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*Robyn Twitchell
portrait by J. P. Olmes*

Twitchell conviction overturned; duty to get medical care upheld

On August 11, the Massachusetts Supreme Judicial Court issued its ruling in the case of Christian Scientists Ginger and David Twitchell, who were convicted of involuntary manslaughter in 1990 for letting their two-year-old son Robyn die of a bowel obstruction without medical care.

The Court overturned the conviction of the parents, but also established "a common law duty to provide medical services for a child, the breach of which can be the basis, in the appropriate circumstances, for the conviction of a parent for involuntary manslaughter."

It is the first time a Massachusetts court has established a parent's duty to provide medical care for children. The ruling is binding for all residents of the state. "The decision represents an unparalleled victory for children in this state, indeed across this country," said Suffolk County District Attorney Ralph Martin.

In a 6-1 ruling, the Supreme Court overturned the Twitchells' conviction on narrow grounds due to "special circumstances" of the case. The Court ruled that Superior Court Judge Sandra Hamlin should have allowed the Twitchells to introduce as evidence the church's booklet of legal guidance, *Legal Rights and*

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Obligations of Christian Scientists in Massachusetts.

The booklet quotes an ambiguous religious exemption to a misdemeanor of nonsupport, which the church persuaded the Massachusetts legislature to add in 1971.

In 1975, the Attorney-General was asked by the Office for Children for an opinion on the exemption. He replied that it was "a criminal statute" and "expressly preclude[d] imposition of criminal liability as a negligent parent for failure to provide medical care because of religious beliefs."

Carte blanche for parents implied

The church quoted the Attorney-General's statement verbatim, but did not put it in quote marks or name the source. The church did not mention the manslaughter statute or potential manslaughter liability. Thus, the church implied in the *Legal Rights* booklet that no criminal charges could be filed against a Christian Science parent who withheld medical care from a child.

The Supreme Court ruled that the exemption does not shield Christian Scientists from prosecution for manslaughter when their child dies for lack of medical care. It also pointed out that ignorance of the law has long been held to be no defence.

Nevertheless, said the Court, the issue of the Twitchells' "reliance on advice that had origins in the Attorney General's opinion should have been before the jury."

Argument not raised by defense

The Twitchells were entitled to present an affirmative defense on the reliance issue to the jury. "We can hardly fault the judge for not doing so," said the Court, "because the defense did not make such an argument or request a jury instruction on that defense."

"The failure to present the affirmative defense to the jury, along with the relevant portion of the church's publication which the judge excluded, created a substantial risk of a miscarriage of justice requiring that we reverse the convictions, even in the absence of a request for jury instruction on the subject."

Whether the Twitchells relied on the *Legal Rights* booklet during Robyn's illness was

certainly debatable. During a voir dire, outside of the jury's presence, David Twitchell was asked by his attorney Rikki Kliemen to look through the booklet and cite passages that he had relied on. He looked carefully on the page discussing the exemption, but did not mention it. Kliemen asked him to look through the booklet again, but he still did not mention it.

The next day, however, Twitchell cited the passage during continued voir dire. When asked what had refreshed his memory the third time through the booklet, Twitchell said someone in the audience reminded him of it.

It is more likely that the Twitchells were relying on Nathan Talbot, the church's public relations manager, whom they called for advice several times during Robyn's illness and who encouraged them to withhold medical care.

Why was source not given?

It is also worth pointing out that the Twitchells did not know that the church was quoting an Attorney-General's opinion. In CHILD's view the church would have named its source if the church really believed state law provided a religious defense to manslaughter.

Another remarkable feature is the Supreme Court's comment on the Twitchells' defense. The Court mentions several deficiencies in the performance of their defense attorneys, Rikki Kliemen and Steve Lyons. In CHILD's view, these deficiencies may have been due to conflicts between loyalty to their clients and to the church.

Robyn Twitchell remains the most famous Christian Science victim in history. The prosecution of the Twitchells generated enormous publicity, not because it presented a new challenge to religious freedom as the media often implied, but because it occurred in Boston where the church is headquartered.

John Kiernan and Marcy Cass, who prosecuted the case, brought great talent and dedication to it. Cass was the team leader on the state's lengthy appeal brief.

Taken in part from *The Boston Globe*, 12 August; *The Boston Herald*, 12 August; *The Christian Science Monitor*, 13 August; and the court's ruling in 416 *Massachusetts Reports* 114.

Will there be more Robyn Twitchells?

The million dollar question is, of course, whether the Christian Science church now acknowledges that Massachusetts law requires parents to obtain necessary medical care for children regardless of their religious belief. The church has declined comment "on the broader implications of the decision."

Ambiguity claimed

On August 13, *The Christian Science Monitor* admitted that the Supreme Court ruled that the religious exemption does not shield parents from prosecution for manslaughter. However, *The Monitor* went on to say, "But the ruling may not be so clear." It cited a footnote in which the Court said that legislative action after Robyn Twitchell's death may have created "a new uncertainty" about the religious exemption.

In response, child advocates have told CHILD that any uncertainty relates to civil matters or misdemeanors. The Supreme Court ruling has several sentences on why the state's religious exemption could not be used to modify the definition of homicide or manslaughter.

But what the Christian Science church claims the law means may have more to do with whether children live or die than what child advocates or the Supreme Court say the law means. The church says its members will get medical care if the law clearly requires it, but the church seems determined to find the law unclear.

On the positive side, Christian Science parents in the future will not be able to use the *Legal Rights* booklet in their defense. The Attorney-General's 1975 opinion has been obviated by the Supreme Court ruling. Furthermore, the church canceled the *Legal Rights* booklet a few days after the Twitchells were indicted and a few months after Judge Lawrence Shubow issued an inquest ruling that the church's public relations manager could be indicted for distributing wrong and misleading legal advice.

On September 9, District Attorney Martin announced that his office would not prosecute the Twitchells again. He also implored the legisla-

ture to repeal the religious exemption. It appears to be an exemption to nothing because the legislature removed the context around it after Robyn Twitchell's death. Some legal scholars say it has no legal force now.

Legislative change called for

But if the church intends to continue using it as a rationale for withholding medical care, then repeal is important. Martin called upon the legislature "to assure there are no ifs, ands or buts lingering on the books that may be detrimental to the children of this county and state."

Martin further stated that the prosecution of the Twitchells has already left a legacy of legal protection for children. But prosecution, he said, is only "one tool in the arsenal available to insure that all children remain so protected."

Church agents should report

Martin called upon the Massachusetts Senate to pass a criminal child abuse bill that has already passed the House. He urged them to reject new religious exemptions proposed by the Christian Science church. And he asked them to put Christian Science practitioners and nurses on the list of mandatory reporters of potential child abuse and neglect.

"I urge you to protect all children and insure, once and for all, that no child will ever suffer the untimely and insufferable death that Robyn Twitchell did. I urge you to promulgate his legacy and legislatively mandate the saving of innocent lives."

Globe changes views

Boston Herald editorials called for repeal and for prosecution of Robyn's death several years ago. And on August 13, 1993, *The Boston Globe* published its first editorial on the Twitchell case. Entitled "A message for Christian Scientists," it called upon the legislature to repeal the remaining rump exemption and for Christian Scientists to get medical care for their children.

In 1967, however, *The Globe* ran an editorial criticizing the prosecutor for filing charges in the death of 5-year-old Lisa Sheridan on Cape Cod. The girl was sick for three weeks with pneumonia and had more than a quart of pus in one lung.

Her mother did not get medical help because of her Christian Science beliefs.

The contrast between the two editorials is an example of how understanding of children's rights has improved over the years and of how much was accomplished by the prosecution of the Twitchells.

The image of little Robyn moaning in pain and vomiting his own feces is indelible. The Christian Science church has lost both in the Massachusetts Supreme Court and in the hearts of the people of Boston.

Fundamentalist parents convicted for torture and medical neglect

On June 7 Daniel and Ethyl Blomquist of Campbell, California, were convicted for physical abuse and medical neglect of their 11-year-old son Steven. Both the abuse and neglect were related to their fundamentalist religious beliefs.

Mr. Blomquist was found guilty of four felony counts of torture as well as felony counts of child endangerment and corporal injury to a child. Mrs. Blomquist was found guilty of felony child endangerment and neglect as well as misdemeanor endangerment.

Their 15-year-old daughter testified that spankings with a long wooden spoon or stick were common at their home and that the parents justified them with an alleged Bible quote, "Spare the rod, spoil the child."

"Rebellious" invalid

Steven had been "rebellious all his life" and got the most punishment, the daughter said.

And he was especially punished after he got sick with "the flu" around Christmas of 1991. He became more seriously ill in February and lost a lot of weight in June.

His parents took classes from Bud Keith, a holistic chiropractor who was not state licensed, but claimed to have a doctorate in "pneumiatrics"—nutrition based on Biblical principles. Keith prescribed a regimen of exercise, diet, and

food supplements with names such as "Super Surge" and "Body Ease" for Steven. The carpets and drapes were removed from the home. Walls and toys were washed.

On some days Steven was able to do the regimen of calisthenics prescribed by Keith. On other days he was too weak to get out of bed.

Threats of dying don't work

In March Daniel Blomquist sent a message to a computer bulletin board seeking surfing or action videos for his sick son.

"My 10 year old is really sick and we are trying to set a goal for him to help him get over the 'I don't care' attitude," he allegedly typed.

"We have tried to threaten him about dying if he does not help himself, but he understands death and knows he will join his sister in Heaven, thus death is not a fear for him (or us for that matter)."

Holistic chiropractor's aversion therapy

By June, their surviving daughter said, Steven was vomiting every day. His vomit was saved in a bowl and put in the refrigerator. The Blomquists forced Steven to drink the vomit or eat it with a spoon, which they said Keith recommended as "aversion therapy." If Steven refused, the father beat him with a wood spoon, belt, or stick.

The father testified that he did not strike his son with his hand because he wanted the hand to be a symbol of love. Other abusive fundamentalists have expressed a similar idea.

The daughter recalled hearing the spankings and her brother's cries and seeing bruises on his buttocks. But, she said, she never really believed Steven was sick.

"He was a rebellious kid. I thought he was doing it to get back at my parents," she said.

Vomiting not caused by rebellion

Paramedics called to the house on June 26 knew immediately that something was seriously wrong. Steven's breathing was shallow and slow; his buttocks were black with bruises. He was unconscious and his arms flailed while his legs curled up against his stomach. Campbell paramedic Richard Kincaid said he could not find a pulse.

On the way to the hospital, Steven regained consciousness. "He looked at me and said, 'Daddy! Don't hit me again, Daddy!,'" Kincaid testified. The boy later testified that he was hit as many as 100 whacks at a time with a spoon.

At the hospital physicians found the boy's buttocks raw and abraded to the muscle. They also found he had Addison's disease, a disorder that destroys the adrenal glands and causes chronic nausea and vomiting.

Steven and his minor siblings were placed in foster care.

Parents credited with good intentions

The father, an accountant at Stanford University, testified at trial that he beat his son only the last ten days. The father said the holistic healer told him that Steven had "an attitude problem" and needed "adverse conditioning."

Several members of Valley Church, to which the Blomquists belong, testified for the good character of the parents. The church also organized a letter-writing campaign to the court and distributed a 36-page brochure on behalf of the Blomquists.

The case was prosecuted by Cynthia Sevely, Deputy District Attorney of Santa Clara County, and was the second torture conviction involving a minor victim under the new law approved by California voters in 1990. Another deputy prosecutor in the office, Michelle McKay-McCoy, got the first torture conviction under the 1990 law. McCoy's case involved parents who whipped and scalded their three-year-old daughter and also had very rigid religious beliefs.

Sevely pointed out that the Blomquists not only abused Steven, but warped the lives of their other children "who thought their parents had done nothing wrong."

"This isn't a case of prosecuting them for their religious beliefs," she said. "It's child abuse."

Taken in part from *The San Jose Mercury News*, 9, 16, and 27 Oct. 1992, 14 Jan. 1993, and 17 June 1993.

Court orders surgery for boy in faith-healing church

On May 20, eleven-year-old Glen Paton of Philadelphia received medical treatment over the religious objections of his parents after he was struck by a car.

His parents, Barry and Evelyn Paton, removed him from the scene of the accident and took him first to their pastor and then to their home.

When police arrived, they saw blood and pieces of bone in the street, but the boy was gone.

Medical care opposed on religious grounds

Later police received an anonymous call, apparently from a neighbor, informing them of the boy's condition and location. Police and fire rescue units arrived at the Paton home 51 minutes after the accident. The father told them he did not want his son to receive medical treatment because it was against the beliefs of their First Century Gospel Church. About 25 members of the congregation were in the home.

The police then obtained a court order for medical treatment of the boy. A doctor at Albert Einstein Medical Center where the boy was treated said they could not find a pulse in his leg when he arrived, but circulation returned when it was properly positioned in a splint. She also said he had fractures, cuts, and soft tissue damage. Gangrene would have set in without treatment, she said.

The Patons went through a similar controversy in 1991 when Glenn was vaccinated against measles by court order. Six Philadelphia children died of complications from measles that year because of their parents' religious beliefs. One was associated with First Century Gospel Church and five with the Faith Tabernacle Church.

Taken from *The Philadelphia Inquirer*, 21 and 22 May 1993.

U. S. Advisory Board holds hearing on religious exemptions

On May 26, 1993, the U. S. Advisory Board on Child Abuse and Neglect held a hearing on religious exemptions in state statutes.

The board was created by act of Congress in 1988. Last year Congress ordered the board to submit to the U. S. Department of Health and Human Services (HHS) and Congress a report on child maltreatment-related deaths with respect to a national policy, the roles of governments and the private sector, changes needed in federal laws and programs to implement the policy, and changes needed to improve data collection on the deaths.

The board's report will include discussion of religiously-based medical neglect of children.

As mentioned in the CHILD newsletter 1993, #1, the board first invited CHILD president Rita Swan to present opposition to religious exemptions, but later rescinded its invitation at the insistence of the Christian Science church.

The board subsequently invited Ellen Mugmon of Columbia, Maryland, to testify. Ellen sits on the Governor of Maryland's Council on Child Abuse and Neglect and has won several awards for her child advocacy work. She is also a member of CHILD, but did not testify as a spokesperson for CHILD or of the Governor's Council.

History of federal policy

The first speaker was Madeline Nesse, an attorney in the HHS Office of General Counsel. She explained current federal policy on religious exemptions.

The federal government has the authority to require changes in state statutes through the federal Child Abuse Prevention and Treatment Act (CAPTA), which appropriates money for state programs. HHS determines if the states' child abuse and neglect laws meet eligibility requirements for the federal money.

In 1974, HHS's predecessor, the Department of Health, Education, and Welfare (HEW) began requiring states to pass religious exemptions from child abuse and neglect charges.

In 1983, HHS discontinued the requirement

and required states to add failure to provide medical care to their definitions of child neglect.

CHILD promptly questioned how the department could impose a medical care requirement while still allowing states to keep religious exemptions.

In 1987 HHS ruled Ohio out of compliance with federal requirements *because of* its religious exemption. CHILD and others asked HHS to extend the stand taken against Ohio to other states.

In 1989 HHS began a comprehensive review of state religious exemptions to child abuse and neglect laws and has required about ten states to make limited changes in these laws.

HHS attorney explains policy

Madeline Nesse testified that federal policy can be explained in one sentence: "all children are entitled to adequate medical care regardless of the religious beliefs or practices of their parents or guardians."

She emphasized that "state law must apply with equal force to all children." Current HHS policy prohibits states from having either an explicit or implicit religious exemption from reporting, investigation, or provision of treatment in medical neglect cases.

Exemptions from parental duties allowed

Nesse also said, however, that HHS will continue to allow states to have religious exemptions from adjudicating parents as negligent. "Federal policy provides for medical care of the child," but "provides nothing" as to the parent, she said.

HHS has "attempted to be as sensitive as possible to the religious concerns of parents" by allowing exemptions for them, even though it recognizes that removing the exemptions "might serve to deter parents from withholding medical treatment," she said.

"On the other hand," Nesse concluded, "the Department's position does insist that the health and welfare of children not be compromised or jeopardized because of their parents' religious beliefs or practices. In our view the current policy strikes an appropriate balance between all of these very important concerns."



Ellen Mugmon

Ellen Mugmon called for the board to recommend that HHS require states to remove religious exemptions from parental duties of care. She said that such exemptions inevitably create a double standard on children.

No incentive to care for kids

When the state tells certain parents in advance that they are not liable for the health care of their children, those parents have no legal duty even to bring their children to the attention of a physician. "A parent who has no legal incentive to obtain necessary medical care when a reasonable person would do so has the right to withhold such care even if the state intervenes a first, and then a second, and then a third time," she pointed out.

"Parents, not the state, should be the first line of protection for children. Religious exemptions by law, however, transfer the primary duty to care for sick children from the parents to the state. . . At best [they] delay the provision of medical care for children, since someone other than the parents must discover the child, and at worst result in the child's death if no other person or institution becomes aware of and reports him or

her to authorities," she said.

HHS does not allow states to have a religious exemption from an abuse charge (unless the abuse is confined to withholding of medical care), she pointed out.

CAPTA makes no mention of religious exemptions, and HHS admitted in 1983 that they were not required by the intent of Congress, she said.

Purpose of CAPTA and UN convention contradicted

Religious exemptions contradict the underlying purpose of CAPTA and also the *International Convention on the Rights of the Child*, which the U. S. Advisory Board has urged the United States to ratify, she charged.

"The existence of federally sanctioned religious exemptions undermine the philosophical foundation of all child protection laws and all child protection efforts. The repeal of religious exemptions is therefore a necessary condition for the advancement of children's rights in America," she concluded.

Freedom of parental choice recommended

The last witness was Phil Davis, the federal representative of the Christian Science church. Much of his testimony explained a biblical basis for his theology and recounted the life of Mary Baker Eddy, the founder of Christian Science.

He argued that parents should have the right "to make a responsible choice of health care for the child based on a system shown to be effective, whether that choice is spiritual treatment or conventional medical treatment."

CS should be legal health care for children

"We agree to a single standard of care, just not a single system of care," he said.

The "real issue," he said, was whether medical treatment was "so absolutely safe and effective that it should be the only treatment sanctioned in our society" and whether church critics had examined spiritual treatment objectively.

Christian Science has "a century-long record of effective care for children," he claimed.

"Yes, there have been some tragic deaths," he said. "However, the medical community is not

judged solely by its losses and we shouldn't be either."

"These statutory provisions for spiritual treatment didn't appear magically or come from a vacuum or from high-pressure lobbying by our church officials, especially considering that there's only one church representative per state. Rather legislators and state officials accommodated us as they learned more about us and the practice of our religion," he said.

He complained about the shift in HHS policy that occurred in 1983. HHS then "made it clear," he said, "that if states wanted to define medical care as including a variety of services, the only one HHS would not approve would be spiritual healing. We think the Department is mistaken in taking away the right of states to determine what services either by statute or regulation a state may consider as remedial or beneficial to a child."

Exemptions can't be used by extremists

Davis said the Christian Science church had carefully worked with legislators to make sure that the religious exemptions "would not be abused or used by extremists." They cannot, for example, prevent "state intervention in a case of physical or sexual abuse," he pointed out.

Only Christian Scientists pray?

"And we know that some may refuse blood transfusions on religious grounds and occasionally [some] may refuse other medical services. These claims are almost always made on the grounds of a Biblical prohibition or for non-religious reasons.

"Now in contrast, the provisions that we're focusing on today accommodate the giving of spiritual treatment, not simply the refusal of treatment. This preserves the state's right to be assured that the parent is taking an active, responsible role in the health care of the child."

Arthritis healing described

Davis concluded his testimony with an account of a child's healing in Illinois. He said a two-year-old girl's leg swelled until, by the end of the week, she was unable to walk or move her leg. Her father was not a Christian Scientist and insisted on getting a medical diagnosis. A pediatrician diagnosed the condition as the worst

case of juvenile rheumatoid arthritis he had seen in all his years of practice and ordered immediate surgery. When told that the surgery would alleviate some symptoms, but not cure the arthritis, the father chose Christian Science treatment. A few days later the pediatrician reported the case to Child Protection Services, which began proceedings to take the child into custody. But the child's "symptoms diminished" because of Christian Science treatment. A second physician was called in. "He saw obvious progress and felt the best place for the child was at home under Christian Science treatment," Davis concluded.

During the question and answer period, board member Dr. Richard Krugman, a Colorado pediatrician, commented that the symptoms described by Davis did not sound like those of rheumatoid arthritis, but were more likely those of a self-limited arthritis from a viral infection that would have gone away whatever anyone did.

Chairman Howard Davidson asked whether CAPTA or HHS regulations would have to be changed to get rid of religious exemptions.

Child abuse law doesn't deal with parents

Madeline Nesse thought CAPTA did not give HHS authority to require removal of religious exemptions because CAPTA "doesn't speak to parents," but only "to children."

Ellen pointed out, however, that no other group of parents is given an exemption to child abuse and neglect. HHS requires states to have laws that make other parents responsible for their actions.

The board wanted to know why HHS undertook a national review of religious exemptions so many years after dropping their requirement and has found several state statutes inadequate at this late juncture.

After HHS denied Ohio funds in 1987, Nesse said, Congressman Regula "came in and pounded the table and said if Ohio has problems, so do all the other states. And so, on the advice of its counsel, HHS undertook a national review, determined to be as even-handed as possible."

"In all candor," Nesse said, "we simply decided to take a closer look. . . . There was also a sensitivity because the Department after all had originally required that these provisions be in

state statutes. And we didn't want simply to say, 'Well, we required it then, and now it's illegal.' So we attempted to steer a delicate course between trying to leave on the books the statutes that protected the parents, if that's what the states wanted, but on the other hand, of trying to protect the children from the possible deleterious effects of having those statutes on the books."

Krugman asked Ellen Mugmon if she knew of any case in which statutes had changed religiously-motivated behavior.

Ellen told about Christian Science parents named the Newmarks in Wilmington, Delaware, who had taken their son Colby to a doctor in 1990 because of hearing about the trial of Christian Science parents Ginger and David Twitchell in Boston for letting their son die of a bowel obstruction. The Newmarks thought their son might also have a bowel obstruction, and they did not want to be prosecuted.

Medical care used in Canada and England

Ellen also pointed out that the Christian Science church acknowledges the state's right to require medical care for children in England and Canada and advises its parents to obtain it promptly.

The board was fascinated with that information. They asked Davis what the probable impact on Christian Science parents and the faith would be if all religious exemption laws were repealed.

Christian Science is thriving?

Christian Science was founded in the United States because of the strong religious freedom we have here, Davis said. "And it has thrived here. It has not thrived in other countries the same way and specifically in Canada and England. This is where it's always done best, and we feel this sets the examples for other countries."

If religious exemptions were eliminated, Davis said that not only Christian Scientists, but the whole society would lose "something very special. . . . Medical would become the monopoly, the only way to deal with the problem. And we feel again, that's quite dangerous. It's just a trend that we see within our society that we feel is a loss of spiritual values taking place."

More children would die

"We honestly feel," he continued, "as strange as it may sound to some of you, we feel that we would lose more children, that we'd have more disabilities, we'd have harsher problems with children. . . . Have we come to the point in our country where we really are, even if we don't want to make it in a statute, where we're kind of saying that we want a medical policeman in every home to decide how much you're using the medical system and how well you're adapting to it?"

The board tried to pin Davis down. How do the Christian Scientists manage in Canada with a law requiring medical care?, they wanted to know.

"Well, uh, well, what it does is that it interferes with a way of life of parents bringing up their children in something that they feel gives the family, the home, the children, moral, spiritual value—a completely drug-free atmosphere, tobacco-free, alcohol-free. . . . [It] interferes with the very way of life [and causes] a restrictive atmosphere within the home," Davis stammered.

Ellen pointed out that nobody was trying to outlaw prayer or force tobacco or alcohol on families.

Religious beliefs against debate

Davis replied that the board had promised him the hearing would not be a debate. "There's a strong statement within our religion that we not publicly debate," he added.

Board member Frank Barry asked if the Christian Science rejection of medical care was based on the Bible or on a "scientific belief" that Christian Science was more effective.

Davis said it was based on both. He said Christian Science parents are intelligent, reasonable people who "go through struggle, sometimes agony, deciding what's best for a child."

"If that's so, if there's so much agonizing," Barry pursued, "have you conducted or caused to be conducted, scientific studies about the efficacy of this?"

Church does not do scientific studies

Davis said he would "welcome studies" on the effectiveness of Christian Science healing, but added, "We tend not to do it because what you're

usually thinking of is clinical evaluations and to measure and to look carefully at how this individual is doing on healing, to measure the body. . . tends to deter the very effect of praying in looking away from the body to God."

Board member Joyce Mohamoud said she considered it "shocking" that Davis would believe the medical and the spiritual were incompatible in an era when many are bringing them closer together.

Only 3 cases in 30 years

Krugman asked how often sick Christian Science children are reported to child protection services and given medical treatment by court order.

Davis had church attorney Walter Funk answer. Funk said he knew of only two or three such cases in the last thirty years. "Actually, we have a very good healing record. I think that's the reason why there have been so few cases," Funk said.

Krugman replied that "either the Christian Science healing record is very good or the nonreporting of these cases is also very good."

Freedom of choice for 5-year-olds

New board chairman Deanne Durfee asked about the freedom of choice that Davis says the Christian Science church offers to its members. She wanted to know if a five-year-old can make a free choice.

Ellen cited the U. S. Supreme Court's landmark ruling in *Prince v. Massachusetts* (1944) that parents do not have the right to martyr their children on religious grounds.

Davis said Christian Science parents are not martyring their children, but choosing what they feel is the most effective healing method.

Children do not get choice

As for choice, Davis said that good parents make decisions all the time for children. "More than 50,000 children die every year that have medical help. And how are we to know what those children would choose as a second choice?"

Final questions and comments came from board member Jane Burnley. She asked if the problems with exemption statutes could be solved

by a more explicit reporting requirement.

Ellen said that reporting and court orders will generally protect the children of Jehovah's Witnesses because they are seen by doctors. But the children of those who intend to avoid medical care altogether will not likely be seen by mandatory reporters.

No advice or pressure

Burnley commented that even though the Christian Science church says it gives parents freedom of choice, it describes spiritual treatment as a better choice than medicine. How, therefore, she asked, can we "as advocates for insuring the medical treatment of children, not feel that the only solution is to require parents to seek a medical consultation, if you all present [medical treatment] in your church as something that diminishes the spiritual healing?"

Davis insisted that Christian Science practitioners never give advice and that there are no pressures on parents to avoid medicine.

The U. S. Advisory Board will present its report to Congress and HHS Secretary Shalala at the end of 1994.

Pediatricians call for action against exemptions

The American Academy of Pediatrics again showed its tenacity on children's rights with written testimony to the U. S. Advisory Board on Child Abuse and Neglect.

Not only was the testimony eloquent, but the Academy's State Government Affairs Division had to be quick and resilient to get the testimony written and approved before the Advisory Board's hearing on religious exemptions.

Jim Pawelski, a legislative analyst in the division, drafted the testimony before the Academy had officially decided to submit a statement. After the decision came down, Jim whisked his draft through the Academy's various committees and boards in record time and faxed final copy to the Academy's Washington office. From there a staffer hand-delivered copies to the

U. S. Advisory Board's hotel.

A few highlights follow.

"The Academy believes that religious exemptions are intrinsically unjust in that they violate the fundamental ethical principle that 'likes' must be treated alike—in this case, the likes are neglected children. From the child's perspective, the origin of parental failure to provide food, clothing, shelter, or medical care is irrelevant. State intervention on behalf of the child is appropriate whether the failure to provide results from poverty, ignorance, intentional neglect, mental illness, or religious belief—because the result of all these is the same: the child's well-being, health and even life may be threatened. . . ."

Outright repeal necessary

"It is the Academy's position that nothing short of an outright repeal of all religious exemptions from state laws will afford children the legal protection they truly deserve against abuse and neglect. . . ."

"Children are uniquely dependent on their parents for their well-being. This is true from both the developmental perspective and the legal perspective. . . . Since children are arguably the only citizens who cannot independently exercise their rights, our society has entrusted that privilege and duty to their parents. This intricate fabric of children's rights, parents' duties, and society's expectations, and the mutual trust between all three groups unravels when parents fail to provide for their children's needs."

CHILD submits testimony

CHILD submitted a 15-page statement to the U. S. Advisory Board on Child Abuse and Neglect. Its analysis of HHS religious exemption policy was heavily indebted to the work of Boston-area CHILD member Ken Casanova.

Echoing points made by the American Academy of Pediatrics (see above statement), CHILD said that children have appropriate legal protection only when their parents have a legal duty to care for them.

By contrast, the U. S. Department of Health and Human Services now tells states they can have a religious exemption from adjudicating parents as negligent, but not a religious exemption from adjudicating children as neglected. Though the same danger to the child is posed in both situations and though it is rather fortuitous which phrasing a state has adopted, HHS says one is acceptable and the other is not.

Abuse vs. medical neglect

The discrimination becomes especially offensive in the distinction HHS draws between abuse on religious grounds and medical neglect on religious grounds. HHS has advised many states that they cannot have a religious exemption from an abuse charge unless the abuse is explicitly limited to medical neglect. Simultaneously, HHS allows states to have a religious exemption from a neglect charge, if the exemption is limited to medical neglect.

After nearly twenty years of wrestling with federal policy on this issue, we still have special privileges for Christian Science and an entourage of charismatic faith healers who use them also.

Any dues-paying member of CHILD may have a free copy of the testimony upon request.

AMA urges federal action against religious exemptions

At its June, 1993, convention the American Medical Association passed a resolution asking the Secretary of Health and Human Services Donna Shalala "to exercise administrative authority to urge state officials to repeal existing child abuse and neglect religious exemption provisions in state statutes, thereby restoring equal protection under the law for all children."

A reference committee reported to the membership that the problems with religious exemptions "are well documented and very serious. The health and well-being of many innocent children are directly affected and are at risk as a result of religious exemptions in child abuse and neglect laws. Testimony indicated that this is an

increasing problem in today's society and reported cases are likely only the tip of the iceberg. With a new Administration and HHS Secretary in office, the AMA has an excellent and timely opportunity to aggressively advocate this important policy. While efforts to repeal such statutes are ongoing in a number of states, indications are that obtaining this change in federal regulations will increase the likelihood of successful state legislative action."

The resolution was introduced by the Michigan delegation. CHILD member Dr. Francis Horvath, a Lansing internist, played a leading role in planning and promoting the resolution.

On August 18, the AMA carried out the resolution with an excellent letter to Shalala.

With reference to HHS policy of permitting certain religious exemptions, AMA Executive Vice-President James Todd wrote,

Permitting a state to prohibit a finding of child abuse or neglect where a parent fails to provide necessary medical care based upon religious beliefs has resulted in serious harm, and, in too many cases, death, to children with treatable medical conditions. This provision continues to place many children at needless risk. The AMA believes that this exemption should be removed from the current regulations in order to protect children whose parents' religious beliefs prevent them from receiving appropriate medical care.

The AMA believes that the elimination of these measures will result in the delivery of appropriate medical care and treatment to children at risk and will also provide equal protection under the law to our nation's most precious resource.

Todd also pointed out that the AMA has formally opposed religious exemptions since 1986.

Disease outbreaks in Hawaii traced to religious exemptions

Children with religious exemptions from immunizations have brought pertussis to schools on the island of Kauai in Hawaii. In April, 1993, the Hawaii Department of Health reported 35 cases of pertussis, commonly called whooping

cough, among Kauai children ranging in age from 2 months to 16 years. The outbreak began in Waldorf and Kapaa schools on Kauai and went home to younger siblings. The disease was brought to each school by a child with a religious exemption from immunizations.

In one case, parents reported that their child coughed for five weeks.

Immunization exemptions increasing

Kauai and the Big Island have a disproportionately large number of children with religious exemptions from immunizations. At the small, private Waldorf School on Kauai, 27 of the 70 students had immunization exemptions. At Kapaa, a public school on Kauai, 53 of the 1,329 students had either an immunization exemption or no health records available.

"Over the past few years, requests for religious immunization exemptions on Kauai [have] increased, primarily among Mainland families moving to the North Shore of Kauai," the Health Department's report said.

It also warned that "outbreaks of measles and other more serious diseases" could occur because of religious exemptions from immunizations.

In 1992, Hawaii repealed religious exemptions from child abuse and neglect laws, but the state still has religious exemptions from immunizations.

Taken in part from *The Honolulu Advertiser*, 6 April 1993.

Journal gives data on epidemics tied to religious exemptions

The Pediatric Infectious Disease Journal 12 (April 1993) has an article entitled "High attack rates and case fatality during a measles outbreak in groups with religious exemption to vaccination," pp. 288-92.

Authors Desiree Rodgers et al. discuss the 486 cases of measles and 6 measles-associated deaths occurring between November 4, 1990, and March 24, 1991, among children associated with two Philadelphia churches with religious beliefs

against immunization.

They also note that there were 452 measles cases and 3 measles-associated deaths among Philadelphia children who did not belong to those churches in the same time period.

Attack rate 1000 times higher

The overall crude attack rate in the church population was 1000 times higher than in those Philadelphia children without exemptions from immunizations. The ratio of fatalities to cases was almost four times greater in the church population.

Although children with religious exemptions from immunizations are comparatively few in number, they often live in clusters, creating a pool of susceptible individuals who sustain transmission of epidemics. Outbreaks of vaccine-preventable diseases among these groups have, say the authors, "resulted in substantial morbidity" and "continued community transmission." The authors state:

In four pertussis outbreaks in Massachusetts in 1986 to 1988, as many as 93% of cases occurred in unvaccinated individuals claiming religious exemption. In addition these families may refuse antibiotic prophylaxis, hampering outbreak control and augmenting the spread of infection. In the Netherlands where the incidence of paralytic poliomyelitis has declined more than 100-fold since the introduction and widespread use of polio vaccine, outbreaks have continued to occur in communities that reject vaccination on religious grounds. (citations omitted)

Mature minor given right to refuse blood

On July 19, the Newfoundland Supreme Court gave a critically ill 15-year-old the right to refuse blood transfusions.

Adrian Yeatts of Paradise, Newfoundland, had told his pediatrician that he believes in the Jehovah's Witness faith and on that basis would not accept blood transfusions. The pediatrician was willing to follow the boy's wishes in treating him.

However, the hospital notified the provincial Director of Child Welfare whose office then apprehended and detained the hospitalized boy and petitioned the court to declare him a child in need of protection. The Director may have taken that action simply to clarify procedures and responsibilities.

Physicians testified that Adrian is seriously ill with cancer. His chances even of getting the disease into remission are no more than 40%. The massive chemotherapy needed usually reduces the platelets in the blood. Internal bleeding into major organs can occur, and transfusions may be necessary.

Child's faith important to him

Canadian law provides for state intervention when children lack medical care that "is considered essential by a qualified medical practitioner." Justice Robert Wells ruled that the chemotherapy was essential, but that transfusions were not essential to deal with the platelets problem, should it arise. The treating physician's evidence, said Wells, did not indicate "that it is essential to impose that treatment on an unwilling patient in a way that would damage his faith, which is one of the few things, and perhaps the most important thing, that he has left in life."

The pediatrician testified that the patient must be in a cooperative and positive frame of mind about chemotherapy and other cancer treatments in order for there to be any real hope of success. Justice Wells said Adrian would regard a forced transfusion to be "an invasion of his whole being, to the extent that it would impact severely on his strength and ability to cope with the dreadful ordeal that he has to undergo, whatever the outcome."

Wells refused to order the transfusion under the mature minor provision in the Canadian Charter of Rights and Freedoms. It allows courts discretion in determining that a child is a mature minor on an individual case basis, but they still must rule on the basis of the child's best interests.

Ontario lawyer John Burns, whose firm often represents Jehovah's Witnesses, called the decision "important for all families, and particularly all mature minors, in recognizing that they are people with values which should be respected."

Abortions tied to refusal of transfusions

The Jehovah's Witness church argues that courts should give minors the right to refuse transfusions, sometimes by analogy to abortion rights. Church attorney James McCabe says, "As the pro-abortionists make inroads for the rights of mature minors to have abortions, our position is strongly strengthened as well. If a 14-year-old has the constitutional right to choose if she's going to have a baby or not, then she ought to be able to choose if she can submit to a medical operation or blood transfusion."

Taken in part from *In the Matter of Adrian Yeatts*, #F/93/0311, Supreme Court of Newfoundland, and Mark Curriden, "Blood, the Bible and the Law," *Barrister Magazine* (Fall 1990), 14-16, 41-2.

African women fight female circumcision

Alice Walker's best-selling novel, *Possessing the Secret of Joy*, has heightened awareness of female circumcision rituals. Recently ABC's *Day 1* presented a segment on it, which we synopsise below.

Female circumcision removes the clitoris and part or all of the labia and is sometimes combined with stitching up of the vagina. This ritual of tribal identity is widely practiced in Africa and some Middle Eastern and Southeast Asian countries. Critics say the practice, which reduces or prevents female sexual pleasure, is used in Muslim countries to control women and is falsely described as a religious demand made by the Koran. It predates Islam.

Between 85 and 100 million women in the world today are circumcised.

ABC filmed a group of little Gambian girls waiting to be circumcised. They scream in pain as the operation is done behind a curtain. They are kept in a room for two weeks until their wounds heal.

A status symbol

Then the village women celebrate the girls' rite of passage with song and dance. The woman who performed the circumcisions is the most powerful woman in the village. An uncircumcised girl is ostracized as a "monster;" no man in the village would marry an uncircumcised woman.

The reporter asked mothers how they could allow such infliction of pain on their daughters. The mothers said that "pain is part of womanhood" and "women are here to suffer."

Pain and health risks

The circumcision operation is performed without anesthesia and with crude instruments. Doctors say the girls are probably in clinical shock. Hemorrhaging and infections are common. Many girls die. But seeking medical attention violates the secrecy of tribal ritual and is forbidden.

There is also psychological trauma from the tension between wanting the secret ritual in order to belong to the group and having one's personhood assaulted as intimate body parts are violently cut out or mutilated.

Circumcised adult women are often subject to chronic infections. They have increased sterility, more risk of dying in childbirth, more stillborn babies, and a greater risk of contracting AIDS.

Agency indifference

The United Nations has a \$56 million budget for women's health issues, but only one employee, Dr. Mark Belsey, who works part-time on female circumcision. Belsey says of it: "There's no single practice that has such a dramatic impact on health in the broadest sense."

Belsey says the UN does not want more done on this issue. No human rights or international health organization nor the U. S. Agency for International Development nor UNICEF speaks to this issue.

Grassroots effort by women

But in 25 African countries women have organized with almost no money and little international support to end the practice. They give workshops to circumcised girls before they reach puberty. They demystify the operation, explaining

what has been done to their bodies and the health risks they face. They implore them not to have their daughters circumcised. A Moslem religious leader tells them that circumcision is not demanded by the Koran.

UN Convention gives rights to medical care

The U. N. Convention on the Rights of the Child refers to circumcision in Article 24, Section 3, calling upon signatory nations to take "effective and appropriate measures" to "[abolish] traditional practices prejudicial to the health of children."

The Convention also provides that children have rights to medical care.

It supersedes national and state laws and has been ratified by 164 countries. The United States has not ratified it yet. President Bush objected to the Convention because it does not mention rights of the unborn and because it outlaws execution of juveniles.

Gambian jailed for circumcision of daughters

Condemning a widely practiced custom as a crime, a court in Paris, France, has sent a Gambian woman to jail for mutilating the genitals of two baby daughters.

The court's ruling, on January 8, 1993, is considered a landmark because never before has an African parent in France been sent to prison for female circumcision, even though health workers and women's groups have warned immigrants for years that the practice is illegal. France made female circumcision a crime in 1978 after a blood poisoning death caused by the operation.

The sentence of the Gambian immigrant, Teneng Jahate, is intended as a warning to hundreds of thousands of African immigrants in France.

As the drive to end clitoral removal has grown, French doctors are reporting more cases to the police. They often involve infants brought to clinics hemorrhaging or with severe infections or anemia.

Jahate told the court that a midwife approached her in a park and offered her services for about \$70. During the operation she held down her daughters, aged 1 and 2, while the midwife cut them with a knife. A week later, both toddlers were taken to a clinic, infected, bleeding, and crying hysterically.

Jahate told the court that she did not know the practice was banned and that she was acting according to her religious beliefs.

American law silent on circumcision

Great Britain banned female circumcision in 1985. According to the National Center for Prosecution of Child Abuse, American courts have not dealt with the practice nor does American law specifically forbid it.

Taken in part from the *Sarasota Herald-Tribune*, 11 January 1993.

Christian Science church reports on lobbying work

Victor Westberg, manager of the Christian Science Committees on Publication, reported his department's activities to the membership in the August issue of *The Christian Science Journal*, pages 16-18. Each state and many foreign countries have Committees on Publication (COPs), who handle lobbying and public relations for the church.

New religious exemption to Virginia felony

Westberg reports that the church got an exemption for spiritual healing added to the felony child endangerment statute in Virginia this year.

He also says that the church got laws shielding members from compulsory immunization in Montana, California, Virginia, and Kansas this year. Those states already had religious exemptions from immunizations, however, so the significance of these new laws is unclear to us.

CS healers can certify medical leave

The Family and Medical Leave Act passed by Congress early in 1993 gives Christian Science

practitioners the right to verify long-term employee medical leave, Westberg reports.

Church gets states to forfeit federal money

Westberg applauded Alabama, Louisiana, Maryland, and Oklahoma for resisting federal pressure to change their religious exemption laws. In some cases it has cost the state hundreds of thousands of dollars in federal money to accede to the wishes of the Christian Science church.

Religious Freedom Restoration Act

Also, the church has joined a political coalition of many groups lobbying Congress for passage of the Religious Freedom Restoration Act. This act responds to the case of *Department of Human Resources vs. Smith*, 110 S. Ct. 1595 (1990) in which the U. S. Supreme Court ruled that the government did not have to demonstrate a compelling interest before enforcing laws that indirectly curtail religious practices. If passed, the act will require states to prove a compelling interest before interfering with religious practices.

CHILD believes that courts and other branches of government will always consider the health of children a compelling state interest. We have, therefore, not opposed the Religious Freedom Restoration Act.

The church claims to have "an expanding new vision of Committee on Publication activity" as "a joint effort" of church members, church officials, "and even the media—for under the control of one Mind, 'all things work together for good.'" When capitalized, Mind is a synonym for God in Christian Science theology.

Biography of Eddy reprinted

The University of Nebraska Press has recently issued an early biography of the founder of Christian Science entitled *The Life of Mary Baker G. Eddy and the History of Christian Science*. It was first published in 1909 with Georgine Milmine listed as the author, but University of Nebraska Press assigns primary authorship of this book to Willa Cather.

Christian Scientists attempted to suppress the original book. It "disappeared almost immediately from circulation," said contemporary observer Elizabeth Sergeant. "The Christian Scientists are said to have bought the copies. It is hard to find one nowadays, even in a big library, and the reader is likely to have to borrow the only copy from the chief librarian's safe, and be watched by a detective while reading it." (See *Willa Cather: a Memoir*, p. 56.)

Church owns original manuscript

Another biographer, Edwin Dakin, said that the copyright for the Milmine book was purchased by a friend of the Christian Science movement, the plates from which the book was printed were destroyed, and the original manuscript also acquired. The University of Nebraska Press confirms this by pointing out that the Archives and Library of the First Church of Christ, Scientist, in Boston holds the original manuscript for the book.

The book by Milmine and Cather has a wealth of information from people who knew Mary Baker Eddy personally. Of particular interest to CHILD members are chilling accounts (pages 324-27) of the deaths of two little boys by their mother and a Christian Science healer, which were first published in *The Christian Science Journal* for March 1889, pages 637-9.

Animal magnetism causes boys' deaths

The two women in Pierre, South Dakota, tell of losing first Philip, age four, and then his brother Edward, age eleven months, after healing them many times with Christian Science methods. They believed that the children were victims of malicious animal magnetism from the Methodist Church, to which the mother previously belonged. She even fled to Des Moines with the baby to escape the Methodists' animal magnetism. The baby got better there, but worsened again when they returned to Pierre.

Mother determined to prove CS right

For ten days the baby had spasms and convulsions, which the mother always identified as "another temptation" that she needed to "[take up] animal magnetism" on. She did not tell her

husband, in New York on business, that his son was seriously ill or even that he had died until nine hours after the fact. During those nine hours she said Christian Science "treatments" over the body, not permitting herself to shed a tear or to "entertain the thought of death."

"We buried the little boy ourselves, quietly, without any minister present, being accompanied by a number who believe in Christian Science because it has healed them," the mother writes.

"Our trials have been severe, but we work to stand fast. We are determined to demonstrate the nothingness of this seeming power," she says.

Healer asks church why they failed

The Christian Science practitioner sounds less composed than the mother. She cannot understand why the two of them did not get Christian Science right and petitions her church for answers.

"Why this termination?" she says of baby Edward's death. "I wish we could have some light on the subject."

"We recognized no disease, and as first symptoms would appear—beliefs of paralysis, spasms, fever, etc.—we would realise the allness of God, and they would disappear. It was a clear case of ignorant and malicious magnetism. Why was it not mastered?"

This account, say Cather and Milmine, make "us wonder whether there is anything else in the world that can be quite so cruel as the service of an ideal."

In the August, 1993, issue of *The Christian Science Journal*, the church labels the Milmine/Cather biography a "malicious" attempt to "discredit" Eddy, which they have had to do "major corrective" work on. The church claims that, after much correspondence with [their] office, the University of Nebraska Press "issued a statement accurately characterizing its bias." CHILD cannot find such a statement in the introduction or afterword; rather, the publishers promote the value of the book.

The church says further, "The book has received almost no attention in the public, proving if Truth isn't spoken, nothing is said."

The book is available in paperback from the University of Nebraska Press at \$14.95. The

church's comments appear on page 17 of *The Christian Science Journal* for August, 1993.

Church settles estate claim

The Christian Science church has reached an agreement to share a bequest of approximately \$100 million. Eloise Knapp and Bella Mabury left the money to the church on condition that it publish a book written by Bliss Knapp. The church first refused to publish the book because it claims that church founder Mary Baker Eddy is one of the "two great lights" created by God on the fourth day of creation (see Genesis, chapter one), the woman in the twelfth chapter of Revelation through whom "the second appearing of Christ in the flesh has come," and the "ruler over the gates by which we enter the Holy City."

Biography or theology?

Under the terms of the wills, if the church did not publish the book as "authorized literature" and make it available in the 2,500 Christian Science reading rooms by 1993, the estate would be divided between Stanford University and the Los Angeles County Museum of Art.

The Christian Science Publishing Society published Knapp's book, *Destiny of The Mother Church*, in 1991. Although the book has little to do with the facts of Eddy's life and is largely doctrinal in nature, the church advertised it as a biography with "differing interpretations" in it. Stanford and the museum challenged the church's claim for the bequest on grounds that the church did not endorse the book as correct theology nor make it available in all reading rooms. Many branch churches refused to place the book in their reading rooms because of its heretical content.

In 1992 the church republished the book and labelled it as "authorized literature." But the church also published a statement in *The Christian Science Journal* drawing a distinction between "authorized literature" and "Christian Science literature." Only the latter should be used for "teaching or self-instruction in Christian Science," the church said.

Under an agreement filed October 12th in Los Angeles County Superior Court, the church would receive 53% of the bequest, while the university and the museum would each receive 23.5%. The accord requires court approval, and a hearing is scheduled for December 14.

Church members challenge settlement

There are two challenges to the proposed settlement. A relative of Knapp and Mabury claims that splitting the bequest three ways violates the wills. Also a group of Christian Scientists led by

U. S. District Judge Thomas Griesa of New York has petitioned the court not to give the money to the church on grounds that publication of Knapp's book violates church law.

Other groups of Christian Scientists have asked the Massachusetts Attorney-General and U. S. Attorney for investigation of the church's "misdirection and mismanagement of enormous sums of money."

The Christian Science church lost between \$300 and \$500 million during the past decade in broadcasting ventures.

Taken in part from *The New York Times*, 14 Oct. 1993, and *The Boston Globe*, 9 June 1992 and 12 May 1993.

Child safety should take precedence over teacher's rights

by Scott Sokol, M.D.

It seems the venerable *New York Times* has placed the civil rights of an adult above those of our children. In an editorial on the Op-Ed page of October 8, *The Times* seems ambivalent in the case of a teacher who is under investigation by the board of education. The teacher involved, Peter Melzer, is a leader of the North American Man-Boy Love Association (NAMBLA).

This organization of perverted adult men advocates the seduction of young boys and disseminates this view through its newsletter. *The Times* claims that, although Melzer's return to the classroom is troubling, the denial of his "civil rights" is more of a threat because it represents a form of government punishment of legally

protected speech. *The Times* goes on to say that the dismissal of this teacher would lead to chastisement of other unpopular views such as homosexuality and anarchism.

The New York City Board of Education should ignore such legalistic double-speak and fire Mr. Melzer posthaste. The avowed purpose of NAMBLA is the organized abuse of young children. It is an evil and corrupting influence that as such, has abrogated any claim to rights under the law.

School officials should protect our children *in loco parentis*. When a teacher is found to be a NAMBLA member, his position should be immediately and irrevocably terminated.

Mr. Melzer is tenured, and his lawyers argue that he cannot be dismissed or permanently reassigned unless formal charges are brought to a disciplinary panel. Such a panel must be convened quickly. It must decide that there is no place for this promoter of child molestation in our educational system. Then it will be up to the rest of us to let NAMBLA know they have no place in our society as well.

Sokol, a pediatrician in Floral Park, New York, serves on CHILD's board of directors and writes a regular column for the newsletter.

Supreme Court allows ritual animal sacrifice

On June 11 the U. S. Supreme Court overturned a Florida municipal ordinance against ritual sacrifice of animals. The Court ruled unanimously that the prohibition violated the First Amendment because it was aimed at a particular church.

In 1987 the city council of Hialeah adopted ordinances prohibiting religious animal sacrifice. The council defined "sacrifice" as "to unnecessarily kill, torment, torture or mutilate an animal in a public or private ritual or ceremony not for the primary purpose of food consumption."

The ordinances prohibited the worship practices of Santeria, which blend the Yoruba religion brought to Cuba by African slaves with the

Roman Catholicism they found there.

The Santeria faith teaches that everyone must fulfill his destiny with the aid of the orishnas. Santerians must nurture a personal relation with the orishnas, and animal sacrifice is one of the principal forms of devotion to them.

According to Santeria teaching, the orishnas are powerful, but not immortal. They depend for survival on sacrifices. A sacrificed animal is killed by cutting the carotid arteries in the neck. It is then cooked and eaten, except after healing and death rituals.

Some 50,000 to 70,000 ex-Cubans practice Santeria in south Florida. Santeria is also practiced in New York, Chicago, and other cities with large Caribbean Hispanic populations.

The Supreme Court noted that animal sacrifice has ancient religious roots and that killings of animals which "are no more necessary or humane in almost all other circumstances are unpunished."

The city defended its ban on sacrifices as a public health measure, but the Court said it "could have imposed a general regulation on the disposal of organic garbage" if that was its real concern. The Court called the design of the ordinances "a religious gerrymander" that the city wanted to impose on the Santerians, but not upon itself.

The United States Supreme Court has consistently upheld the right of governments to restrict religious practices when the laws are neutral and are tailored to meet a compelling state interest, such as the health of children.

Taken from *City of Hialeah vs. Church of Lukumi Babalu Aye*, 112 S.Ct 1472.

On keeping church and state separate

by Rita Swan

"I voted against your bill because of the separation of church and state," state Senator James Kersten told me. This earnest young Republican from Fort Dodge, Iowa, thought that the separation of church and state required by

the First Amendment of the U. S. Constitution also required religious exemptions from child abuse, neglect, and endangerment charges.

The First Amendment is likely the most significant statement ever enacted by any government. It protects freedom of religion, provides for separation of church and state, and prohibits governments from establishing special privileges for religions.

It means, as the Santeria ruling shows above, that people have a right to practice their religion if their actions would be legal without a religious motivation. The state cannot punish actions because they are done with a religious motivation.

Surely it also means that the state cannot enhance the penalty for an action because it is done with a religious motivation. In the previous issue of our newsletter, we discussed Missouri's child endangerment law, RS Mo. 568.050(2), which designates second-degree endangerment as "a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony."

We believe Missouri's law to be an unconstitutional response to public fears about Satanism.

We also believe religious exemptions from duties of care owed to children are unconstitutional because they deprive one class of children of their Fourteenth Amendment right to equal protection of the law and because they entangle church and state.

Such religious exemptions are state sponsorship and state endorsement of faith healing. In our view, the only health care that the state should endorse as appropriate for sick children is state-licensed, secular health care.

The separation of church and state required by the First Amendment places many limitations on the state relative to religious healing. It means, for example, that the state cannot license faith healers or require training for them.

But since the state cannot credential faith healers, it also should not be endorsing their methods as a legal substitute for the medical care needed by a sick child.

First award in civil suit

In August a jury in Minneapolis awarded \$14.2 million to Douglass Lundman and his daughter for the death of 11-year-old Ian Lundman to untreated diabetes. Damages were assessed against the boy's mother and stepfather, a Christian Science practitioner, Christian Science nurse, Christian Science nursing home, the Christian Science Committee on Publication for Minnesota, and the First Church of Christ, Scientist, in Boston. Only the church was held liable for punitive damages.

The case is the first civil suit against the Christian Science church for wrongful death to get to a jury.

The next issue of the CHILD newsletter will have a lengthy account of the trial.

Historic criminal trial begins in Mississippi

On October 18th, a clergyperson who advocated withholding lifesaving medical care from a minor goes on trial in Monroe County, Mississippi. It is the first such criminal trial in United States history. The child's parents also go on trial.

Rebecca Lynn Davis died May 16, 1991, at her home in Athens, Mississippi without medical care. The thirteen-year-old girl had diabetes. She died of suffocation due to breathing in vomit, which in turn was caused by overfilling of the stomach.

The entire congregation to which the Davises belonged had been on a fast for three weeks before her death as a ritual for restoring the minister's health. Apparently, Rebecca lost so much weight during the fast that her parents, David and Ann Davis, finally decided to give her inordinate amounts of food.

The Davises belonged to an independent Baptist church. Its pastor Richard Vaden believed in relying exclusively on prayer, fasting, and anointing for healing disease.

Several ministers have been convicted in the United States for advocating fatal beatings of children. Also, grand juries have indicted Christian Science practitioners and Faith Assembly's Rev. Hobart Freeman for encouraging parents to withhold lifesaving medical care from children. But the charges against the practitioners were dropped before they went to trial, and Freeman died before the trial date.

Elections

Rita and Doug Swan of Sioux City, Iowa, and Mike Botts of Kansas City, Missouri, were elected to three-year terms on CHILD's board of directors. Thanks for participating in the election.

Holiday gifts

With the holidays approaching, please consider giving friends gift subscriptions to the CHILD newsletter, which are \$25 a year. Also, donations to CHILD may be made in honor of friends. We will send a card notifying them of your gift.

About CHILD, Inc.

CHILD, Inc. is a tax-exempt organization dedicated to the legal rights of children. CHILD focuses especially on injuries of children due to ideology or culture.

CHILD opposes religious exemptions from parental duties of care. CHILD affirms that all children have a constitutional right to equal protection of the laws regardless of their parents' belief systems.

CHILD provides information to the public about religiously-based abuse and neglect. CHILD also provides a support group for victims of ritual healing belief systems.