Supplementary Material

Chapter 7: The Republican Era—Individual Rights/Religion/Free Exercise

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People v. Pierson, 14 Bedell 201 (NY 1903)

J. Luther Pierson refused to call for a doctor when his child contracted whooping cough. Pierson admitted that he thought the child dangerous sick, but he insisted that prayer was the best strategy for healing his daughter. On February 23, 1901, the child died. Pierson was subsequently arrested and charged with violating a state law that obligated parents to provide medical assistance to their sick children. Pierson claimed that that law violated his right to religious freedom under the constitution of New York. He was found guilty at trial, but that verdict was reversed by the Appellate Division of the New York court system. The state appealed that decision to the Court of Appeals of New York.

The Court of Appeals reinstated the guilty verdict. Judge Haight ruled that religious belief did not excuse persons for their duty to obey a valid state law. Judge Cullen, while concurring in the decision, insisted that religious adults had a right to refuse medical treatment. How would Judge Haight have likely responded to that claim? Whose opinion do you believe constitutionally correct?

JUDGE HAIGHT

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With the commencement of the eighteenth century a number of important discoveries were made in medicine and surgery, which effected a great change in public sentiment, and these have been followed by numerous discoveries of specifics in drugs and compounds. These discoveries have resulted in the establishment of schools for experiments and colleges throughout the civilized world for the special education of those who have chosen the practice of medicine for their profession. These schools and colleges have gone a long way in establishing medicine as a science, and such it has come to be recognized in the law of our land. By the middle of the eighteenth century the custom of calling upon practitioners of medicine in case of serious illness had become quite general in England, France, and Germany, and, indeed, to a considerable extent, throughout Europe and in this country. From that time on, the practice among the people of engaging physicians has continued to increase, until it has come to be regarded as a duty devolving upon persons having the care of others to call upon medical assistance in case of serious illness. . . .

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. . . The Legislature first limits the right to practice medicine to those who have been licensed and registered, or have received a diploma from some incorporated college, conferring upon them the degree of doctor of medicine; and then the following year it enacts the provision of the Penal Code under consideration, in which it requires the procurement of medical attendance under the circumstances to which we have called attention. We think, therefore, that the medical attendance required by the Code is the authorized medical attendance prescribed by the statute; and this view is strengthened from the fact that the third subdivision of this section of the Code requires nurses to report certain conditions of infants under two weeks of age "to a legally qualified practitioner of medicine of the city, town or place where such child is being cared for," thus particularly specifying the kind of practitioner recognized by the statute as a medical attendant.

The remaining question which we deem it necessary to consider is the claim that the provisions of the Code are violative of the provisions of Const. art. 1, §3, which provides that "the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this state to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state." The peace and safety of the state involve the protection of the lives and health of its children, as well as the obedience to its laws. Full and free enjoyment of religious profession and worship is guarantied, but acts which are not worship are not. A person cannot, under the guise of religious belief, practice polygamy, and still be protected from our statutes constituting the crime of bigamy. He cannot, under the belief or profession of belief that he should be relieved from the care of children, be excused from punishment for slaying those who have been born to him. Children, when born into the world, are utterly helpless, having neither the power to care for, protect, or maintain themselves. They are exposed to all the ills to which flesh is heir, and require careful nursing, and at times, when danger is present, the help of an experienced physician. But the law of nature, as well as the common law, devolves upon the parents the duty of caring for their young in sickness and in health, and of doing whatever may be necessary for their care, maintenance, and preservation, including medical attendance, if necessary; and an omission to do this is a public wrong, which the state, under its police powers, may prevent. The Legislature is the sovereign power of the state. . . .

We are aware that there are people who believe that the Divine power may be invoked to heal the sick, and that faith is all that is required. There are others who believe that the Creator has supplied the earth, nature's storehouse, with everything that man may want for his support and maintenance, including the restoration and preservation of his health, and that he is left to work out his own salvation, under fixed natural laws. There are still others who believe that Christianity and science go hand in hand, both proceeding from the Creator; that science is but the agent of the Almighty through which He accomplishes results; and that both science and Divine power may be invoked together to restore diseased and suffering humanity. But sitting as a court of law for the purpose of construing and determining the meaning of statutes, we have nothing to do with these variances in religious beliefs, and have no power to determine which is correct. We place no limitations upon the power of the mind over the body, the power of faith to dispel disease, or the power of the Supreme Being to heal the sick. We merely declare the law as given us by the Legislature. . . .

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JUDGE CULLEN

I concur in the opinion of Judge HAIGHT. The state, as parens patriae, is authorized to legislate for the protection of children. As to an adult (except possibly in the case of a contagious disease which would affect the health of others), I think there is no power to prescribe what medical treatment he shall receive, and that he is entitled to follow his own election, whether that election be dictated by religious belief or other consideration.

CHIEF JUSTICE PARKER and JUSTICES BARTLETT, VANN, CULLEN, and WERNER concur. JUSTICE MARTIN not voting.