained by the proceedings, and not to be able to tell Polly a word about what had gone on.

Back in 1986 the defense had hired private investigators, who, among other things, asked Sarasota residents for information about Rita Swan. Much of the questioning at Polly's deposition focused on what she knew about me, and Chris Hermanson told some people that the charges would never have been filed if it hadn't been for me.

The rights of a dying seven year old

Deno spoke very softly for fifty minutes. He began by "humbly and deeply" thanking the jurors for their patience, conscientiousness, and sacrifices. He said the case was about the rights of a seven year old child who was assuredly dying of diabetes day by day.

Deno explained the third-degree murder charge. He drew an analogy to killing somebody in an auto accident while driving a stolen car. It was called third-degree murder not because the defendants intended to kill, but because death occurred during the commission of another crime.

Deno stuck with the culpable negligence theory rather than willfulness. He said that the Hermansons by culpable negligence deprived Amy of necessary medical care and in so doing caused great bodily harm. Culpable negligence must be gross and flagrant pursuit of a course of conduct that defendants must have known or reasonably should have known was likely to cause death or great bodily harm.

Culpable negligence argued

He summarized the testimony of the witnesses. Many had known she was seriously ill. He concluded, "These are people who had brief contact with this child, not parents who saw this child four, six, eight hours a day."

He showed large photos of Amy's emaciated body and said, "Who but a parent would know?" And, "This is culpable negligence."

Deno emphasized the word "legitimately" as meaning "lawfully" and distinguished it from "sincerely." He said it was up to the jury to decide whether the Hermansons had legitimately practiced their religious beliefs.

Church authorities called the ambulance

"I'm sure the Christian Science church holds the life of a child to be sacred. The needless death of a child conflicts with the tenets of the Christian Science church," Deno argued. "Mary Jane Sellers, this expert in Christian Science, said she had to call an ambulance. Another expert in Christian Science, the practitioner, agreed with her.

"If they could call an ambulance, then the parents could have called an ambulance much earlier. They knew it was diabetes.

"As we grow older, we tend to forget what it's like to be a child. Amy had her own world with books, toys, and dolls. She was incapable of choosing for herself whether to live or die. These parents were her heroes."



Amy's day in court

"The defendants are not relieved of their responsibilities as parents because they are Christian Scientists. If the defendants were legitimately practicing their religious beliefs, they would have called a doctor.

"This trial is about Amy Hermanson, and this is her day in court."

The jury looked totally absorbed in everything Deno said. Donna Reed cried. Chuck Perino whispered that the jury was begging Deno to give them something to convict with.

Closing arguments of defense

At 10:08 Edward Booth began his closing argument for the defense. Booth was a talented attorney. Through the trial he had been on his feet with a plethora of case law and long-winded rhetorical objections, but always maintained a soft Southern manner. For the jury he had lots of patriotism.

"We have reached the stage in this case when it is my privilege to speak to you on behalf of Chris and Bill Hermanson," he began sonorously. "It would be unseemly of me and I would be remiss in my duty if I didn't thank you. Upon you depends the fate of Chris and Bill and the fate of others who are bound to them." A long rhapsody on the glories of the jury system followed.

"This is not a pleasant case. I told you it would touch your heartstrings. It would raise your emotions.

"I told you that there are powers in this case. The greatest is the power of God. Second is the power of the people to pass laws. Third is the power of the government. The jury system stands as guard over these fundamental rights."

Jury sworn to uphold religious immunity law

"We told you about the [religious immunity] law at the beginning. Some of you said you were surprised there is such a law. *All* of you said you could follow the law," he reminded them.

"The burden of proof rests with the state. The state must prove that the Hermansons were not practicing their religious beliefs when they withheld medical care from their daughter. The state has the obligation to prove that Chris and Bill were not Christian Scientists. The state has brought out some innuendos. They have told you some things that apparently happened at the very moment of her death.

"Amy was a very sick child. You know that and we know that, but you get different perceptions from different witnesses. She missed only two days of school. [Actually, she missed three days of school plus Tuesday, September 30, the day she died.] Until Monday morning, September 29, Chris and Bill thought they were dealing with an emotional problem.

Legislature's approval

"The state calls them child abusers. The state says they sat the child off in a corner and did nothing. If parents do nothing, if parents ignore their child, that's child abuse.

"What Chris and Bill did--you don't have to like it, you don't have to approve of it, but can you call it child abuse? Can you call them murderers?

"For something to be culpable negligence, it must be gross and flagrant. You know what gross is. Did they show an utter disregard of Amy? They were caring for their child the best they knew how within their religious beliefs.

"The legislature told them they could do that without fear of being hauled into this courtroom and having the tragedy of losing someone you love compounded by the tragedy of being charged with murder."

Freedom of religion and sincerity

"[Religious immunity] is built into the very foundation of this country. It is as old as Plymouth Rock or nearly as old."

"Plymouth Rock was 1975?" I wrote to Polly on my yellow pad.

"According to the judge's instructions, sincerity is the only factor to consider," Booth went on. "And the state has the burden of disproving this sincerity. The religious defense is not even an affirmative defense.

"It was a devastating time for Amy. After being up all night with her beloved daughter, Chris had fallen asleep, and Bill was at the courthouse. They had turned over the care of Amy to

Christian Science experts. You heard the nurse Molly Sellers say that she did not want to call an ambulance before Amy vomited. You heard Dr. Malone say that Amy could have lived one or two days longer if she hadn't vomited."

Doctors never sued?

"Medical science has its bad results too, but you don't see all the MDs dragged into the courtrooms. You heard Dr. Wilson tell about a man right here in Sarasota who had diabetes that wasn't diagnosed before his death.

"Some people think that attorneys just go home at 5 p.m. and have a good time. But I can assure you that at 2 a.m. this morning I was awake and thinking about you and thinking about Chris and Bill and what's going to happen to them.

"This is the kind of case that tests severely the fair-mindedness, the open-mindedness of the American jury. I think it was you, Mr. Purdon, who said if the law is so clear, why are we here?" (In other words, why was the case even given to the jury, considering Dakan's ruling on the religious immunity law? A good question, I thought.)

"We're fortunate in America to be able to live with freedom for all religions. I can see spires of all the churches in this community from my hotel room." He listed a whole bunch of denominations and said he was an Episcopalian; my Jewish friend next to me complained that he hadn't mentioned a synagogue.

"All of us have different religious beliefs and practices, and they are respected by the law. When we kneel down to pray, and we lift up our eyes, we recognize that others understand God differently than we do, but we are all brothers and sisters in a timeless communion with God.

Parents good Christians

"You the jury should say, 'We know you are good faith Christians; we know in our hearts that the way you cared for Amy was not gross and flagrant; it did not show an utter disregard of human life.'"

His speech was exactly 60 minutes long, delivered throughout in his soft Southern gentleman-type style. One of the male jurors looked bored--he sat back, drew his head back, and rubbed his chin. One of the women jurors stared coldly at the Hermansons throughout Booth's entire speech; she never looked at Booth.

Beliefs not on trial

Deno had the last word as he spoke for another eight minutes. Religious beliefs are not on trial and not the issue, he said. The issue is that the Hermansons had a duty to act reasonably.

"The point is not what time Nurse Sellers made the call to the medics. The point is that she could make the call at all. Christian Science permits them to call a doctor, and therefore depriving a child of medical care is not the legitimate practice of religious beliefs.

"As for the argument that Amy might have lived one or two days longer, I suppose she might have lived one or two days longer in a coma."

The jury instructions

The jury was sent out about 11:45 after Judge Dakan read his instructions to them. The following was Dakan's instruction on the religious immunity law:

"It is a defense to Child Abuse and Third Degree Murder if parents fail to provide medical treatment for their child because they were legitimately practicing their religious beliefs. An issue in this case is whether the Defendants, in declining to seek conventional medical treatment for Amy Hermanson, were following their religious beliefs. . . .

"You should determine if the Defendants, in declining to provide conventional medical treatment for Amy Hermanson, were relying on their religious beliefs by providing spiritual care through Christian Science.

"I instruct you that the Church of Christ Scientist is a well-recognized religion under the law of Florida.

State must prove they were not following their religious beliefs

"In determining if the evidence shows that the Defendants were following their religious beliefs in caring for their daughter you are not to decide if the Defendants correctly interpreted the teachings of their religion, only whether the Defendants held a sincere belief that the teachings of their religion authorized them to take a particular course of action. Further, you may not question the wisdom or sincerity of the Defendants belief in nor the wisdom or effectiveness of spiritual healing of the Christian Science Church or the basic tenets of that religion.

"As I have explained to you the burden of proof in this case must be met by the State of Florida. Therefore, it is not incumbent upon the Defendants to prove to you by any particular standard of proof that they were following their religious beliefs. The burden concerning this defense is upon the State of Florida to prove beyond a reasonable doubt that the Defendants were not following their religious beliefs in the care of their daughter.

"Therefore, if you find from the evidence that the Defendants relied upon the practices of their religious beliefs in not providing specified medical treatment for their child, you should find them not guilty.

"The State of Florida authorizes a parent's use of a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization in caring for the health of a child.

"I further instruct you that Christian Science is a well-recognized church."

Did parents need permission to call a doctor?

An hour later the jury sent a note out asking if the Hermansons could call a doctor and if they needed their church's permission to do so. The judge wrote back that he couldn't answer those questions for them; they would have to determine the answers for themselves from the trial

testimony. Then the jury ordered lunch.

Guilty on both counts

Before 3 p.m., they returned their verdict: both defendants were found guilty of felony child abuse and third-degree murder. The jury had taken only one vote. They were the ones who said they would follow the law after some thirty said they couldn't stomach a law like that. But when the decision was theirs to make, these jurors spoke out strongly and clearly for Amy.

Mary Jane Sellers passed Deno in the hall. "They all think I'm the villain now," she said sadly.

"Why, ma'm, you shouldn't feel that way. All you did was tell the truth," Deno said.

WHY DID THE CHRISTIAN SCIENCE "EXPERTS" CALL AN AMBULANCE?

Central to the Hermanson trial was why the Christian Science nurse finally decided she should call for medical help and why "Boston" gave permission for her to do it.

The prosecutors had subpoenaed the Herman-sons' telephone records. They knew how many calls went to Boston, Indianapolis, and elsewhere during Amy's last hours of life. Nathan Talbot acknowledged in his deposition that Frederick Hillier had made "several telephone calls" to him the morning of Amy's death, but could not remember what they discussed.

The nurse, however, testified that Boston gave permission for her to call for medical help, and the question remains as to why Talbot finally allowed it after Amy had been in a coma for three hours or more.

Protecting children or church?

My own feeling is that Talbot was motivated not by concern for Amy but by the juvenile court hearing in process to order medical intervention

for her. The church directs practitioners to notify Talbot or his subordinates when a child's illness "is given publicity of any kind." Part of Talbot's job is to assess the potential public relations damage from these cases.

Ironically, what Talbot perhaps did for image purposes became the one thing that convicted the Hermansons of felony child abuse and third-degree murder.

DOES CHRISTIAN SCIENCE FORBID MEDICAL CARE?

The thorny question of Christian Science strictures against medical care that the press has asked me so many times loomed large in the Hermanson trial.

Last June 17 on *Nightline* Ted Koppel had asked Christian Science spokesman Nathan Talbot about it. Talbot had, of course, replied that there was "no prohibition."

Koppel pursued: "But when you are setting forth guidelines, give me a sense of what you tell the adherents of your church. Do you tell them, by all means, first of all, go and see a doctor? And if that doesn't work, or if for one reason or another the doctor says, 'Look, there's nothing I can do,' then of course you turn to God. Or you turn to God in combination with medical attention. How do you phrase it? How do you put it?"

Free choice

Talbot replied: "Well, actually, the way it works is that the church really does not tell its members. It really is a matter of the individual making his own conscientious choice. It's always been that way with our church."

Koppel declared himself "somewhat astonished" at that news and turned to Arthur Miller, a professor at Harvard Law School, and asked how it impacted on prosecutions of Christian Scientists.

Miller said he believed Talbot was helping the prosecution to insist that the church had no standards or rules which discourage its parents from seeking medical care. The parents can hardly claim a religious defense for their negligence if their religion has nothing to say against getting medical care for sick children.

With Judge Dakan ruling that the Hermansons were entitled to use Florida's religious immunity law as a defense, Talbot had to put a new twist on his *Nightline* position.

Users of medicine depart from Christian Science

In the March 1989 issue of *Church & State* (p.10), Talbot said, "It isn't quite as simple as saying that the Christian Scientist just decides to go to a doctor or decides to go to a Christian Science practitioner. It's true that he has that choice and that the church does not mandate for him which he has to select, but it ought to be said that for a Christian Scientist to choose medical care is really for [him to] relinquish some of the deepest spiritual convictions that he cherishes." He would "depart from the theological teachings that he has come to feel are deeply important to him and that he's come to feel have been more effective than medical care," Talbot continued.

In his deposition (p. 27), Talbot said, "If a Christian Scientist turns to medical care, he is departing from the teachings of Christian Science." He specifically included insulin as "a chemical" that you could not have in conjunction with Christian Science.

In another deposition (pp. 6-7), the following exchange occurred between the state of Florida and Frederick Hillier, who was Amy's last practitioner and also CS Committee on Publication for Florida.

State: "Are there certain. . . ailments or illnesses or treatments that a Christian Scientist can go to a medical doctor for treatment?"

Hillier: "No."

State: "Okay. May a Christian Scientist seek medical treatment from a medical doctor and still remain a Christian Scientist?"

Hillier: "No."

CHURCH MEDIA BLITZ

For the Christian Science church, Amy Hermanson's death provided a good opportunity for them to spread their gospel. After her parents were indicted, they put up large signs in Sarasota advertising their churches and services. They ran several quarter page ads in newspapers beginning as follows:

"Front page. Christian Science

As far as we can remember, it's the first time they've gone together in the 65 years we've been in Sarasota.

The media attention focused on Christian Science healing is new. But the healing isn't."

The ads went on to claim that Sarasotans might "want to know something more about how their long-time neighbors approach healing" and invited them to order Christian Science literature.

After the conviction, Nathan Talbot said they would just have to do a better job of sharing spiritual healing with the public. On May 9 the church ran full-page ads in the *Sarasota Herald-Tribune* and *Tampa Tribune*.

The ads claimed that "federal laws have long accommodated this method of healing" and that "since the 1900s insurance companies have provided for Christian Science treatment."

The ads also claimed that over 50,000 children are lost from disease each year under the best medical care society can provide, that more than a hundred other children have died of diabetes since Amy died, that none of those children died under Christian Science treatment, and that none of their parents were being prosecuted. (The same day the ad ran a Christian Science child died in Minnesota of untreated diabetes.)

Claims of effective healing

According to the writers, "a survey of some 7,000 healings through Christian Science treatment

published in the last fifteen years shows that over 1,400 cases, including many of children, were medically diagnosed. The diagnosed conditions that were healed entirely through prayer included cancer, polio, pneumonia, acute appendicitis, diabetes, heart disease, blindness, meningitis, degenerative arthritis, leukemia, multiple sclerosis, kidney disorders, gangrene, and epilepsy, to name only a few."

Dr. Malone told the prosecutors that there was no record in medical literature of a case of juvenile-onset diabetes ever being healed. The wording above does not actually say that Christian Science has healed juvenile-onset diabetes. In any case, Nathan Talbot will not show his survey data to the press.

An unanswered question was why the church did not put on a defense that members have probably paid over a half million dollars for if the church is really so eager to "help society understand" their "wonderful gift," spiritual healing.

WHAT OF THE FUTURE?

The long-range impact of the Hermanson conviction is unclear. Regrettably, the public posture of church members has been dominated by a tone of moral superiority. The day after the verdict Bill Hermanson spoke at his local church and urged the congregation to "forgive" the jurors because "they don't know they made the wrong decision."

National church spokesman Nathan Talbot said the verdict would unify the faith. "It will have just the opposite effect of what doctors and prosecutors are seeking, which is to intimidate Christian Scientists and scare them away from the spiritual healing practice that is at the heart of our beliefs," he claimed.

"I think Christian Scientists will be very careful not to draw final conclusions because of today's verdict," Talbot said. The emphasis suggests a message to continue withholding medical care from children.

As he has for years, Talbot complains of misunderstandings and saddles the public with the obligation to understand him. According to Talbot, the verdict "says that society has a lot to learn about spiritual healing."

It is worth pointing out that the Hermansons and other Christian Science defendants were offered probation if they would plead guilty and agree to obtain medical care for their surviving children. Their lack of interest in these offers suggests a determination to be symbols for their cause.

Florida's religious immunity law may be changed because of the trial. Several legislators called for a study and said they had not intended for children to be deprived of lifesaving medical care. State Senator Jack Gordon, chairman of the committee that first dealt with the law, recalled the Christian Science church's presentation. "I'm sure that the example they gave wasn't letting a kid die of juvenile diabetes. I'm sure it would never have been passed on those grounds," he said. Five Florida newspapers have called for repeal of the religious immunity law.

Furthermore, after the Hermansons file an appeal of their conviction, the state will cross-appeal some portions of Dakan's ruling. Hopefully, the laws can be clarified so the next child will have more rights.

The death of Amy Hermanson shows the need to remove religious exemptions from parental duties. For too long bureaucrats and legislators have believed that reporting and court orders would be adequate to provide medical care for children associated with faith-healing sects. But Amy was seen by dozens of non-Christian Scientists. They knew she was ill, but not how ill, and they did not report her case in time to save her life.

Quotes taken from *Chicago Tribune*, April 20, and *Sarasota Herald Tribune*, April 19 and 20.

Life, Death, Religion and Law

Religious freedom shall not justify practices inconsistent with public morals, peace or safety. Constitution of the state of Florida, Article I, Section 3.

Last week, a jury in Sarasota found William and Christine Hermanson guilty of third-degree

Apply child abuse punishment equally

murder and child abuse in the death of their 7-year-old daughter. Confronted with legal and ethical dilemmas the jury determined that public morals demand a child's right to medical care should supersede the right of

her parents to exercise their religious beliefs on the child's behalf.

The case has drawn national attention because it involves the conflict of strongly held values and beliefs.

The Hermansons are Christian Scientists. Conventional medical treatment is contrary to the views of the religion's founder, although not expressly prohibited by the church. The Hermansons did not seek any treatment for their daughter until she was on the verge of dying. Then they summoned a Christian Science "practitioner" and a Christian Science nurse to their home. The nurse recognized the severity of Amy's condition and had an emergency medical services ambulance called.

It was too late. Amy died Sept. 30, 1986. Expert witnesses testified she could have been saved by basic, conventional medical treatment.

The Hermansons did not testify on their own behalf and offered only one witness. Their defense was based solely on a state law that gives protection to adults who withhold medical treatment from their dependents for religious reasons.

Florida Statute 415.503 (f) holds an adult responsible for child abuse if that person "fails to supply the child with adequate food, clothing, shelter or health care, although financially able to do so or although offered financial or other means to do so; however, a parent or other person responsible for the child's welfare legitimately practicing his religious beliefs, who by reason thereof does not provide specified medical treatment for a child, may not be considered abusive or neglectful for that reason alone."

As the Hermansons' appeal of their conviction winds its way through the courts, the legislature ought to consider that law.

Should the state exempt parents from liability because of their religious beliefs? Should the law attempt to prohibit the state attorney from prosecuting wrongful deaths arising from child neglect because the neglect grows out of

religious beliefs?

No. Rescinding the law would not restrict religious freedom. It would not stop parents or other individuals capable of making their own decisions from practicing the tenets of their religion. Nor would it preclude defendants from using their federal and state constitutional rights to religious freedom as part of their defense.

But it would strike down what appears to be a religious exemption from what society considers proper behavior. There should not be one standard by which to judge child abuse or any other crime as applied to members of particular religious organizations and a different standard for everyone else.

The state attorney must be able to assess the evidence in each potential crime brought to his attention and decide whether to prosecute based on the case's merits.

In this instance, the accused are intelligent people who had financial resources. They had been urged to seek conventional medical care. Their daughter did not suddenly lapse into illness. Her condition deteriorated slowly. Those circumstances were relevant to the jury's decision. They were proper considerations in a courtroom.

If the state law had been applied as the defense urged, that information would never have been made known and the Hermansons would have been granted immunity from prosecution.

"Is it fair to brand this mother and father as murderers because they put their faith in God?" defense attorney Edward Booth asked jurors during his closing argument.

"The issue is not whether or not they loved Amy. The issue is not what their beliefs are . . . The issue is the rights of the child, a 7-year-old child," said Assistant State Attorney Deno Economou.

The jurors reflected the opinion of a society that reveres freedom of religion but feels that the state should not intentionally and explicitly erect a protective shield around people with particular religious beliefs.

Laws prohibiting child abuse, murder and any other crime should be applied equally, regardless of a person's religious beliefs. Florida Statute 415.503 (f) runs contrary to that position and to Section 3 of the Florida Constitution as well.

The defense claims the Hermansons are protected by law from prosecution and conviction. The state attorney maintains the law was not intended to allow children to die. No one knows yet whose interpretation will prevail in the appeals process.

But we believe there should not be such a law.