experienced by themselves as compared with their children. This was at variance with the findings in the original control trial, where the reduction in requests for care for the symptoms described in the booklet occurred in all age groups.

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References

1 Morrell DC, Gage HG, Robinson NR. Symptoms in general practice. *J R Coll Gen Pract* 1971;**21**:32.
2 Morrell DC, Avery AJ, Watkins CJ. The management of minor illness. *Br Med J* 1980;**280**:769-71.
3 Armitage P. *Statistical methods in medical research.* Oxford: Blackwell Scientific Publications, 1971:127.
4 Moldofsky H, Broder I, Davies G, Leznoff A. Videotape educational program for people with asthma. *Can Med Assoc J* 1979;**120**:669-72.
5 Darnell DK. Some "basics" to get back to: a transactional perspective on teacher-learning. *Communication Education* 1978;**27**:277-85.
6 Phillips AJ, Brennan ME. Reactions of Canadian women to Pap tests and breast self-examination. *Canadian Family Physician* 1976;**22**:1261-4.

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Letter from . . . Chicago

Hyperactive judges

GEORGE DUNEA

These are busy times for our black-robed judges as they toil in their chambers, poring over dusty volumes and burning the midnight oil to solve the problems of a perplexing world. For they are being asked to define life and death and freedom; to uphold the rights of the prisoners and of the mentally ill; to enforce the separation of church and State in the classroom; to rule on the use of nuclear power; to regulate the undertakers and podiatrists; and to decide what to do about the Concorde. In a society dominated by special interest groups they must also make up for the timidity or hastiness of the legislators—and at times, indeed, they appear to be running the country. For increasingly it is the judges—not the elected representatives of the people—who decide who shall be terminated, compensated, reinstated, executed or resuscitated, vivisected or desegregated, dialysed, certified, or involuntarily medicated, mercy-killed, educated, or registered for induction into the army.

On the controversial issue of abortion the judges have also been exceedingly active in the past few years. In 1973, in a landmark decision, they ruled that the constitution guaranteed a woman's right to decide whether she wanted to go through with her pregnancy. Since that time they have periodically invalidated a great many anti-abortion laws variously requiring doctors to obtain special expensive licences; to choose the method most likely to save the fetus's life; to explain that after 22 weeks a fetus was alive; or to describe in lurid details the presumed appearance of the fetus. Some of these laws had made doctors criminally liable for aborting a fetus that could have lived outside the mother's womb. Others prohibited abortions outside hospitals; imposed waiting periods; required two doctors to be in attendance at all times; or restricted abortions to when the mother's life was in danger. Eventually most of these laws were ruled unconstitutional. This year, in June, however, the Supreme Court decided that neither the constitution nor the Medicaid law required the Government to pay for welfare abortions. The five majority judges argued that the so-called Hyde Amendment (which limits Federal aid to cases of rape, incest, or extreme medical indications) placed no legal obstacle to women wanting an abortion but that this freedom of choice did not automatically entitle them to government funding, this being a matter for Congress to decide. Taking the opposite view, four dissenting judges thought that constitutional rights without money were of little help to the indigent. More outspoken critics declared that this was an exceedingly cruel ruling. But many others agreed that it was a reasonable compromise and that the court had done well in interfering no further and leaving the decision to the legislators.

On other issues, however, the judges are continually being drawn into controversies that perhaps should be left to the legislators to decide. Are medical interns students or workers? Are anaesthetists interfering with free trade? Can hospitals deny staff privileges to doctors, and can they require them to take out malpractice insurance? Can insurance companies and pharmacists make deals on prescription drug prices? Should doctors advertise and can States legally prohibit them from doing so? And now, as new forms of life stand ready to be spliced from the old, it was again the courts that had to decide whether Mr Chakrabarty could patent his own micro-organism without causing the world to be overrun by dangerous invisible monsters. The judges, again, wisely stayed away from the Frankenstein issue, saying that it was for Congress to decide whether man-made organisms were too dangerous to be created. Instead, they upheld the 1793 patent laws, ruling that man-made forms of life should have the same protection as other inventions and discoveries, the point being not whether they were alive, but whether they were the result of human ingenuity rather than occurring spontaneously.

Rights to privacy and secrecy

Disputes about rights of privacy and secrecy, some requiring the wisdom of a Solomon, are also increasingly being referred to the courts for adjudication. When the Government wanted to publish the names of doctors earning high incomes from

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Medicare, it was a judge who ruled that this was taking away individuals' rights to privacy. Later a judge in Hawaii stopped government inspectors from reviewing psychotherapists' records on the grounds that their confidentiality was protected by the constitution. But another judge recently decided that psychiatrists should not invariably be guided by considerations of confidentiality but must alert potential victims of violent mentally disordered patients, just as doctors must warn the contacts of patients with communicable diseases—this after a patient with fantasies of violence murdered the object of his paranoia soon after a psychiatric consultation. Lately, groups of citizens have demanded access under the Freedom of Information Act to a variety of research data or have threatened to bring hospital peer review to a halt by requiring the records of such transactions to be made public. But now the Supreme Court has allowed that the raw data compiled by the University Group Diabetes Program study need not be released to the public; and a New York judge saved the day when an aptitude examination for entry into medical school was nearly cancelled because the examining body argued that releasing to the public questions that are used over and over again would irreparably damage this nationwide examination.

One criticism of this extensive judicial activity is that judges do not take into account administrative feasibility, efficiency, or cost; and that tenured bureaucrats, who are not accountable to the electorate, make decisions on spending millions of dollars. Administration officials complain that "hyperactive" judges are assuming the role of administrators or managers of billion-dollar social programmes. There are enormous financial implications in the courts' decisions on desegregation and "reverse discrimination"—as well as in the myriads of court orders on compensation for swine flu vaccine, control of marijuana, architectural designs to help the handicapped, payment for sex-change operations, efficacy and safety of drugs, or disability claims. Judges are ruling on hospital reimbursement rates, billing methods, choice of fiscal intermediaries, planning decisions, and utilisation review methods. One judge rules that hospitals should be reimbursed for paying for malpractice premiums; another will decide whether insurance companies can deny payment for "unnecessary" hospital admissions; and yet another whether industrial safeguards costing millions of dollars should be enforced; whether a city may legally close one of its municipal hospitals; whether hospitals should be reimbursed for long-stay patients when adequate nursing-home facilities are unavailable; whether moving a hospital's obstetric ward constitutes discrimination against black and Hispanic patients; whether optometrists should be reimbursed for treatment of cataracts; and whether States may enforce malpractice arrangements that may save the public millions of dollars. Soon the courts will have to decide about compensating Vietnam war veterans for supposed injuries from the defoliant Agent Orange. And the parents of a boy with an IQ of 172 have sued because their offspring is not receiving the right type of education—this even though the boy had read the *Encyclopaedia Britannica* at the age of 4 and is now working on the world's energy problems, having long given up the idea of becoming a surgeon.

Litigiousness of society

In an increasingly litigious society the courts have awarded $7·8 million to two Bronx children who developed anoxic brain damage as a result of "negligent" treatment of bronchiolitis. A Chicago judge ruled that the city should pay $750 000 to the parents of an institutionalised child who 18 years ago developed brain damage in a tuberculosis sanatorium when two inexperienced doctors injected the bronchoscopy dye into the wrong lung. Then there were rumbles about a legal action against the manufacturers of the uricosuric diuretic ticrynafen, when 52 patients developed hepatic toxicity from the now recalled drug. In Pennsylvania there is a suit by the parents of a child born with congenital heart disease after the mother had been sterilised. In New York a judge has ruled that doctors may be held liable for not advising parents that they may have an abnormal child. A Jewish couple in Chicago are suing their obstetrician for failing to recognise that they were both carriers of the Tay-Sachs disease, thus hoping to establish a new standard of medical care. In Baltimore an ophthalmologist was awarded a $2 million judgment against Johns Hopkins Hospital for alleged mismanagement of a broken hip; the Eli Lilly Company is being held liable for genital tract abnormalities in daughters of women who took diethylstilboestrol while pregnant; and a reformed alcoholic wants to sue the Smirnoff Company for selling him vodka that damaged his liver.

Again, the courts may soon have to rule whether the Government is wasting taxpayers' money by paying for "ineffective" cough and cold remedies, tranquillisers, and weight-reducing pills. In Texas a district judge allowed a patient with cancer to smoke marijuana to relieve the side effects of cancer chemotherapy. In Boston a judge ordered maintenance dialysis to be continued on a 78-year-old mentally incompetent pharmacist against the wishes of the relatives; and another ordered the parents of a child with leukaemia to stop giving laetrile, later placing the child under legal custody to enable him to have chemotherapy. And soon the judges will have to decide whether a severely mentally retarded 13-year-old boy with Down's syndrome should undergo open heart surgery against his parent's wishes, to ensure equal protection under the constitution.

And so, in medicine as elsewhere, the judges are incessantly being asked to intervene, to the dismay of those that deplore the inadequacies of the executive and legislative branch of government and the litigiousness of our society. Prominent jurors have stated that many of these issues should be solved in other ways, because excessive reliance on the courts will ultimately subvert the proper balance between the judiciary and the other branches of government. But, even as they are calling for judicial restraint, other more activist judges continue to expand their scope of action. Some have developed an interest in the science of resuscitation and turning off respirators, claiming that doctors make biased decisions whereas judges are eminently trained in this "process of detached but passionate investigation." With admirable restraint they have so far confined their investigations to the courthouse—but soon they might be expected to come to the bedside, perhaps at the head of an integrated medicojudicial team, having exchanged their black robes for white coats and using the gavel to test the knee jerks: "The heart has stopped, your honour," cries the nurse. "Objection," shouts the patient's advocate. "Objection sustained," agrees the judge. Exhibit A, the cardiac monitor is now disconnected. "I wish your honour to review the electroencephalogram, which for the past week has been flat line." "Objection," cries the attorney for the State. "Objection denied," answers the judge, settling down to examine the optic fundi. "Objection," yells one of the attorneys. Whereupon the judge objectively but passionately clobbers him on the head with the gavel and orders the respirator to be turned off.

In the absence of penicillin allergy is there any reason to treat a sore throat in an adult with any antibacterial agent other than penicillin?

An essay could be written about definitions of sore throat, penicillin, and antibacterial agents, but the short answer is no, because the chances are that the infection will be streptococcal and the organism penicillin-sensitive. Given a severe sore throat with perhaps specks on the tonsils, it is wise to start with injections of either crystalline benzyl penicillin or a long-acting procaine penicillin, because absorption of penicillin V is unpredictable. After 24 hours and a satisfactory response treatment may be continued with an oral preparation.