



A Connecticut court insists that Juliet Cheng's daughter, Shirley, undergo surgery to treat her arthritis.

What's Up to Doc

ON APRIL 8, 1988, DAVID AND GINGER Twitchell's 2-year-old son, Robyn, died of a bowel obstruction. Last July, a jury convicted the Boston couple of involuntary manslaughter.

As Christian Scientists, the Twitchells had chosen the spiritual healing offered by their church when their son took ill instead of taking him to a doctor. Their conviction has once again focused attention on the right of parents to decide what medical care, if any, their children should receive. The Twitchell case highlights the tension between parental rights and responsibilities, the conflict between religion and medical science, and the controversy over alternative forms of medical treatment.

In the last couple of years, prosecutors have had increasing success in winning felony convictions of Christian Scientists in cases like the Twitchells'. They have done so by bringing charges of manslaughter or child endangerment, bypassing laws in more than 40 states that exempt parents who rely on prayer from prosecution for child abuse or neglect. Simultaneously, a movement to repeal these statutes has been building in the news media and many state legislatures.

Christian Scientists ardently defend their choice of faith healing for their children as a constitutionally protected right. The American Academy of Pediatrics, on the other hand, insists that religious freedom ends where accepted medical practice begins. Dr. Norman Fost, former head of the academy's bioethics committee, has declared that the organization is interested not only in the rare cases where children die, but also in the hundreds upon hundreds of cases where children "suffer from inadequate medical treatment." This interest represents an ambitious effort to enforce mainstream medical decisions on parents over a wide range of health issues.

When do medical authorities have the right to overrule parental treatment decisions? At one extreme are cases like the Twitchells', in which medical treatment has been reliably demonstrated to be safe and effective, and the alternative to seeking treatment is dire, perhaps fatal. Removing obstructions

From emergency surgery to addiction therapy, courts are letting "the experts," rather than parents, decide what treatment to give kids.

BY STANTON PEELE AND ARCHIE BRODSKY

JOYCE DOPKE/NEW YORK TIMES PHOTO

of the bowels, treating infections such as pneumonia or meningitis, preventing infectious diseases by inoculation, and stabilizing diabetes are examples of treatments that fall at this end of the spectrum.

But many cases where we place our faith in medicine are not so clear-cut. These include situations where one's personal or cultural preferences may be scientifically valid and where the benefits of conventional therapy are uncertain. Part of the problem is the discrepancy between the true efficacy of many treatments and the claims made for them by medical interest groups. The state too often yields to the judgment of the most vocal and conspicuous treatment advocates, even when that judgment is no better grounded than the religious, cultural, or personal preferences of those they seek to coerce.

Consider the case in Connecticut of Juliet Cheng and her daughter, Shirley. Shirley was stricken with arthritis as an infant. Despite receiving a range of treatments, by age 7 she was confined to a wheelchair and in constant pain. A physician recommended that Shirley undergo surgery on her knees, hips, and ankles. Shirley's mother rejected this advice, choosing instead to take her child to China for less-extensive surgery combined with traditional folk treatments. But when she went to Newington Children's Hospital in Bridgeport last July for what she thought was a final consultation before the trip, the Department of Children and Youth Services charged her with neglect and placed Shirley indefinitely in state custody.

A juvenile court judge has approved the suggested operation, despite testimony that the procedure need not take place for two years. Cheng has appealed the decision in federal court. Carolyn Richter, an attorney who has filed a class-action lawsuit charging Connecticut's Department of Children and Youth Services with a pattern of arrogance and insensitivity, called the Cheng case "an example of the medical establishment deciding they have the truth of the matter and totally disparaging alternate forms of medicine."

PREGNANCY AND BIRTH, NOT TO MENTION ABORTION, HAVE been a major battleground in the conflict between personal autonomy and the state's interest in protecting life. Many court decisions have affirmed that Americans have a fundamental right of bodily integrity. For competent adults (including hospitalized psychiatric patients), this entails the right to refuse medical treatment. In fact, courts have ruled that the imposition of treatment without consent is a form of assault. But cases involving pregnant women, who are making decisions both for themselves and for their unborn children, are more complicated.

Organized medicine uses monopolistic strategies—professional, legal, and political—to counter the economic threat posed by midwives and home birth. In 1977, the executive director of the American College of Obstetricians and Gynecologists remarked that home birth constitutes "maternal trauma" and "child abuse." (See "Up Against the Birth Monopoly," September 1982.)

Yet studies published in leading medical and public-health

journals have shown that, for comparable populations, the outcomes of birth at home and in freestanding birth centers are not significantly different from the outcomes of hospital births. It seems that the greater comfort some women feel when they give birth at home, coupled with the extra attention of relatives and attendants, compensates for the very small added risk involved in being away from the hospital.

In the last few years, the issue of coercive intervention during pregnancy has come to a head in the controversy over court-ordered Caesarean sections. A 1987 national survey found that, in 86 percent of recorded cases, judges intervened on the side of doctors who sought to operate on a fetus over a mother's objection. In 1987, a Washington, D.C., judge ordered a Caesarean section performed on Angela Carder, a woman facing imminent death from cancer. Doctors estimated her 26-week-old fetus had a 50-to-60-percent chance of immediate survival and an even lower chance of long-term survival.

The surgery was performed against Carder's apparent wishes as well as those of her family and her own doctors. The baby died within a few hours, and Carder died two days later. Her parents nevertheless appealed the judge's order, with the support of more than 100 briefs from women's organizations, medical societies, and leading bioethicists. In April 1990, the District of Columbia Court of Appeals ruled, 7-1, that neither pregnancy nor terminal illness justifies compelling a woman to undergo surgery. How well the judicial decision is implemented in regular medical practice remains to be seen.

IN CONTRAST, THERE HAVE BEEN SURPRISINGLY FEW LEGAL CHALLENGES to the growing trend to force children into treatment for alcoholism and drug abuse. Although it goes under the name of medicine, this kind of therapy is actually a folk remedy with religious overtones. Researchers have never found that inpatient treatment based on the model of alcoholism as a disease is more effective than simple counseling. The head of the government's own National Institute on Alcohol Abuse and Alcoholism, Enoch Gordis, has declared: "In the case of alcoholism, our whole treatment system, with its innumerable therapies, armies of therapists, large and expensive programs...and public relations activities, is founded on hunch, not evidence, and not on science."

Aside from detoxification, most hospital treatment for chemical dependence in the United States is a thinly disguised repackaging of Alcoholics Anonymous's 12-step approach, which strives to convince the problem drinker or drug abuser that he or she is a lifelong alcoholic or addict. More religious than clinical, Alcoholics Anonymous derives its ideas and rhetoric from the 19th-century temperance movement. A.A.'s 12 steps, six of which refer to God, leave no room for therapies that teach the drinker techniques of moderation or for changing the circumstances that led to the drinking problem. Yet clinical comparisons regularly show that these techniques work better than the 12-step model.

In group sessions based on the A.A. model, fellow inmates and treatment personnel abuse the "patient" who refuses to

concede that he or she is an alcoholic. Public figures such as baseball player Dwight Gooden (treated at the Smithers Center in New York) and Chevy Chase (treated at the Betty Ford Center) have described their horror at witnessing—and experiencing—such onslaughts.

The indiscriminate imposition of such therapy on the young is therefore especially troubling. The incarceration of adolescents in private mental institutions—primarily for substance abuse—grew by 450 percent during the 1980s. Parents agree to many of these commitments under duress, pushed by school drug counselors, social-service agencies, and private treatment centers. (Treatment center staff pressure parents to raise the huge sums required to pay for treatment, repeatedly warning that otherwise their child will soon end up dead.) Sometimes juvenile courts require treatment as a condition of probation, and family courts may order treatment in cases involving divorce, runaways, or custody disputes.

Adolescents are often hospitalized merely because they have been caught—or suspected of—getting drunk or smoking marijuana. Yet adolescent binge drinking or drug experimentation does not predict later alcoholism or addiction. Treatment brainwashes impressionable teenagers into accepting a powerful, negative view of themselves—that they cannot control their drug or alcohol use—even though most would ordinarily outgrow their adolescent excesses without treatment. Furthermore, says University of Nebraska psychologist Gary Melton, adolescent treatment frequently entails humiliating rituals and intense, prolonged group confrontations that “may destroy the youngsters’ already fragile self-esteem.”

Such treatment of adolescents for chemical dependence is certainly at the opposite extreme from the Twitchells’ case. In a 1988 ruling involving Christian Scientist parents, the California Supreme Court discounted an 1874 decision in which manslaughter charges were dismissed against a parent who had treated her child with prayer instead of calling in a doctor. “Were blisters, leeches, and calomel the medical alternatives to prayer today,” the court held, such a defense would “more fully resonate.” Yet the same religious conversion that constituted alcoholism treatment in 1874, when blisters and leeches were common medical remedies, continues today—with the full cooperation of the medical and legal systems.

BUT SURELY, MOST PEOPLE THINK, THE CASE FOR CONVENTIONAL treatment is clear in instances of organic disorders, such as heart disease and cancer. Here, if nowhere else, we can safely say which treatments work and which do not. Or can we? Frequently we see reassessments of established treatments that have been widely promoted and practiced for years.

When subjected to long-term evaluations of medical outcomes, the evidence favoring these treatments often evaporates. Prominent examples are open-heart surgery and mastectomy, both of which have generated countermovements that dispute their value and recommend less intrusive treatments. With the chronic degenerative conditions that challenge

Parents often agree, under duress, to incarcerate their children in treatment centers; staff repeatedly warn that without treatment the child will die.

20th-century medicine—unlike infectious diseases of past eras that were successfully attacked by “magic-bullet” drugs—lifestyle and environment can be as important as surgery and medication in the overall prognosis.

Cancer treatment illustrates the uncertainty of conventional medical wisdom. Given the toll it

takes on women’s lives, breast cancer might well be described as an uncontrollable catastrophe comparable to AIDS. Why, then, do most of us feel that we are progressing in our battle against cancer? The American Cancer Society has tirelessly promoted the idea that we are winning the war against cancer—and that, incidentally, people, institutions, and government should increase their financial support for research and treatment.

In contrast to this rosy view, a congressional investigation in the late 1980s concluded: “For a majority of the 12 most common tumors there was little or no improvement from 1950 to 1982 in the rate at which patients survived their disease.” The same can be said today. It may be less reasonable than we imagine to castigate those who seek Laetrile treatment as superstitious, soft-headed fanatics when compared to those of us who choose “sound” medical treatment.

By the same token, we should not be hasty to accept a particular kind of treatment because professionals whose careers are invested in it and people who are religiously devoted to it (such as A.A. members) declare it beneficial. Judges, like most laypeople, are often swayed by extravagant claims presented from these economically and emotionally slanted perspectives. What they don’t know is that other qualified professionals, perhaps less visible than gung-ho therapy adherents, offer good reasons to discount these inflated claims.

Clearly, any court that is asked to impose treatment decisions should move cautiously. The presumption should be in favor of the values and choices of the individual or family. There are surely cases where well-meaning religious devotees choose unwisely and thereby endanger the health of their children. But often cases that give rise to charges of this sort are far more complex than the legal system can easily resolve. Controversies that are depicted as conflicts between science and faith may in fact be conflicts between two kinds of faith—one of them the unquestioned belief that medicine knows best how to handle any problem. ■

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LOOKING LEFT

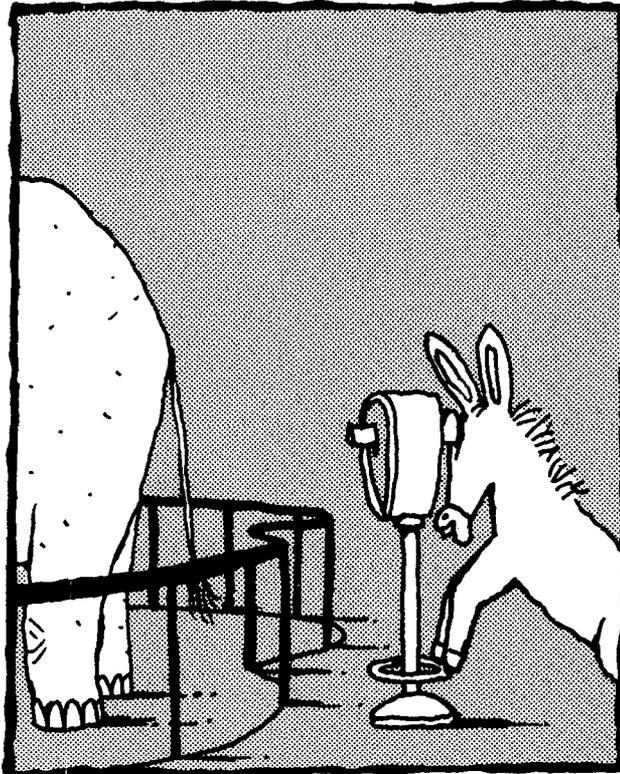
BY MARTIN MORSE WOOSTER

It was the autumn of 1990, and America's liberals and leftists clamored for a place in the sun. The Republican Party was led by a man elected to be a second Ronald Reagan but whose persona was that of a kinder, gentler Richard Nixon. The economy was swan-diving into a recession, as developers, investment bankers, and savings-and-loan executives spent their days alternating between the bankruptcy courts and grand jury proceedings.

The conservative movement appeared to be splitting up. The sniping between traditionalist conservatives and their neoconservative rivals had escalated into a cold war, and fiends had burst in on Pat Buchanan and fired a round of verbal bullets at point-blank range.

In the 1990 elections, voters, when they wanted to change their leaders, preferred politicians with principles over those who believed in nothing at all. While many of these principled politicians were Republicans and some were even conservative, in a few states voters preferred liberals or leftists to a Republican nonentity. Given some victories—a governor in Oregon, a senator in Minnesota, and the first avowedly socialist congressman since the days of Harry Truman—some liberals proclaimed that their cause was resurgent.

When Robert Kuttner viewed the future in the October 29 *New Republic*, he was as enthusiastic as a child in a candy store who got to stuff his pockets with chocolate bars, Tootsie Rolls, and jelly beans. Faced with a dark and forbidding future ("winter is coming, the larder is empty, and the supply of firewood has already been burned"), Kuttner's cure was to stimulate spending by increasing taxes. If people stopped spending money on what they wanted to and were forced



to give more money to the state, said Kuttner, all would be well. After all, he said, World War II government spending ended the Great Depression!

The one admirable fact about Kuttner is that he never changes. In good times or bad, Kuttner's cure for the economy is always the same: massive government spending and punitive income tax rates. Such constancy is to be admired in our fickle world.

Most of Kuttner's peers on the left aren't as stalwart in their opinions. Indeed, it's difficult to determine what the American left wants these days.

That is because the American left, like the American right, has its authoritarian and anarchistic tendencies; both Emma Goldman and Herbert Croly have their descendants among today's leftists. Since the first World War, the debate on the left has been about what tendency will predominate. Until the 1960s, most

prominent leftists, such as the writers and editors of *The New Republic*, tended to be authoritarian command-and-control social democrats. The rise of the New Left in the 1960s restored the anarchistic faction of the left to some degree of power. Today, neither side dominates. Indeed, in many cases, a leftist typically uses authoritarian and anarchistic language at the same time.

Consider the question of free speech. On the one hand, most leftists believe that recipients of National Endowment for the Arts grants have an absolute right to say and do whatever they want. On the other hand, many of these same leftists—particularly feminists, gay-rights activists, and blacks—then argue that politically incorrect speech on campuses should be severely restricted or banned.

But David Rieff, in the November *Esquire*, notes that censors on the right and censors on the left have an eerily similar agenda, as both demand "linguistic martial law." Far from being the cutting edge or the avant-garde, Rieff argues, the puritans of the left advocate the timeless American view that the country will be purified if all purportedly harmful substances or thoughts are outlawed. Rieff correctly notes that the arguments for banning "hate speech," pornography, and alcohol advertising rest on the same false assumption—that Americans "are so gullible and childish that they will follow the lead of everything they see or hear."

In a hard-hitting essay, Rieff observes that calling for restrictions on the First Amendment, rather than advancing bold and daring views, will result in "imposing one more layer of conformity and blandness in a country where conformity and blandness in politics and thought are more and more the rule. Americans need