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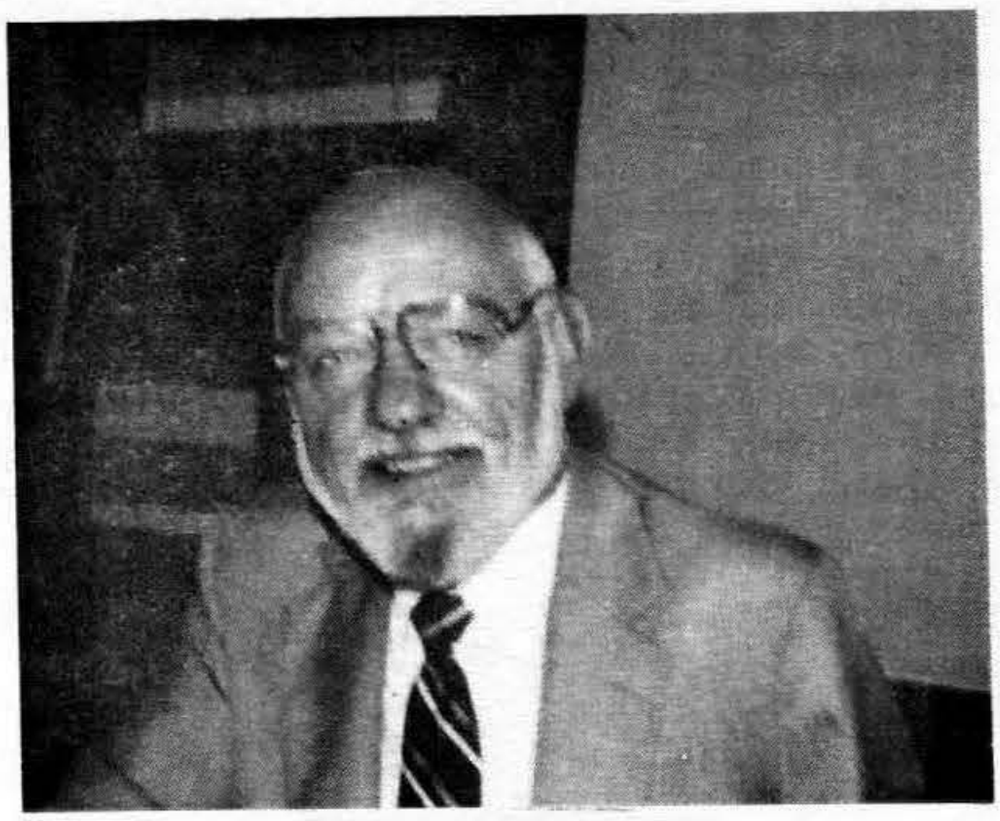

JUDGE DEAN JAMES
Photo courtesy of Naomi Twining

INSIDE

ABOUT CHILD, INC.

CHILD was founded for the purpose of opposing child abuse and neglect associated with religious practices. CHILD believes that children have a Fourteenth Amendment right to equal protection under law. It therefore opposes all religious exemptions from parental duties of care.

Membership in CHILD is by application and is open to those who agree that children are entitled to health care of proven value. Dues are $15. a year.

SECOND OHIO JUDGE RULES RELIGIOUS EXEMPTION UNCONSTITUTIONAL

On April 27, Mercer County Circuit Court Judge Dean James ruled Ohio's religious exemption in the penal code unconstitutional, both because it creates "an impermissible relationship between the church and state" in violation of the First Amendment and because it denies children equal protection of the law in violation of the Fourteenth Amendment.

Before a courtroom crowded with reporters, Judge James summarized the facts of the case before him. Steve and Diane Miller were parents of Kimberly Miller, age two. Kimberly became ill five to seven days before her death. She suffered from diarrhea, vomiting, and a high temperature. The Millers followed their Faith Assembly beliefs that she had been cured two thousand years ago by virtue of the sacrifice of Jesus Christ for mankind. They held that prayer alone would cure her and that seeking medical care would be sinful. In her final days, Kimberly was unable to take small amounts of water and suffered severe respiratory distress.

The causes of her death were bronchopneumonia and trachebronchitis. Doctors testified that medical treatment was successful against such illnesses in 99% of the cases.

Parents violated duty of care

The court found that the Millers "recklessly created a substantial risk to [their child's] health and safety... by violating a duty of care and protection." The court found them guilty of child endangerment by the first sentence of the statutory definition.

Judge James also ruled that the defendants had proved that they qualified for the religious exemption given to those who "treat" their child's "physical illness... by spiritual means through prayer alone" as described in the second sentence. The judge "reluctantly" dismissed the charges against the Millers.

Future liability

Judge James warned all parents in his jurisdiction that from now on they could be found guilty of both child endangerment and manslaughter if they deprived their children of necessary medical care. The Millers did not appear for the hearing, but the judge instructed their attorney to warn them of their potential liability.

Equal protection for parents

The judge raised the interesting point that the religious exemption also denies equal protection to parents. This Court, he said, has heard several divorce cases in which faith healing dogma was a crucial factor. He set forth a situation in which the believing parent dominated over the non-believing parent. "The believing parent could have the protection of the second sentence and the children could die because of the lack of medical attention. The non-believing parent could be guilty of violating the first sentence of that Section because that parent did not have the protection of the second sentence of that Section even though that parent wanted to obtain medical attention for the children but was not strong enough to overcome the dominant parent." It is obvious, he concluded, that such parents are denied equal protection.

"It is the hope of this Court that these types of cases will not have to be pursued by the prosecution in the remaining eighty-six counties."
—Mercer County Circuit Court Judge Dean James, Celina, Ohio

Plea to Ohio legislature

Judge James concluded with a moving plea to the Ohio legislature: "It is the hope of this Court that these types of cases will not have to be pursued by the prosecution in the remaining eighty-six counties."

On March 11 CHILD submitted a 24-page amicus brief petitioning the court to rule the religious exemption unconstitutional. We will send copies of it and the judge's ruling for $4.00 to cover handling and postage.

Four rulings on basis of children's rights

In 1984, Coshocton County District Court Judge ruled Ohio's religious exemption unconstitutional. Parents in his county had allowed their thirteen-month-old son, Seth, to die of pneumonia and pericarditis without medical care because of their membership in Christ Assembly. The judge dismissed manslaughter charges against them, but declared that "a new standard of parental duty" now prevailed in his jurisdiction. The parents had also lost their first child five hours after an unattended home delivery because of mucous in the baby's throat.

Several courts have ruled religious exemption laws unconstitutional because they were worded as a privilege for certain types of religion. But, more importantly, at least four courts have now ruled religious exemptions unconstitutional because they violate the equal protection rights of children. They make one group of children second-class citizens. The ones outside of Ohio were the Larimer County District Court in Colorado and the Mississippi Supreme Court.

WHAT WILL IT TAKE IN OHIO?

HB63, Representative Paul Jones's bill to repeal religious exemptions from child neglect and endangerment charges, passed his Health Committee by a vote of 10-5. A month ago, however, Jones polled the House and found that a majority would not vote for the bill.

The reason is the lobbying muscle of the Christian Science church against HB63. They have retained Ray Sawyer, a former aide to Governor Celeste, as an extra lobbyist against the bill. They have run quarter-page ads in major state newspapers. And they have sent hundreds of letters against the bill to every legislator.

Now that a second Ohio district court judge has ruled the penal code religious exemption unconstitutional in his county, can legislators muster the will to stand up against the Christian Science church? After the first judge found it unconstitutional in 1984, the Columbus Dispatch ran a

lead editorial declaring that the General Assembly had "a high moral responsibility to act quickly to change the law."

One wonders if the legislature thinks that a child should die in each of the remaining 86 counties of Ohio before the law is removed throughout the state?

Since our last newsletter, the Ohio chapter of the National Association of Social Workers, the Ohio Civil Service Employees Association, the Ohio Federation of Police, and the Ohio Department of Health have joined a dozen other distinguished organizations as proponents of HB63. Governor Celeste supports the bill.

Despite the massive support for HB63 and the urgent need for it, will legislators still yield to the wishes of the Christian Science church and retain a law that two Ohio judges have found unconstitutional? At this writing, we do not know.

We are grateful to the press, which has given this battle the high priority it deserves. Today, Good Morning, America, The Chicago Tribune, wire services, and dozens of other reporters have carried material about the tragic deaths of Ohio children because of religious exemption laws.

CLASS ACTION SUIT FILED AGAINST ORAL ROBERTS CORPORATION

A class action lawsuit has been filed in New Orleans federal court against the Oral Roberts Ministry Corporation on grounds of interstate fraud and deceptive practices over the public airwaves.

The suit argues that separation of church and state is currently violated because the FTC, FCC, FDA, and SEC regulations governing private corporations are not equally applied to religious corporations. The suit also argues that religious corporations do not have First Amendment rights of "freedom of religion" and are civilly liable for secular misconduct.

Further information may be obtained from plaintiff Douglas Coggeshall, 1913 Green Oak Drive, Gretna LA 70056.

COURT SAYS RELIGION IS ISSUE IN CUSTODY CASE

A judge properly considered a mother's activities as a Jehovah's Witness in denying her custody of her daughter, a Florida appeals court ruled April 28 in a 2-1 decision.

Custody of 4-year-old Rebecca Mendes was awarded to her Roman Catholic father. The mother was also banned from exposing her daughter to any religion other than Catholicism.

Two psychologists and a psychiatrist testified that Rebecca might suffer problems if forced to observe customs of her mother's religion, which bans celebrating Christmas, saluting the flag, participating in team sports or accepting blood transfusions.

Rebecca "needs to adapt herself to the mainstream of culture," testified one doctor, Eli Levy. "She is growing up and it is not a country of Jehovah's Witnesses.... I say it is unhealthy for this child to be raised as a Jehovah's Witness."

Bias charged

The dissenting judge, Natalie Baskin, sharply criticized the custody award as based on the opinion of experts who have "personal biases against the mother's religion."

But the father's attorney said Rebecca had been baptized and raised as a Catholic until her mother converted to the Witnesses. Rebecca "pledged the flag, enjoyed birthday parties, and took part in Christmas and Halloween activities.

"Then at some point during the marriage the mother said 'I don't want the child to engage in these activities any more, it's against my religion.'"

The attorney also said the mother's total involvement in the religion was a key factor, for at least five or six days a week, the mother put religious activities ahead of the needs of a young child.

CHILD maintains a file of cases in which religion is a factor in awarding custody of children and articles on the courts' evolving attitudes toward these difficult cases.

The Mendes case was taken from an article in the Sarasota Herald Tribune of April 30, 1987.

FEDERAL GOVERNMENT RESPONDS TO FEARS OF MEDICAL CARE REQUIREMENT

On February 6, 1987, the U. S. Department of Health and Human Services (HHS) released final regulations for its Child Abuse and Neglect Prevention and Treatment Program.

A Notice of Proposed Rulemaking (NPRM) was issued on April 24, 1985, and a period for written public comment on the proposed regulations was opened.

The comments we submitted were published in the fall, 1985, issue of the CHILD newsletter. We complained about HHS's refusal to implement its reporting requirements. Although HHS has advised our Congressman in writing that it requires cases of failure to provide medical care to be reported and investigated regardless of religious belief, HHS has done nothing to implement this requirement. It allows states to retain religious exemptions from child neglect charges and has not asked states to require reporting of religiously-based medical neglect cases.

Complaints

HHS received a large number of letters from people opposed to medical care requirements. Some recommended that the "failure to provide medical care" now listed as part of HHS's definition of "negligent treatment" be reworded as "failure to provide health care." This position sounds like the Christian Science church's determination that their prayer-treatments should be recognized by the state as appropriate "health care" for sick children. Others wanted HHS to adopt a regulation that would "permit intervention on behalf of a child whose parents are practicing their religious beliefs with respect to medical care only if the child "is in imminent danger of death or permanent bodily injury." HHS did not act on those recommendations "because the definitions they addressed were not proposed for change in the NPRM."

HHS summarized their mail on the religious issue as follows:

HHS Summary

"Some commentators expressed concern that State legislators, State agency officials, and some members of the public had interpreted the 1983 final child abuse rule to mean that a physician must be called even when only mild symptoms of illness are apparent, regardless of whether harm or a substantial risk of harm to the child's health is present; that failure to provide any type of medical care to children must be reported, and that the practice of spiritual healing, for example, automatically is considered negligent treatment, and thus must be reported. Many of these commenters feared that State officials were being urged to prosecute all families solely because they were practicing their religious beliefs in the matter of providing alternative or other remedial health care for their children. Other commenters thought that some children from families practicing spiritual or faith healing are being denied equal protection of their rights under the Fourteenth Amendment to the Constitution. As a result, they felt that the Departmental regulations should require reports to the CPS agency of all instances of failure to provide medical care to children in all families utilizing alternative or other types of health care. They also recommended that Departmental regulations require States to repeal "religious exception" statutes. (These are statutes which provide that parents practicing their religious beliefs with respect to providing health care for their children shall not, for that reason alone, be considered negligent parents or be considered to have neglected the child.)

Response It was not, and is not, the Department's position that the rules for this program should be taken as a signal to States to prosecute or require reports on families practicing alternative or other remedial health care except where there is harm or substantial risk of harm to the child's health or welfare. Previous regulations for this program required that State statutes contain a provision that, when parents or guardians provide spiritual or other forms of remedial health care, they should not, for that reason alone, be considered negligent parents. Language to this effect was required in State law as a condition of eligibility for a State grant.

This requirement was deleted in the final rules published January 26, 1983. The Department's action in this matter was based solely on the fact that such an eligibility requirement was not required by the Act and thus should not be imposed by Federal regulation. The regulatory philosophy of this Administration has been to provide maximum State and local flexibility. The deletion of this provision in 1983 reflected our approach to regulating--not a policy shift regarding State protections for parents who practice their religious beliefs.

It is the Department's position that reports of known or suspected abuse or neglect should be made as required by the statute and regulations. Current child abuse and neglect rules contain the following definition of child abuse and neglect:

> 'Child abuse and neglect means the physical or mental injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare.'

The regulations further define phrases in that definition, e.g., 'negligent treatment or maltreatment' is defined to include failure to provide adequate food, clothing, shelter, or medical care; 'threatened harm to a child's health or welfare' is defined to mean 'a substantial risk of harm to the child's health or welfare.'

It is the continuing intent of these rules to allow State to exercise their rights to provide medical services where there is harm or a substantial risk of harm to the child's health or welfare. Further, we want to emphasize that such decisions regarding needed medical care are best made at the State and local levels by the CPS agency and the juvenile courts. The CPS agency has the responsibility to investigate and decide what constitutes 'adequate medical care'; what types of care are acceptable; and what constitutes harm or substantial risk of harm to the child's health or welfare. It is also the responsibility of the CPS agency to work with the juvenile court to assure that medical services are provided where necessary to protect the life and safety of the child."

Ominous trend

The new regulations do not change official policy on our medical neglect issue, but the tone of the HHS response is ominous. The whole thrust is pacifying sensationalized, irrational concerns against medical care requirements.

Furthermore, the HHS response repeatedly describes Christian Science treatment and others' prayers as "health care," though it also states that HHS cannot officially change the "medical care" requirement to "health care" because they did not propose to do so in the 1985 NPRM. It is a travesty to have the federal government talking about "spiritual or other forms of remedial health care." I fear that HHS is laying groundwork to codify what I consider a dishonest euphemism in the next NPRM.

Stalemate

The status quo is a frustrating stalemate. On the one hand, HHS claims that it requires reports where there is "harm or threatened harm to the child's health or welfare." On the other, it does nothing to make this purported requirement apply to cases of religiously-based medical neglect. For eight years it compelled states to adopt religious exemptions and it allows those exemptions to stand. Some sophisticated statutory language would have to be adopted to compel reporting of religiously-based medical neglect in the face of laws saying this type of withholding of medical care is not neglect. Why would mandatory reporters of child abuse and neglect (or anybody else for that matter) report such cases when the laws say they are not child neglect? We have talked with many CPS officials around the country who assume that religiously-based medical neglect is not supposed to be reported and have never been given any direction from HHS to indicate that it should be.

HHS's claim that we asked them to require reporting of every child getting prayer in lieu of medical care and their disclaimer that they wanted reporting only of harm or threatened harm misrepresent what we said.

COURT ORDERS MEDICAL TESTS FOR CHRISTIAN SCIENCE CHILD

On February 25, the California Court of Appeals ruled that the state can order periodic medical examinations for a Christian Science child who had cancer.

The boy, identified only as Eric B., was living in Sacramento when he developed retinal blastoma. His left eye was surgically removed in 1983 with his parents' permission.

Later the parents refused recommendations that Eric receive chemotherapy and radiation and stated that they wanted treatment from an accredited Christian Science practitioner instead.

A judge ruled the boy a dependent child, subject to the care of the juvenile court, and the parents were ordered to submit Eric for regular medical treatment indefinitely.

In December, 1984, his physician advised the county that his court-ordered therapy would terminate in March, 1985 and asked that Eric then enter a two-year observation phase. He explained his recommendation for Eric as follows:

"Assuming he gets to the off therapy point, free of obvious clinical recurrence, we would perform a bone scan, a CT scan of the brain, a spinal tap and bone marrow aspirate to rule out any evidence of residual disease. At that point he would come off therapy and enter an observation phase. This would consist of examinations by us approximately every six weeks, a CT scan of the affected area every four months the first year off therapy, with bone scan every six months. In the second year off therapy these determinations would be done less frequently.... [S]hould a recurrence occur, this would need to be biopsied and an attempt at a full resection made."

Again, the parents balked. "Eric is having Christian Science treatment, and we believe that he should have only Christian Scientist treatment," said his father, Ted B.

The Superior Court disagreed and ordered the examinations after the physician testified that there was perhaps a 40 percent chance Eric would die if nothing was "monitored and nothing done about it."

Spiritual treatment rights claimed

The parents appealed. They claimed that California statutes recognized Christian Science treatment as legal health care for children. They cited a state law calling upon the court to "give consideration to any treatment being provided to the minor by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner thereof."

The judges rejected the parents' claim. They ruled that the statute was "content neutral" for it did not "specify what conclusion(s) shall be drawn from the fact that a minor is receiving 'treatment ... by spiritual means' instead of conventional medical treatment."

The judges also insisted on the right of state intervention even though Eric no longer showed evidence of cancer. "No reason in either law or logic exists to demonstrate why the State, with the substantial interests it is entitled to assert on its own behalf as well as for the child, should be compelled to hold its protective power in abeyance until harm to a minor child is not only threatened but actual. The purpose of dependency proceedings is to prevent risk, not to ignore it," wrote the judges.

The ruling may be the first in California to hold that the state can intervene against the religious wishes of parents where there is only a possibility of harm to the child rather than immediate danger. The court cited similar rulings in other states, however.

The ruling is another indication that the California courts do not accept the Christian Science church's insistence that state law recognizes their spiritual treatments as a legal substitute for medicine. Three sets of Christian Science parents in California are being prosecuted for allowing their children to die without medical treatment for meningitis. The California Supreme Court has agreed to review these cases.

Eric is now six years old and lives in Contra Costa. He is reportedly doing well.

Taken from the Los Angeles Daily Journal and Los Angeles Times, both for February 26, and the judges' ruling.

CHRISTIAN SCIENCE PARENTS CALL FOR DISMISSAL OF CHARGES

A Sarasota Christian Science couple have filed a motion claiming charges against them violate the First Amendment and should be dismissed.

Christine and William Hermanson were charged with third-degree murder, manslaughter, and child abuse after their 7-year-old daughter Amy died of diabetes September 30 without medical care.

According to a factual stipulation filed with the motion to dismiss last week in Sarasota Circuit Court, the Hermansons on Sept. 22 "became aware that something was wrong with Amy ... which they believed to be of an emotional nature." They then contacted Christian Science practitioner Thomas Keller of Indianapolis, who "treated" Amy until her death eight days later.

The stipulation also notes that the Hermansons went to Indianapolis from Sept. 25 to Sept. 29 for a Christian Science conference on healing and left Amy in the care of a Christian Science nurse.

When they returned Sept. 29, they noticed their daughter's condition had worsened and contacted Frederick Hillier, Christian Science Committee on Publication for Florida (a lobbyist and public relations director).

In the motion to dismiss charges, the Hermansons said they "are being prosecuted for the exercise of their religion in violation of the First Amendment." The motion alleges the state is "attempting to punish the defendants for acting in accordance with the laws of the state of Florida." These laws, the motion says, authorize parents to treat their children with methods approved by their religion.

Assistant State Attorney Patrick Whitaker said he would file a written response in a few weeks.

Taken from the Sarasota Herald Tribune, April 29, 1987.

INSURANCE SERVICES OFFICE PROTESTS CHRISTIAN SCIENCE CLAIMS

CHILD has won a tiny victory in our fight against third-party payments to Christian Science practitioners. In each state the Christian Science church issues booklets of quasi-legal guidance for their members. Those we have copies of make the following representation:

"The Insurance Services Office, successor to the National Bureau of Casualty Underwriters and the Mutual Insurance Rating Bureau, has instructed its members and affiliated companies that charges of Christian Science practitioners, nurses and sanatoriums must be recognized in all automobile and liability policies. Therefore, in view of this directive, it is not necessary to obtain a Christian Science rider on automobile insurance and liability policies."

We decided to ask the ISO if they really had so instructed member companies and if so, why. It took us quite a while even to locate the ISO. We wrote them twice and received no answer. Finally, we called and reached an official who denied the church's claim and asked me to write a third time with documentation.

On March 12, the Insurance Services Office wrote the Christian Science church a letter in which they denied that the ISO had told companies to reimburse for Christian Science services and demanded that the church correct this misrepresentation in all their state booklets. As of this writing, the church has not replied to the ISO.

ABA JOURNAL CARRIES ARTICLE ON RITUALISTIC SEXUAL ABUSE

The March 1, 1987 issue of the ABA Journal carries an important article entitled "Are the Children Lying?" by Debra Cassens Moss. It discusses the "bizarre stories" of ritualistic sexual abuse reported by small children in many states and why the court cases against the alleged perpetrators have fallen apart.

THOUGHTS ON SEXUAL ABUSE BY RELIGIOUS LEADERS

In this issue we have several articles about sexual abuse by religious leaders. The recent exposes of Jim and Tammy Bakker's fall from grace as leaders of the PTL club perhaps make them timely, although we did not include them for that reason.

Several points seem important to us. First, we are compelled to say that sexual abuse of children has been committed by clergy of prominent denominations. On June 11, 1986, the CBS West 57th Street program reported that 32 Catholic priests have been arrested and charged with molesting children in the last three years.

The program focused on a priest in Lafayette, Louisiana. His bishop knew he was a pedophile, but just transferred him among parishes frequently and did nothing to correct the problem. The same bishop had also suspended another priest for molesting children, but sent no warnings when that priest moved to another state. Twenty-five families filed suit against the diocese for the damages to their children. The diocese has paid nearly $7 million in settlements, with many suits still pending.

The two main underwriters for the American Catholic church have dropped coverage for sexual damages. All further settlements will have to come from the collection plate. One lawyer for the diocese of Lafayette estimated that the church's liability nationwide may be as high as a billion dollars over the next ten years.

The head of the National Conference of Bishops told CBS that there is still no national policy on pedophiles in the priesthood.

A few days ago a minister who serves 43 churches as an executive of the Presbytery of Central Nebraska was charged with sexual assault of a minor. His church promptly suspended him.

A moral distinction

CHILD will report on injuries to children related to religion regardless of the prestige of the church involved. Nevertheless, we also feel there is a moral distinction to be drawn between injuries that are tied to church doctrine and those that are not. We judge the former more harshly. For example, the deaths of children in faith-healing sects are the logical consequence of the doctrine. These sects tell parents to deny children medical care and do not change their dogma in response to tragedies. The Christian Science church has repeatedly said they have no idea why our son died, which is another way of saying they do not intend to learn. They will not know why Christian Science children die of meningitis ten years from now and they will still be saying they have a scientific system for healing all diseases.

The sexual abuse cases mentioned in this issue run the gamut from religions apparently set up for the purpose of sexual license to groups in which the leader used religious rhetoric to seduce children to groups in which the sexual abuse had no connection with doctrine.

Finally, we will say that denominations in this latter group nevertheless may bear some responsibility for child sexual abuse by clergy. We must ask how carefully candidates for the clergy are screened, whether they are warned against the subtle temptations of power that come with their position, and whether the church moves aggressively and promptly to correct the abuses.

FREE LOVE MINISTRIES PROTESTED

For three weekends in March, protesters carried signs and walked around four communal houses in Sacramento that make up the Free Love Ministries.

Calling itself "Parents against Cults," the group of about a dozen protesters claimed the ministry is recruiting troubled young adults and encouraging them to undertake long fasts and break off ties to their families.

Free Love Ministries and its leader, Jim Green, first became a source of controversy in 1984 when a Christian radio station declined to broadcast the group's programs because of their unorthodox content. The programs warned listeners to prepare for war against satanic forces and demons that were blamed for such things as pride, homosexuality, psychoanalysis, rock music, and fairy tales.

The ministry is also known as Aggressive Christianity Missions Training Corps and has established an "outpost" in Malawi. Members wear uniforms and are given military rank in their spiritual warfare against the devil.

Taken from The Sacramento Bee, March 29 and April 22, 1987.

GOD UNLIMITED/UNIVERSITY OF HEALING LEADER CONVICTED

A Campo, California, religious leader was convicted March 12 of eight counts of molesting a 10-year-old boy who was a member of the group.

Herbert Beierle, 59, president of God Unlimited/University of Healing, was ordered jailed immediately without bail after the jury returned guilty verdicts on all counts.

The San Diego Superior Court jury ruled that the molestations were forcible and that Beierle occupied a position of trust over the boy.

Beierle's theology belongs with a growing number of metaphysical religions. On the witness stand, he spoke of realizing the perfection of God. He said, "God is in me. I am God; God I am."

He runs a correspondence school and has a campus in an isolated area near the Mexican border. He has affiliated schools in Europe. Many followers come to his California campus from Europe. Those who complete the curriculum are ordained as ministers.

Mike, the boy whom Beierle molested, was deserted by his father and psychologically abused by his mother. She reportedly blamed him for every malady that befell the family. The state had placed him in foster care; his mother refused to cooperate with social workers in changing her attitude and behavior so that Mike could be returned to her.

Then Mike's grandmother, a devotee of Beierle, suggested that Mike and his brothers be placed at the God Unlimited campus. Given the impasse with the mother, the Department of Social Services agreed even though the agency was aware that nudism was practiced there.

For a while, the boys seemed to do much better at the campus. Beierle became the first caring parent Mike had known. Mike loved, respected and trusted him deeply.

Beierle coerced Mike into keeping the molestation secret by threatening harm to his brothers. Mike felt responsible for his brothers, both because he was the oldest and because his mother blamed him for family problems.

The state social worker became aware of the molestation six months after the boys were placed on the campus and immediately removed them.

Beierle's followers, of course, remained loyal. A lady in Switzerland gave $100,000. cash for his bail. Several "Reverends" testified that Mike was a discipline problem. Mike's mother testified against him at trial. The only bright spot for Mike is that his natural father now has the boys and is reportedly providing a caring home for them.

Beierle also faces charges of molesting two other boys.

Taken from The Los Angeles Times, March 13, 1987, and conversations with the prosecutor.

BLACK HEBREW ISRAELITES CONVICTED OF CHILD ABUSE

On March 11, Black Hebrew Israelites leader Yesher Israel, 27, and two of his followers were convicted of assault, child endangerment, and weapons possession.

Evidence presented to the State Supreme Court in Kew Gardens, New York, showed that the Black Hebrews were threatening and beating children in order to make them beg on the streets. Prosecutor Santucci described the beatings as "systematic torturing, tormenting, and terrorizing" of children.

The children were stripped naked and beaten with religious statues and "rods" made of bound branches and carved with biblical motifs. Scissors were snapped at their genitals. Tabasco sauce was rubbed on their genitals to simulate blood and into their wounds to leave scars, according to the evidence.

The children told of eating only one meal a day, after evening services about 10 p.m.

The trials of six other co-defendants in the case are pending.

The Hebrew Israelites, also known as Yahwehs, were founded in the 1960s by Ben-Ami Carter, a former Chicago bus driver, who teaches that American blacks are the only true descendents of the biblical tribe of Judah. The group has an estimated 10,000 members nationwide.

Taken from The New York Times, March 12, 1987, et al.

"THE WORK" SETTLES CASE OF CHILD SEXUAL ABUSE

A civil suit against a Connecticut religious group called "The Work" has been settled out of court. The suit charged the sect and its leadership with assault and battery, outrageous conduct, negligent infliction of severe emotional distress, civil conspiracy, and prima facie tort in the case of a child identified by the alias of Mary Roe.

The Work believes that the end of the world is at hand and that its leader, Julius Schacknow ("Brother Julius") has a special mission from God to save mankind. He is to enlist assistants in this "divine work."

According to Ms. Roe's complaint, the leaders intentionally subjected her at a prayer meeting to "covert manipulation and trance induction," causing dissociation and loss of consciousness, and then declared she had been slain in the spirit. The plaintiff also charged that she was subjected to "thought reform" designed to destroy her personality and supplant it with one "mentally, emotionally, intellectually and ideologically" committed to Brother Julius.

In the spring of 1970, Brother Julius told the Roe family that God had ordained a special work of mate swapping between their families. Brother Julius moved in and began sleeping with Roe's mother. Two months later the plaintiff's father ordered Mary to submit sexually to Brother Julius as another facet of "God's plan." The plaintiff was then fifteen years old and a virgin. She became pregnant by Brother Julius and had an abortion at his insistence. She was put through the trauma of sharing Brother Julius as a lover with her own mother and other group members.

From 1973 through 1976 she was kept in virtual isolation as a house servant for Joanne Schacknow. The suit charged that she was "harassed, ridiculed, threatened, berated and humiliated" whenever she tried to assert personal rights or even requested basic things such as proper food, medical care, or socializing with anyone outside of The Work. She has suffered severe emotional anguish, requiring longterm professional treatment, and has been delayed in her education and career.

Scheme charged

The suit charged that Brother Julius's teachings are a scheme to defraud believers and "to obtain money, property, power, sex and self-aggrandizement" for Brother Julius, his wife, and select followers.

Mary Roe was represented by Peter Georgiades of Rothman and Gordon in Pittsburgh. Georgiades has filed several successful suits against Lifespring and other cults.

ATTEMPTED CHILD ABDUCTIONS IN PENNSYLVANIA MAY BE TIED TO CULT

The Paxton Herald reports that attempted child abductions are reoccuring in the Harrisburg area and speculates that the Neo-American church may be behind them.

The church was a "weird combination of religion and sex," according to a prosecutor. It was led by George Feigley, known to followers as "The Master," whom prosecutors said used a "magnetic" personality to lure girls into sexual relations under the guise of religion. His religion was based on sex, astrology, witchcraft, and his concept of the Bible. Girls were told that their baby would be the next "master," if they submitted to ritualistic sex.

In 1967 church leaders were arrested and convicted for possession of LSD and marijuana. Nevertheless, Feigley was able to get his Neo-American church school registered with the state. In 1975, Feigley was convicted in Dauphin County Court of sexual abuse of three young girls at his school. His wife, Sandra, was also convicted of corrupting the morals of a minor. Nevertheless, she continued to work for the state of Pennsylvania as clerical supervisor in the Division of Professional Certification and Credentials Evaluation of teachers from 1969 through 1979.

After escaping from two prisons, Feigley was sent to the penitentiary in western Pennsylvania and his followers moved to a nearby farmhouse. Two of them drowned in a storm sewer, apparently attempting to tunnel an escape route for him.

The deaths alerted authorities to the dangers. Sexually explicit photographs, sex paraphernalia and manuals were seized when followers tried to pass them to Feigley. Warrants were issued to take custody of the children. Three months later five of the children were found in two counties.

One child, Teresa Klinger, was kidnapped and returned to the cult after custody was awarded to her father. Sources said the girl grew in the cult into a sullen teen-ager who wears a bandanna to cover an imagined "third eye" through which she said others could read her mind.

Taken from The Pittsburgh Press, Nov. 19, 1983; The Paxton Herald, Feb. 25, 1987, and conversations with prosecutors.

WHO SPEAKS FOR THE CHILD?

Edited by Willard Gaylin and Ruth Macklin (New York: Plenum Press, 1982). Reviewed by Margaret L. Houy, Assistant Professor of Law, New England School of Law, Boston, Massachusetts.

In our society, with few exceptions minor children are unable under the law to make their own basic life decisions, and someone else must assume the responsibility for making those decisions. Who Speaks for the Child? (edited by Willard Gaylin and Ruth Macklin) is a collection of essays which explore the dilemmas of making medical decisions for children. The essayists focus their discussions around three fundamental questions: How broad is the family's proxy decision making powers? When is it appropriate for the state authorities to intervene into the family's decision making powers? What standard should an outside third party use in making the proxy decision?

The essayists emphasize the importance of protecting the basic right of parents to make decisions for their children. This right is viewed as fundamental to the perpetuation of our society. Parenting and living in a family setting are the key sources by which children learn and understand our cultural and societal values. Because of the intimate nature of families, parents are generally the most appropriate people to make medical decisions for their minor children. They best know the child's existing views, family values, and what the child's future views are likely to be. Protecting family privacy in decision making is a means of safeguarding parental autonomy in child rearing, which in turn promotes the development of individual autonomy.

The need to protect parental decision making powers for their child is based on the fundamental premise that the interests of the parents and child are congruous. The reality is, of course, that that is not always true. Parental authority can be and is abused. The dilemma is what is the appropriate basis for the state to intervene into the family. Or more graphically stated, "When should the state itself become the parent?" Willard Gaylin in his essay, "Who speaks for the child?," warns that replacing the family with a paternalistic state may be worse for both the child and society. He also reminds us of the difficulties of legislating morality in a complex, changing society. State intervention into the family must therefore be done with care.

All states have legislation which authorizes the state to intervene in a family when the parental actions (or inactions) result in "abuse" or "neglect" of the child. The problem is in the definition of those terms. As Joseph Goldstein argues in his essay, "Medical care for the child at risk: on state supervention of parental autonomy," these abuse and neglect statutes carry the danger of being read overbroadly. He argues that what is "best for the child" is dangerously value-laden and can be inappropriately used as the bases for intervening into the family when what is at issue are lifestyle choices, rather than the welfare of the child. As he explains, parental right to consent (or withhold consent) to medical treatment is meaningless if exercising that right triggers a state decision of what is "best" for the child. Goldstein opposes coercive governmental intrusion in life or death decisions where there is no proven medical procedure or where the medical advice is conflicting or where there is little hope that the treatment will enable the child to live a "live worth living." He leaves it to the parents to define "life worth living."

Alexander Morgan Capron in "The authority of others to decide about biomedical interventions with incompetents" explains that because "abuse" and "neglect" are necessarily overinclusive terms, the proper role of the court is to decide upon the appropriateness of the parents to make medical decisions for their child, and not to decide the appropriateness of the choice being made. The criteria he outlines for making such a determination are that the parents need to be capable advocates for their children with no conflicts of interests, but with the ability to comprehend alternatives available to them and their children. If the parents meet these criteria, the decisions should be left to them.

Should the state intervene, the question becomes by what criteria should any treatment decisions be made. The debate centers around whether a best interest or a substituted judgment criteria should be used. To illustrate the difference, let me present the following facts in the case of Lausier v. Pescinski 226 N.W. 2d 180 (1975). A severely mentally ill brother was determined to be the only suitable kidney donor for his dying sister. The brother had been catatonic for years and was completely unable to give consent to the surgical procedure. The brother's guardian asked the court for permission to consent to the treatment. The court rejected the request because it was not in the best interest of the brother. He in no way would directly benefit from the procedure and in fact would be put through a great deal of pain.

The dissent in applying a substituted judgment criteria argued that the brother if he were able to make his own decision, would consent to the treatment because of the knowledge that he was helping his sister. The majority under a best interest criteria tried to look at the welfare of the individual from an objective perspective. The substitute judgment criteria attempts to decide what the individual would personally decide were he or she able to do so. Capron argues that when dealing with young children, knowledge of their subjective wishes is purely speculative. He therefore rejects substitute judgment as an appropriate criteria for making treatment decisions for children. Although this criterion creates clear tensions with the competing values of respect for family autonomy and family privacy, Ruth Macklin in "Return to the best interests of the child" argues that the concern for the lifetime of health, well-being or bodily integrity of the child on whose behalf the state seeks to intervene should prevail.

In summary, mandating medical care for children is not a simple matter. It involves a complicated and difficult balancing of conflicting values. Our society wants to preserve family privacy and autonomy, freedom of religion and the welfare of its citizens. It cannot always do so simultaneously and difficult tradeoffs must be made. Who Speaks for the Child? helps us in understanding the nature of the underlying values we are trying to protect and the consequences of the necessary tradeoffs we must make.

Professor Houy is a board member of CHILD, Inc.

LAW JOURNAL PUBLISHES ESSAY ON FAITH DEATHS AND RELIGIOUS EXEMPTIONS

The February 1987 issue of Student Lawyer carries a major essay on deaths of children because of religious beliefs against medical care, the law's response to such incidents, and the recent upsurge of prosecutions despite religious exemptions in statutes. Entitled "When God is the doctor," the essay is authored by Jordan Cohn, a graduate of Harvard University and University of Southern California Law School.

PROMISED A MIRACLE

CBS has contracted for the production of a docudrama entitled Promised a Miracle. It deals with the tragic experience of Larry and Lucky Parker whose nine-year-old son Wesley died after they withheld insulin on the promise made by a traveling evangelist. The Parkers have also told their story in the book We Let our Son Die (Harvest House, 1980).

PHOTO CREDIT

The photo used in our winter newsletter of Steve and Diane Miller and their attorney was provided by the Celina Daily Standard. We are sorry that we neglected to give credit for it in the issue.