

MINUTES OF THE MEETING OF THE HUMAN SERVICES COMMITTEE
January 23, 1981

The Human Services Committee convened in Room 103 of the Capitol Building on Friday January 23, 1981 with CHAIRMAN BUDD GOULD presiding. All members were present with the exception of REP. DEVLIN.

HB 172

HB 172 was opened by REP. DONALDSON, the sponsor of the bill. He explained the bill is to amend the law relating to the detainer of adulterated or misbranded articles.

PROPOSERS:

VERN SLOULIN, Chief, Food Consumers Safety Bureau, Board of Health and Environmental Sciences, explained that problems have arisen when accidents have resulted in food being detained by the Health Department. One such incident involved \$1,000,000 worth of food. Aside from accidents, foods may also be misbranded or contaminated. (EXHIBIT I) He feels a food embargo should be granted by law in such cases.

BOB STEVENSON, of the Great Falls City-County Health Department, testified in favor of the bill, but also proposed some amendments (EXHIBIT II). They were to clarify the term "Authorized Agent or Agent of the Department."

OPPOSERS:

There were none.

QUESTIONS:

REP. KEYSER asked how many inspectors would be needed. Stevenson said they use two in Great Falls. REP. GOULD asked Sloulin if he favored the amendments proposed by Stevenson. Sloulin stated that the Health Department has no problem in working with local health officials. He did feel that, in tying up large amounts of food, it should be done carefully and should be centrally controlled because of the dollar volume.

REP. DONALDSON closed the hearing on the bill.

HB 246

HB 246 was opened by REP. YARDLEY, sponsor of the bill. He explained the bill's intent and suggested the amendment on the bill be accepted.

PROPOSERS:

JUDY CARLSON testified that this bill is to assist the Department of Social and Rehabilitation Services (SRS) in making the best use of the time of county social workers. Because the county welfare department is mentioned in the statutes, many attorneys throughout the state recommend to judges that the social worker be the investigator in custody disputes--regardless of the income of the parents. (EXHIBIT III)

OPPOSERS:

There were none.

QUESTIONS:

REP. KEYSER asked why persons who could afford to pay for an investigation couldn't pay the county. Judy Carlson said that it is mostly a question of time, rather than the money. REP. KEYSER asked if a county welfare worker could still handle these cases with the proposed law. Judy Carlson felt that they still could if they wished.

REP. YARDLEY closed the hearing on HB 246.

HB 249

The hearing on HB 249 was opened by REP. MENAHAN, the sponsor. This bill would establish a hemophilia treatment program, create a hemophilia advisory committee and provide an appropriation.

PROPOSERS:

JERRY LOENDORF, legal counsel for the Montana Medical Association, explained that hemophilia was a very serious and expensive disease. He urged support of the bill. BETTY NELSON, representing the Montana Hemophilia Society, and her son, the president of the society, explained that this disease can cost from \$5,000 to \$30,000 per year per person. When a person starts to bleed, he requires a "concentrate" to control the bleeding, to relieve excruciating pain, and to prevent permanent damage. In order to qualify for Medicaid, a person must be an SSI dependent and, therefore, must be declared "unemployable." JOSEPH W. WATSON testified that passing this bill would allow those afflicted with hemophilia to remain in Montana, and not to seek help elsewhere in one of the 22 states which now provide help. DONNA SMALL, of the Montana Nurses Association, strongly supported the bill.

OPPONENTS: None.

QUESTIONS:

REP. PAVLOVICH asked if this was similar to the Renal Kidney bill passed two years ago. REP. MENAHAN said yes. REP. WINSLOW asked how many in the state were afflicted with hemophilia. Mrs. Nelson said there were 50 known cases. REP. WINSLOW asked if a person's ability to pay isn't reviewed along with the costs of the illness. Mrs. Nelson said that, in her son's case, the family was "too rich" to receive Medicaid, but "too poor" to handle the expenses. She also said her son would like to, and is able to work, but cannot legally because he has been declared "unemployable." They prefer not to receive Medicaid. REP. WINSLOW asked if the state association was non-profit. Nelson said yes. REP. BARDANOUE asked why Mrs. Nelson did not want to receive Medicaid. She replied that she would like to receive "concentrate" free and would like for her son to be able to work. REP. SIVERTSEN asked REP. MENAHAN why a 12-member board, provided by the bill, would be necessary, with only 50 persons in the state afflicted. REP. MENAHAN replied that the size of the board could be reduced in Executive Session. BARDANOUE asked if a board is administering the renal money. REP. GOULD said that it is administered through Vocational Rehabilitation (Voc. Rehab.). They have not been charging for doing so, but it is somewhat of a problem. This came up when funds were low. BARDANOUE felt the Voc.Rehab.could be a good program for hemophiliacs. REP. MENAHAN closed the hearing.

HB 268

REP. NORDTVEDT opened the hearing on HB 268. He explained this bill is to allow licensing of boarding and foster homes for children by the Department of Institutions as well as the Department of SRS.

PROPONENTS:

BOB DAVIES, who served as administrator of the Big Sky Christian Youth Ranch in Whitewater, Montana testified. (EXHIBIT V). He feels that the SRS should not be the sole licensing agency in Montana. He testified he differed with their philosophy in child rearing and was refused a license. DICK NEEKER, a probation officer, said he "had no problem with the bill."

OPPONENTS:

NICK ROETERING of the Department of Institutions said he opposes the bill because it is a duplication; also, that the Department

of Institutions does not want to be responsible for this proposed licensing. JUDY JOHNSON of the Office of Public Instruction objects in regard to the opening of group homes. ROBERT WIX, President of the Montana Association of Child Care and Administrator of the Inter-Mountain Deaconess Home for Children appeared. He stated that all of the private child care agencies were asked by SRS to help develop the child care standards for Montana which became effective in 1978. In his opinion they have worked well. He feels that if the state institutions were licensed, there wouldn't be the problem of bringing Boulder River School up to standards. DON HANSEN of a youth ranch, feels this bill would make for additional expense. He said his facility has had no problem with SRS in regard to discipline. RAY PECK, Assistant Superintendent of Schools in Havre, opposed the bill. JUDY CARLSON, Assistant Director of SRS, appeared in opposition.

QUESTIONS:

REP. WINSLOW asked Mr. Davies where the youth ranch obtained their money to operate. Mr. Davies stated that a fee is charged parents of the children and that they receive private donations. They previously received money from the state, but don't now that they are unlicensed. REP. SWITZER asked Hanson of the Yellowstone Boys and Girls Ranch if their standards are reviewed by SRS. Hanson said they were OKd. SEIFERT asked if Davies thought the Department of Institutions would be a better judge of licensing. Davies felt that two agencies would be a check of power. REP. BERGENE asked what was the main function of the ranch. Davies responded that it is a home for children who have problems at home and with the law, but is not for hard-core criminals. The children attended public school. REP. BARDANOUE asked if the ranch was presently licensed. Davies said the ranch became licensed as a series of group homes. BARDANOUE wondered how this could be. Davies replied that they applied in that manner and were granted the licenses. BARDANOUE brought up the cult in Wolf Point recently charged with manslaughter and asked if it was a licensed institution. A spokesman for SRS replied that they did not apply and did not receive a license. REP. BARDANOUE stated that Montana had a very strong law protecting the rights of children. REP. WINSLOW asked who developed the standards for licensing. Judy Carlson said it was developed by the staff of Social Services in conjunction with child caring agencies. SIVERTSEN referred to the amendment on page 2, line 14 and felt that "opened the door" to institutions such as the Christian Youth Ranch to do as they pleased. BARDANOUE asked if the basic controversy was corporal punishment. Davies said "yes" but that SRS also looked for other reasons to deny them licensing. REP. GOULD asked if punishment isn't sometimes necessary. Mr. Hansen said the ranches handle very difficult, seriously-disturbed children and that punishment is necessary but has to be individualized. REP. NORDTVEDT closed the hearing on HB 268.

EXECUTIVE SESSION:

HB 96

RUSS JOSEPHSON, committee counsel, read a proposed Statement of Intent for HB 96. REP. CONN moved that it be accepted by the committee. It was seconded and passed UNANIMOUSLY.

HB 127

RUSS JOSEPHSON, committee counsel, read a proposed Statement of Intent for HB 127. REP. SIVERTSEN moved that the Statement of Intent be accepted. It was seconded and passed UNANIMOUSLY.

The meeting was adjourned at 2:55 p.m.



BÜDD GOULD, CHAIRMAN

rj

HOUSE BILL NO. 172

The purpose of this bill is to amend a section of the Food and Drug Law (50-31-509, MCA) relating to embargoing products which are adulterated or misbranded.

This amendment is being requested due to legal problems which surfaced during the 1979-80 experience with PCB in Montana.

There have been no problems with voluntary embargoes in the past, but the department legal counsel advises this is extremely risky under present form of law.

The Food and Drug Law at present does not specifically provide for voluntary embargoes. The Department of Health and Environmental Sciences has been operating on the assumption that they could develop an agreement with the owner or the person responsible for the product without involvement of the court. Many agreements of this type have been developed in the past to the satisfaction of the owner and the department. In some cases the product had to be destroyed, but in many cases the product was reconditioned and marketed.

Embargoes are issued:

- (a) As a holding action to provide time to conduct more detailed investigations to determine if the products are misbranded or adulterated. Laboratory analysis is frequently involved in the investigation.
- (b) When there is strong evidence that a product may be contaminated.
- (c) As a result of fires, floods, truck accidents, indiscriminate use of chemicals, accidental chemical contamination, and other emergencies.

The department's experience has been that the owner or responsible person prefers to develop a voluntary agreement rather than become involved with the court.

January 23, 1981

TESTIFYING IN SUPPORT OF HB 172

Robert K. Stevenson
Registered Sanitarian
City-County Health Dept. (Area Supervisor)
1130 17th Ave. So.
Great Falls, Mt. 59405

The bill entitled "An act to amend the law relating to the
retainer of adulterated or misbranded articles: amending Section
50-31-509 MCA."

I support HB 172 as proposed, however I would like to offer an
amendment to Section 50-31-103 Definitions and Section 50-31-509.
The term "Authorized Agent or Agent of the Department" is used in
several areas of the Act. It had never been clear to whom that
term applied. I propose that the authorized agent term means "any
local health officer or local sanitarian." This amendment would
give the local Health Departments the authority to:

1. Make inspections and takes samples of food in
warehouses and transportation.
(See Section 50-31-106) and,
2. Embargo or detain foods suspected of being adulterated
or misbranded. (Section 50-31-509) and,
3. Authorize condemnation/^{of} filthy, decomposed, perishable foods
under Section 50-31-510.

Local health authority to deal with the problems of damaged
and unwholesome foods is the purpose of my proposed amendment to
HB 172. Local health professionals must have such tools as inspection
authority over warehousing and transportation of food and the authority
to resolve questions about suspect foods through the use of embargos.

January 22, 1981

AN AMENDMENT TO HB 172

We request that an amendment to HB 172 be adopted. Specifically that: Section 50-31-103 Definitions be amended to include a definition of the term "Authorized Agents"; and that this term be defined as follows: Authorized Agent(s) of the Department means any local Health Officer(s) or local Sanitarian(s).

Further that the amendment to Section 50-31-509, line 5, be amended to read: "neither the department, the state nor the local health jurisdiction, City or County, may be held liable...."

Reasons for local Health Department inclusion in the Act.

(1) While the Montana Food, Drug and Cosmetic Act is a most complete and comprehensive food protection law it suffers from a lack of effective enforcement. Local sanitarians are not empowered to enforce the provisions of this statute in a prompt and efficient manner. Foods contaminated by floods, fire, trucking accidents, PCB, and other contaminants cannot be embargoed or detained promptly without first calling the SDHES and getting a verbal OK to detain. This places the local Health Department in a precarious position. On one hand we feel a moral obligation to investigate and control adulterated food items that may go back into commerce if not embargoed. And on the other hand we have no written legal authority for such an embargo until a letter arrives two or three days later. Montana is too large a State for anyone to believe that effective control of contaminated food items can be guaranteed by four or five individuals on the Food and Consumer

Safety Bureau who are often hundreds of miles away from the scene of a truck wreck or the location of contaminated foods. Even if they could travel to the scene quickly, it may not be soon enough to prevent unscrupulous persons from removing contaminated foods from the control of officials and into commerce where unsuspecting consumers will pay for the adulterated items and suffer the consequences. Further, such travel by State Health officials is not consistent with lowering the cost of government when local health sanitarians can do the job as well and with the quickness that is always demanded by those involved.

2. The Federal Government through FDA and USDA spends millions of dollars insuring that the industries that produce food provide a quality product. And, the State and Local Health Departments work hard at insuring good food quality at the retail restaurant and grocery store level. One large and significant link in the food chain is almost never examined at all. This vital element is the food warehousing and transportation industry.

Existing Rules and Regulations make it at best unclear if local sanitarians are authorized to make routine inspections of food warehousing and transport. The including of local health officers and sanitarians as authorized agents of the Department for purposes of enforcing the FD & C Act will give the local department unquestioned authority to investigate problems in Food Warehousing and transport, provide routine inspectional services and place in the hands of local departments the authority to resolve problems when they are found.

...admit that warehouse inspections in many areas are done on a random basis; and may often go without any official scrutiny for years.

3. Further, in terms of inspection frequency of warehousing State officials do no better than FDA and in fact the FDA contracts with the State to do their random survey inspections. If a means could be found under the Reagan Administration so that FDA could contract directly with local health agencies for warehousing and other types of food establishment inspections, the local health department may not be able to accept such contracts without receiving the authority to act as an authorized agent under the Montana Food, Drug and Cosmetic Act. Again, local departments making such contract inspections is far more efficient than Federal and State employees performing the inspections.

4. Finally, you may well hear the statement from SDHES officials and their legal staff that to grant such authority at the local level is placing the State in a liability situation that leaves them vulnerable from the embargoing actions taken by local sanitarians. This is true, however, let me make two points:

1. If there are problems in insuring consistency of enforcement throughout the numerous local health jurisdictions, then the solution is not the centralized control of the law's (FD & C Act) enforcement provisions - but the solution is providing the rules and policies through which local sanitarians can function effectively. The adoption of Rules by the SDHES for "efficient enforcement" of this law would help insure that embargo and detainment actions would be just and consistent throughout the State. The present Food, Drug and Cosmetic Act

Section 50-31-104 authorizes the SDHES to adopt such rules. The act has been in effect since 1967 and no rules have been adopted under this act by SDHES.

Finally, in terms of public health, it is far better to detain one truckload of suspect foods and find upon proper examination that there is no problem - than there is to ignore tens of others because tools of authority have not been delegated to the local level of government.

It is time to put the authority and responsibility where they can do the most good. Efficiency in government regulatory programs need not be a campaign pipe dream - it can become a reality - and as committee members you can take the next step and vote for HB 172, with the provision that local Health Departments can act as authorized agents in enforcing the Montana Food, Drug and Cosmetic Act.

Testimony on H. B. 246 - An Act to Delete Reference to the
County Welfare Department as a Potential Investigator in Custody Disputes

EX III

The Department of Social and Rehabilitation Services requested introduction of this bill. Its purpose is to assist the department in making the best use of the time of county social workers. Because the county welfare department is mentioned in the statutes, many attorneys throughout the state recommend to judges that the social worker be the investigator in custody disputes - regardless of the income of the parents. As a result, publicly supported social workers are spending alot of time doing work for attorneys and judges which could be paid by the private parties involved. Most cases of disputed custody arise in middle and upper income families. Sometimes, though seldom, low income families do have disputes over which parent will have custody, but more than likely the issue of custody is settled prior to acourt action.

What is the extent of this problem? We cannot say for sure on a statewide basis. Some courts do not use county social workers for these investigations at all. Others use them extensively. For example, we know that in Gallatin County there are 50-60 court-ordered investigations a year. The time involved is roughly 15-20 hours per investigation resulting in one-half time for one social worker. In Missoula County last year there were 24 court-ordered investigations or roughly one-fourth of a social worker's time. In lewis and Clark County, one social worker has been assigned full time for custody dispute investigations.

Why do we have to come to the Legislature with what seems to be an internal management problem? As long as the county welfare is mentioned as a potential investigator in the statutes, attorneys will continue to make recommendations to judges for these investigations because they save their clients money and it is an easy way out. Even though, with passage of this

H. B. 246

law, judges could continue to order an investigation by a county social worker, it would be less likely. And as long as it is spelled out that the court may order investigations to be paid by the parties involved, they would be more likely to do so.

If county social workers don't do the investigations, who will? This problem is most prevalent in the more urban counties. There are other people in those counties who are qualified by profession to do investigations - persons in private practice, college professors, clergy or psychologists, as well as social workers. SRS is willing and able to furnish lists to the court of persons we consider qualified. Those persons would then be paid directly by the parents according to the final court order.

In these days of belt-tightening, of making the very best use of the limited staff we have, we need to look at every way to use that staff on the most critical social problems. The number one priority of the department for its social work staff has to be the protection of children, the disabled, and the elderly - persons for whom the state has a clear responsibility, persons who have ~~no~~one else to protect them. The less time devoted to situations which could be handled by someone else in the private sector, the more time we will have to carry out our primary responsibility.

The Department of Social and Rehabilitation Services urges your favorable consideration of this bill.

Judith H. Carlson
Deputy Director

EX. 24

NAME Joseph W. Watson BILL No. HB-249
ADDRESS 4005 5th Av. So. Gt. Falls Wt. DATE 1-23-81
WHOM DO YOU REPRESENT Concerned Citizens of Montana
SUPPORT Hemophilia Foundation OPPOSE _____ AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

As a concerned citizen and personal friend of a family whose son is an Hemophiliac I urge you to support H.B. 249. I ask you to keep in mind that portion of the Democratic Party platform which states that we should keep young people in our state since they are our most natural resource. Failure of this bill to pass would mean forcing those with Hemophilia to seek help elsewhere, such as one of the 22 states which now provide ~~for~~ help for Hemophiliacs.

EX V

To: Members of the Montana Legislature
From: Bob Davies, 1000 N. 17th No. 207 Bozeman, MT 59715

INTRODUCTORY SUMMARY

The author of this paper served as Administrator of the Big Sky Christian Youth Ranch in Whitewater, Montana for two and one-half years, and prior to that as a member of the Board of Directors since its beginning in 1974.

During that time, it became apparent that there was need for the changes in the law proposed herein.

The Department of Social and Rehabilitation Services (SRS) has dictatorial power over all facets of the operation of any child-caring facility. It should not be so, and this writer can assure the members of the legislature that the result has been exactly what you would expect of any dictatorial situation.

We therefore would like to propose a change which would much improve the situation.

PRESENT SITUATION

Existing law provides that, "The department of social and rehabilitation services is hereby authorized to issue licenses to persons conducting boarding or foster homes and to prescribe the conditions upon which such licenses shall be issued and to make such rules as it may deem advisable for the operation and regulation of foster and boarding homes for minor children consistent with the welfare of such children." (Book 9, M.C.A., 41-3-503, 1979) Also in the existing law is a provision that the department of social and rehabilitation services (SRS) is to be the sole agency with authority to license a child caring facility (Book 9, M.C.A., 41-3-502, 1979). The basic philosophy of most SRS personnel at the present time could be defined as Humanist.

II. PROPOSED CHANGES

It is urged that these statutes be amended to include the italicized portions as follows:

A. 41-3-502 would read: "... without first securing a license in writing from the department of social and rehabilitation services *or the department of institutions* ..."

B. 41-3-503 would read: "The department of social and rehabilitation services *or the department of institutions* are hereby authorized to issue licenses to persons conducting boarding or foster homes and to prescribe the conditions upon which such license shall be issued and to make such rules as it may deem advisable for the operation and regulation of foster and boarding homes for minor children consistent with the welfare of such children. *The licensing agency, however, shall have no authority to prescribe the child-raising philosophy to be used by any foster home or private institution. Said agency may require the operator of the foster home or private institution to state in writing their purposes, goals, child-rearing practices, etc. prior to issuance of the license* ..."

III. RELIGIOUS OVERTONES

Current practices by SRS go beyond what is allowable by the U.S. Constitution, but these practices are, nevertheless, permitted by the above state law. The existing law gives to the SRS what may be called a "blank check." Child-rearing philosophies are religious in nature as shown in Appendix I of this paper.

The First Amendment to the Federal Constitution provides that the federal government may not pass any law that would "effect the establishment of religion or prevent the free exercise thereof." Later interpretations of the 4th Amendment bound this restriction on the states. By stating that the government may not "effect the establishment of religion," the Constitution is going beyond the forbidding of the establishing of a particular religion by name. The government may not even force specific religious doctrines upon its citizens, since this would have the "effect" of establishing a religion.

In Montana, a large portion of the population profess to be Christians. Most of these use the Bible as the basis of their faith. Many others of our citizens deny the existence or the need of a god. While most of these do not belong to any organization promoting atheist views, some do. And these organizations have done much writing explaining their views. Most atheists would subscribe to the views presented in the "Humanist Manifesto II," published in the Sept. - Oct., 1973 issue of *The Humanist* magazine. The U.S. Supreme Court has held Humanism to be a religion in the case of *Torcaso vs. Watkins*, 367 U.S. 488 (1961). A presentation of the Christian and Humanist views of child-rearing (from the Bible and "Humanist Manifesto II") will be found in Appendix I of this paper.

This does not imply that the "Christian" or the "Humanist" approach are the only two positive alternatives. Rather, it serves to point out that (1) Child-rearing is a religious matter and (2) Religious doctrine in this area is widely varied. Therefore, the state may not enter this area, for to do so would infringe on someone's religious liberty and violate the Constitution.

II. OPENING THE DOOR TO FREEDOM OF CHOICE

The low percentage of improvement in the youth placed in facilities run in accordance with SRS philosophies serves to illustrate that SRS does not necessarily know what is best. By returning freedom of choice to this area, it would be likely that the best philosophy would become apparent by observing the results. Thus, (1) Other facilities would be free to voluntarily choose what works best, and (2) Parents and others with the responsibility of selecting facilities in which to place youth could choose in accordance with their own views.

This is consistent with the American system of freedom of choice and activity. If a facility did not provide the service (results) for which people were willing to pay, it would be forced out of existence. If a facility did provide the service (results) people wanted, it would prosper.

The present system is not result-oriented. Rather, SRS personnel dictate specific philosophies and promote them with religious zeal, without regard to results. In fact, the desired results themselves cannot be agreed upon by many working in this area and the SRS.

In Appendix II are found answers to objections SRS is likely to raise to this limitation on their power.

Appendix III contains both general and specific instances of problems occurring during the two and one-half years this writer worked as Administrator at Big Sky Christian Youth Ranch in Whitewater, MT.

APPENDIX I

Religious Doctrines of Christianity and Humanism Dealing with Child-Rearing

The purpose of this Appendix is to show that (1) the philosophy of child-rearing is religious in nature, and (2) the religious doctrines dealing with child-rearing vary widely.

Some Child-Rearing Doctrines of Christianity Taken from The Bible. (New American Standard Version used)

Proverbs 22:6: "Train up a child in the way he should go, Even when he is old he will not depart from it."

Comment: A child is to be taught the philosophy of his (presumably) God-fearing parents. He is not to be free to "do his own thing" at an early age. This freedom comes when he is old enough to exercise it with the necessary responsibility he has hopefully learned.

Proverbs 13:24: "He who spares the rod hates his son, But he who loves him disciplines him diligently."
Proverbs 22:15: "Foolishness is bound up in the heart of a child; The rod of discipline will remove it far from him."
Proverbs 23:13: "Do not hold back discipline from the child, Although you beat him with the rod, he will not die."

Comment: Spanking a child is clearly taught in scripture. It is tempered with the necessity of administering the discipline out of love for the child, not anger.

Proverbs 29:15: "The rod and reproof give wisdom, But a child who gets his own way brings shame to his mother."

Proverbs 29:17: "Correct your son, and he will give you comfort; He will delight your soul."

Comment: The Bible teaches that the parents are to run the family and the will of the child is subordinate to his parents."

The New Testament is consistent with these thoughts from Proverbs.

Ephesians 6:1: "Children, obey your parents in the Lord, for this is right."

Ephesians 6:4: "And fathers, do not provoke your children to anger; but bring them up in the discipline and instruction of the Lord."

Colossians 3:20: "Children, be obedient to your parents in all things, for this is well-pleasing to the Lord."

Hebrews 12:7: It is for discipline that you endure; God deals with you as with sons; for what son is there whom his father does not discipline?"

Comment: These passages deal specifically with the parent-child relationship. What should be taught to children would include the entire Bible. The need for discipline is universal, according to scripture, even to include Christ, apparently, as we read in Hebrews 5:8: "Although He was a Son, He learned obedience from the things which He suffered."

Summary of the Religious Philosophy Outlined in "The Humanist Manifesto II".

"The Humanist Manifesto" begins with a statement that man has essentially conquered nature, can therefore control his own destiny, and has no need of God. Belief in God can even be destructive. There is no life after death. "We affirm that moral values derive their source from human experience. Ethics is autonomous and situational needing no theological or ideological sanction. Ethics stems from human need and interest." This quote shows that Humanism teaches the absence of absolutes. The same act can either be "right" or "wrong" depending upon circumstances, such as the "feelings" of the one performing the act.

The above, while not dealing directly with child-rearing, presents a general philosophy which must affect the method one who holds these views would use in raising children. Nothing is "wrong" in the absolute sense.

"The principle of moral equality must be furthered through elimination of all discrimination based upon race, religion, sex, age or national origin." In practice, Humanists take this idea to mean that children should be masters of their own destiny, just as adults are.

Much more could be added to show that Humanism is essentially the opposite of Christianity in most points. Children could therefore be taught something quite different than the one placing the child in a facility might want if either philosophy was the only one allowed.

Finally, a general definition of "religion" should be included. According to the American College Dictionary, religion is "the quest for the values of the ideal life, involving 3 phases: (1) the ideal, (2) the practices for attaining the values of the ideal, and (3) the theology or world view relating the quest to the envionring universe." The Supreme Court apparently uses this definition when extending "religious" protection and exemption to various "religious" groups.

APPENDIX II

Probable Objections to the Proposed Change and Answers to the Objections

1. This would open the door to the operation of all kinds of groups with "way-out" ideas.

The free market would operate here just as it does in every other area in which it is truly free. If a facility is not "selling" a philosophy free people will "buy", it will cease to exist. The requirement SRS may impose under the proposed amendment will prevent a facility from mis-representing itself.

2. By allowing spanking there would be much more child-abuse. Many in SRS believe spanking is child abuse.

Child abuse is (or should be) defined and punishable by law. It is generally the result of a fit of anger. Rules and regulations will not prevent it, any more than regulation of automobile usage by government prevents accidents. The facilities which are responsible, and will therefore be patronized, will take steps to ensure that responsible staffs will operate them. There are many outside of SRS who believe forcing them to make decisions their youth and background ill-equals them to make, as SRS often does, is child-abuse.

The duplication of allowing both the SRS and Department of Institutions to license is unnecessary and inefficient.

The power to license is the power of life and death over the facility required to have such license. By allowing two agencies to issue licenses, we will reduce the potential for abuse by government. Since no agency will be permitted to dictate (religious) philosophy, the licensing procedure will be greatly simplified. Both agencies could cooperate to come up with uniform standards. It would require no more personnel to actually issue the licenses.

Strict regulation must be retained in the interest of uniformity.

Why? Again, this argument can be answered by the free market idea. If you don't like what a facility is doing, don't use it. The present strict regulation system puts the law in the position of saying only the Humanist-SRS position is the correct one. Different facilities with different ideas would allow the possibility of these ideas to be "result-tested". Without this freedom, it is certain we will continue to have the present poor results with foster children.

APPENDIX III

General and Specific Instances of Problems with SRS during the association with Big Sky Christian Youth Ranch of this writer.

General Instances

1. During 1976 SRS was in the process of producing standards to govern all child-caring institutions in the state. One of the provisions in the SRS draft that was presented at a meeting with people from various facilities was a requirement that all girls of sufficient age be given birth control pills. There was enough protest on this item

that it was withdrawn from the final draft, but this serves to illustrate the thinking of at least a prevailing faction at SRS.

Many of the SRS case workers were young, single, new college graduates without experience in the field of dealing with children, yet they were in authority over the ranch staff. Some felt strongly in favor of drug use prohibited by BSCYR. While they would not openly defy our requirements, there was enough hinting that it served to confuse the youth.

3. SRS case workers often told the youth things contrary to what was taught at BSCYR, in areas of discipline and rules at the ranch. By way of contrast, the Department of Institutions personnel were very careful not to undermine the authority of the ranch staff. They did their best to reinforce the ranch program.

4. SRS did not seem to hesitate to remove a youth from BSCYR (and I presume other institutions) if the youth didn't want to stay. It was not unusual for the youth to make such a request after being there a short time and being disciplined perhaps for the first time in his life. As a result, the youth never was able to plant roots, and never felt he belonged. It was our observation that this was indeed an abusive way to treat totally undisciplined youth.

5. During the first 4 years of its existence, SRS held its licensing power over the head of BSCYR trying to force it to comply with its (SRS's) Humanist child-rearing philosophy. The ranch would try to comply, but also felt compelled to uphold its Christian child-rearing philosophy. This resulted in constantly changing policies which was unsettling to the youth. SRS never would issue an annual license during this period. Generally SRS would issue a 90-day license, or delay licensing, which would hold up all state funds when the license expired.

6. In spite of all these problems, BSCYR had a fairly impressive record of success with the youth. This was brought out in a meeting held in Malta about the time of the last legislative session. This meeting was attended by a number of legislators from the Hi-line, SRS personnel from Glasgow and Helena, two Juvenile Probation Officers, local ranchers who worked with the ranch and the youth, parents of some of the youth, and personnel from the ranch and its board of directors.

7. To summarize these general instances, the SRS was determined to have its philosophy prevail to such an extent that it made operation of BSCYR very difficult, by keeping things in a turmoil. BSCYR felt just as strongly that its philosophy is correct. When BSCYR decided to apply for group home licenses, for which standards had not yet been written, SRS didn't have the degree of control over the ranch they had before. This caused the situation to improve. However, SRS still has the power to issue group home standards (and may have already done so) and dictate to them just as they do to institutions.

Specific Instances

1. A 13-year old Indian girl from a bad home situation was sent to the ranch. Her older half-brother had been there previously, but was not there long as he was in need of a more restrictive situation than BSCYR had. Her older half-sister was there, also. She was helped significantly, but was taken from the ranch and went downhill rapidly. This 13-year old was at the ranch for about two years. She made tremendous progress. She reached the point where she had lost her belligerence and was accepted at the white school in Whitewater. Pressure was put on her to return home. She did, but soon wanted to return to the ranch. SRS would not permit her to do so. She wanted to do the right things, but was not strong enough to do so in her home environment. She recognized this and even went so far as to try to get in trouble so she would be sent back. Instead SRS sent her to another facility more in harmony with their philosophy. We still hear from this girl and get reports about her from another youth that was at the ranch. She, too, has gone downhill.

2. Four of the youth ran away and went to Glasgow. While there, they visited the SRS office. During the course of the visit, SRS personnel proceeded to tell them how the ranch couldn't do the things it was doing. One of the four lived in Glasgow and was not eligible for a home visit because of her behavior at the ranch. She was sent home by SRS for a few days without checking with the ranch, thus over-ruling the ranch's authority and under-

mining it. The returning youth, of course, proceeded to tell the rest of the young people at the ranch all they had learned from the SRS people.

3 A new SRS social worker arrived at the ranch on one occasion. During his visit, he made the comment, "I wondered where the barbed-wire and machine gun towers were when I got here." This serves to illustrate the prejudice that existed in the SRS toward the ranch.

Many other instances could be cited, but these will suffice to present a picture of the situation.

interference, it should be handled as isolation from a situation. It is essential for the child to have an adult nearby and in contact with him.

Group punishment for misbehavior of one or more members is not desirable. It can have negative long-range effects in embittering the children who are unfairly punished. It may also disturb group cohesiveness. The group may become hostile to the individual who misbehaved; the individual may feel alone and rejected by the group; the group may direct its hostility to the staff member.

Humiliating or degrading punishment, which undermines the child's self-respect (including ridicule, sarcasm, shaming, scolding or punishment in the presence of the group or another staff member), should be avoided.

Corporal punishment, including slapping, spanking, paddling, belting, marching, standing rigidly in one spot, or any kind of physical discomfort, should not be used. Generally this is viewed by the child as a manifestation of the adult's aggression rather than as punishment, and reinforces any feelings he may already have that the world is hostile. For many children, it is a repetition of experiences they have had at home and that have been a contributing factor to their problems.

Physical restraint of a child, or interference by an adult in a fight between children, is at times necessary or desirable.

Education

Education should be an integral part of the group living program and of the total planning for each child.

Education of children in institutions has special problems. The majority of children have been deprived of, or unable to make best use of, educational opportunities because of disturbing factors in their previous life situations. The children often have learning problems associated with other personality problems and with the adverse circumstances that necessitated institutional care. These problems may interfere with motivation for learning or may result in a level of achievement lower than their potential. Special arrangements and facilities are required, including remedial education and tutorial help, to meet individual educational needs.²³ (8.60, 8.61)

3.27 School attendance

Every child should be helped to secure the maximum amount of formal education of which he is capable, and be provided the optimum conditions in which he can receive the greatest benefit from his school experience.²²

It is the responsibility of the agency to see that children attend school full time throughout the period required by law and in general until the age of sixteen years.

An important goal of group home care is to help the child learn appropriate self-control. Expectations and discipline indicate concern for the child's welfare and growth, but should not be used to dominate the child. Corporal punishment, solitary confinement and deprivation of food are not acceptable means of discipline.

Clearly understood behavioral expectations that are firm but adaptable to each child's capacities are an essential part of the foundation on which a sound group home service is built. As the child develops, flexible expectations allow for gradual reduction of staff control with a corresponding increase of the child's control.

3.4 The child's participation in the development of house rules

Children in the group home should participate with staff in the development of house rules.

Sharing in the governing of themselves to resolve daily problems enables children to work together. Justification for rules should be interpreted and emphasized; namely, that people living together need codes to govern their behavior toward each other. There should be as few rules as possible, and the necessity for each rule should be understood and clearly established. A written manual of basic rules may be useful to the children.

3.5 Differential application of rules

Rules should be explicit, consistent and sufficiently flexible for individual treatment of each child.

Although group home living requires more structure, rules and controls than a family home, the children should know that each child is considered an individual with some needs that must be met in individual ways.

Some children with little self-control require clear outside control to live reasonably orderly lives. Increasing maturity of such children should reduce the reliance on external controls. Recognition of growth can be formalized; e.g., by recognition

Mr. Chairman and Members of the Committee...I'm Robert Wix, President
of the Montana Association of Child Care agencies. ** administrator of*
the Montana Department of Social Services Home for Children.

All of the private child caring agencies were asked by S.R.S. to help develop child
care standards for Montana, which became effective in 1978. We
attended several meetings, we wrote briefs on objections, and out of all
of this came a set of standards for us to operate by. They are not all
that strict; they are, however, a very necessary function...a function which
is the state's responsibility to see that children it places in child care
agencies ("Child care agencies are defined as 13 or more children") are
placed in one which meets the standards that have been adopted.

S.R.S. is the arm of state government which has the expertise for families,
for children and for children in neglect. They are the ones we call on to
provide and qualify A.F.D.C. families, to find and to control licensing of
the foster home, to license private group homes and to license child care
agencies. They have the staff in place to do the licensing procedure. It
is important for adults and kids to have someone to turn to if they feel
they are not being treated fairly.

Each of us who is trying to bring about successful rehabilitation of young
people need some standards to operate by. For instance, I have 21 people
who have direct responsibility for the kids we serve. I cannot have 21
different standards in my agency, so we have developed our standards which we
all follow in our policies and procedures manual, as to what we spend for
birthday gifts, a policy on discipline, a policy on R-rated movies...But
all policies either meet or exceed state standards.

The Department of Institutions is in the business of corrections and at this moment I would surmise that they do not have the trained staff around the state to license the many facets of child care.

I suppose I should welcome the opportunity to shop around for the lowest denominator in securing our license. Possibly if the state institutions were licensed, you wouldn't be having a problem in bringing Boulder River School up to standards.

Why have a duplication of services?

I hope you would not add another licensing agent for us to go through... one is enough. Spend the money to set up the second licensing agency on services to children.

For the Department of Institutions
Have 702 268-

NAME DAN HANSEN BILL No. HB 268
ADDRESS Rt. 1 Box 212 Billings DATE 1-23-81
WHOM DO YOU REPRESENT Yellowstone Boys & Girls Ranch
SUPPORT _____ OPPOSE ✓ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. why change current system
current system is established - functional + effective.
2. change would be a waste of time & money.
3. Two agencies responsible for licensing would be:
 - a. Duplication of government
 - b. Expense
 - c. Confusing
 - d. contradictory - Dual standards
4. present standards are minimal at best
5. Effective standards are necessary for quality assurance and accountability
6. present standards were developed jointly by SRS and private agencies. private agencies had considerable input and in effect are our own imposed standards
7. SRS does not attempt to mandate program philosophy but only monitor according to standards
8. This proposed change would not parallel nor meet standards adopted by private National Associations such as:
National Association of Homes for Children
JCAH
child welfare League
NAHB

Dan Hansen

NAME Billy Nelson BILL No. 249

ADDRESS Fort Benton, Mont DATE 1/23/81

WHOM DO YOU REPRESENT _____

SUPPORT _____ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I represent Terry Nelson who
is a homophiliac & is president
of the Montana Homophilia Society.
He is out of state on a
college related activity.

The Society ~~request~~ would
like to urge the passage of
HB # 249.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

R. LL HB 268

Date January 23, 1981

SOR NORDTVEDT

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE COMMITTEE

Date January 23, 1981

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Donna Small BILL No. HB 249
ADDRESS 1208 Oakland, Bldg. DATE 6-56-1925
WHOM DO YOU REPRESENT MNA.
SUPPORT X OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HOUSE HUMAN SERVICES COMMITTEE

Date Jan. 23, 1981

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE HUMAN SERVICES COMMITTEE

LL HB 249

Date January 23, 1981

SAHUR MENAHAN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME ROBERT DAVIES BILL No. 268
ADDRESS 1000 N 17th #207 Bozeman DATE 1-23-81
WHOM DO YOU REPRESENT Myself
SUPPORT HB 268 OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Wish to testify in favor of HB 268 to
amend existing statutes giving to SRS the
power to dictate child-rearing and other philosophy
in licensing child-care facilities. I believe
child-rearing philosophy to be religious in
nature and by specifying such philosophy
SRS puts itself in violation of the first
amendment of the Federal Constitution which
prohibits the passing of a law "effecting the
establishment of (a government) religion."