



Vermont Chronicle: The Raid at Island Pond

The Raid at Island Pond in 1984 was one of the most controversial events in Vermont legal, political, and cultural history. Two years of unsuccessful efforts culminated in the highly publicized raid to rescue the children, followed by a contentious legal battle. This is an inside look from the perspective of top officials within the administration of Governor Richard Snelling.

By DEAN B. PINELES

As dawn broke on June 22, 1984, a phalanx of state police vehicles, about ninety police officers, fifty social workers, medical personnel, and numerous state officials descended upon the reclusive Northeast Kingdom Community Church in Island Pond, Vermont. The objective was to rescue the children of the church and have them examined by medical personnel and social workers, based on numerous allegations of physical and emotional abuse over a period of two years, and the church's repeated failure to cooperate with state officials responsible for child protection during this time. The intervention was one of the most notorious and controversial events in Vermont's legal, political, and cultural history, and is often referred to as the Raid at Island Pond.

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This account is based largely on information that was known within the administration of Governor Richard Snelling (1977–85, 1991) at the time.¹ It is a look into the inner workings of state government in addressing an extremely complicated situation: The conflict between the rights of children to be safe in their environment and the concomitant legal duty of the State to ensure their safety; and the rights of their custodians to be free in the exercise of their religion and in child-rearing.

The evolving dilemma also presented an extremely difficult decision for Governor Snelling and top state officials: Should the State intervene with a show of strength after all less intrusive measures had been exhausted over this extended period of time?

In June 1982, while I was serving as Vermont commissioner of labor and industry, Governor Snelling, then in his fourth two-year term, appointed me as his legal counsel. I represented him in court, before legislative committees, and served as his liaison with several departments and agencies within state government, including all those involved in the planning and execution of the raid or “protective action.”

In May 1984, several weeks before the raid on June 22, Snelling had appointed me as a district court judge (now superior court), and I was scheduled to take the bench in July, with a confirmation hearing in early 1985 when the legislature reconvened. The raid complicated my confirmation, as discussed below.

KEY OFFICIALS IN THE SNELLING ADMINISTRATION

The key people and agencies from the Snelling administration involved in the Island Pond affair over time included John Burchard, commissioner of Social and Rehabilitation Services (SRS); Lloyd Novick, MD, secretary of the Agency of Human Services; John O'Donnell, Esq., deputy secretary of Human Services; Paul Philbrook, commissioner of the Department of Public Safety; Roberta Coffin, commissioner of the Department of Health; John Easton, attorney general; Charles Bristow, deputy attorney general; and Robert Gagnon and Robert Simpson, both assistant attorneys general. Many others were involved from time to time as well, particularly SRS social workers at the district level.

Attorney General John Easton was running for governor in 1984, since Snelling was not running for reelection, and much of his time would be spent campaigning for the Republican nomination that he won, and then campaigning in the general election against Madeleine Kunin, former lieutenant governor, who was victorious in a very close race that November. Easton's deputy, Charles Bristow, was the day-to-day supervising attorney in connection with Island Pond legal matters.

I was responsible for keeping the governor apprised of all significant developments, and I maintained close contact with the persons mentioned above who formed a flexible “working group” (my term).

THE NORTHEAST KINGDOM COMMUNITY CHURCH

The Northeast Kingdom Community Church (NEKCC) was a community of several hundred adults and children that evolved in Island Pond, Vermont, in the far northeastern part of the state, following its relocation from Tennessee in the late 1970s.

As described by “Twelve Tribes,” the successor organization to the NEKCC with multiple sites now in North America and Europe, the Tennessee community was founded in the early 1970s in Chattanooga by Elbert “Gene” Spriggs (1937–2021), who discovered God and Jesus in his early 30s after turmoil and discontent in his life, including three failed marriages and multiple unsatisfying jobs throughout the country. He met his fourth wife Marsha in Colorado, persuaded her to adopt his newly found religious beliefs, and moved to Chattanooga, where Spriggs was born and grew up.²

Gene, a charismatic figure, and Marsha opened their home to anyone who wanted to learn about Jesus, and their ministry became very popular, particularly with young, disillusioned people. Their house became known as the Light Brigade. In need of additional financial resources to support their ministry, they created the “Yellow Deli,” a sandwich shop that provided them the opportunity to earn money, converse with customers, and preach the word of God.³

They were then able to purchase a larger house, which was named the Vine House after a Biblical verse. On Sundays, their youthful adherents attended various church services in the local community, and the group gained popularity. But the young parishioners eventually became disillusioned because of what they perceived as religious hypocrisy, such as well-dressed, wealthy congregants who had little regard for the poor.⁴

Then one Sunday, a seminal event occurred: An evening church service the parishioners planned to attend was canceled because of the Super Bowl, which they perceived as an act of stunning hypocrisy, and from that point on they stopped attending the services of other churches and began their own church. This led to consternation among the local churches, and the Vine Community Church began to face opposition and waning popularity.⁵

Nevertheless, the community prospered in other ways, and they bought more houses and delis. Within five years, they had seven delis and occupied a dozen houses for communal living. But pressure was

mounting from Tennessee authorities, who began investigating complaints of child abuse.⁶ The community slowly began to relocate to Island Pond, as later explained by the Twelve Tribes, the umbrella organization that now has sites throughout the United States and elsewhere

COMMUNITY IN ISLAND POND

The beginnings of the Community in Island Pond go way back. In the late 70's, there were several families that were discontent with the status quo in their everyday Christian lives. They began meeting in their homes and groped to understand all they had grown up hearing about God, but not seeing lived out. They soon stumbled upon a group from "The South" that would change their lives forever.

The folks from the "Yellow Deli" in Chattanooga were already living together in a community and sharing all they had. The families from here in the Island Pond area invited them up to teach them what they knew about living together and soon they couldn't deny what was in their own hearts.

The old "Maples" inn on the hill soon became the bustling center for a quickly growing community. Many from the surrounding area sold their houses and moved to Island Pond because the cry of their heart was being fulfilled, to be able to serve God 100%. More folks came up from the south, more houses were bought, a deli was built and opened, and within a couple of years Island Pond became the home of what was called "the Northeast [Kingdom] Community Church." Many people were saved and the community grew to over 300 people.⁷

The community provided its members with housing, work, food, and freedom from financial responsibility in addition to spiritual guidance. Spriggs and the Council of Elders preached the church's version of strict religious dogma, which was mandatory for members to accept and practice. Spriggs moved to Europe, where he continued to reside, but the Council of Elders remained in contact with him, and continued to adhere to his teachings.⁸

As noted, the community consisted of about 300 persons (100 adults and 200 children) and lived communally, with several families sharing a house or, in case of unmarried members, in a large dwelling that was a former hotel. Members were expected to work, and they arose early for morning gatherings, followed by breakfast and then the day's productive activities. In the evening, there were group activities focused on religious teachings. Sunday was the high point of the week, and was referred to as a "celebration" with religious activities, followed by singing and dancing.⁹

The governance of the community was organized around the Council of Elders, which had the last word on all religious matters, and some

domestic matters such as marriage. Strict obedience was expected on the threat of being expelled. Disciplinary practices were also within the ambit of the elders.¹⁰

As time passed, several concerning practices within the secretive community came to the attention of state officials, including harsh physical discipline, inadequate medical care, truancy, and failure to report births and deaths.

The imposition of physical discipline of children, as described by multiple defectors from both the Tennessee community and the NEKCC, was a basic religious tenet, by which the adults in the community lived, as dictated by their strict interpretation of the Bible (“spare the rod and spoil the child,” Proverbs, 13:24). All children were expected to be disciplined, which could be imposed by any adult in the community, starting at the age of six months, and consisting of being struck on bare skin by wooden rods or “balloon sticks.”¹¹

This could happen multiple times a week or day for various perceived infractions such as improper attitude, disobedience, “fantasying” (imagining), or “reasoning” (questioning authority). The sessions lasted for varying amounts of time depending on who was administering the punishment and the nature of the infraction; for example, the session could be five to ten minutes long with the child being struck fifteen to twenty times for minor transgressions. More serious infractions such as lying could result in longer and harsher sessions called “scourging.” The purpose of this discipline was to inhibit the child’s will, bring the child closer to God, and drive out the devil.¹²

There were also concerns about the community’s reluctance to utilize traditional medical care, and there were many examples of home remedies and treatments by nonmedical persons: a finger sewn up by a person reading directions from a book; a tooth being surgically extracted by a lay person; a cyst removed from a hand; a wart removed; and a child’s ear infection treated with garlic and olive oil. One member of the community was convicted for practicing medicine without a license in 1984.¹³ Medical doctors were considered “worldly,” and to be avoided if possible since this would interfere with Jesus’s miracles. Three children may have died for lack of proper medical care; an autopsy of one child showed spinal meningitis, which could have been treated by professional care.¹⁴

Moreover, children did not attend public school and were taught at a church school for three to four hours a day, with an emphasis on religious instruction. And there was no formal schooling beyond grade eight. Children were disciplined for pretending or playing make-believe during school time.¹⁵

The community also did not register births and deaths as required by state law, and one member of the church was convicted by a district court jury in Guildhall, Vermont, in December 1980 for unauthorized removal of a body.¹⁶

CUSTODY CASES

Two child custody cases involving children from the church community emerged that involved allegations of physical abuse. The cases were between private parties and did not involve the state's child-protection apparatus, but they are illustrative of the disciplinary practices.

One began on August 26, 1982, when a father of five children obtained a judicial custody order as requested by his attorney. But when an attempt to serve the order was made, the members of the church refused to disclose the whereabouts of the children. The man's wife and four of the children were then located by New Jersey State Police in Wrightstown, New Jersey, on September 25, the day they were scheduled to fly to Portugal. The fifth child had already been sent to Europe to be with Eugene Spriggs.¹⁷

At the subsequent custody hearing before a Vermont superior court judge on November 8–9, 1982, witnesses for the father testified about the routine and harsh physical discipline meted out on supposedly recalcitrant children, including the four-year-old daughter of the father, who was beaten with a rod in a two-hour session.¹⁸

A witness testified that "If a child fights or kicks up, they keep beating it to break the rebellion. The child is told to love the rod and receive it . . . They teach that they don't want children to reason. Reason is the source of original sin."¹⁹

The judge awarded custody of the five children to the father, and ordered the mother to return the fifth child to Vermont. However, the child was not returned to the father until she was discovered by the father's attorney in Canada in the fall of 1983.²⁰ Indeed, the church had established a community in Nova Scotia.²¹

The second custody case took place on May 18, 1983, before District Court Judge Frank Mahady, who would later gain prominence as the judge who adjudicated all of the legal cases following the protective action on June 22, 1984, as discussed in detail below.²² Four children were involved in the case, ages two, five, eight, and nine. At the hearing, the mother brought a rod into court, and said, "This is the rod I use to discipline my children. It doesn't break any bones. At times, it leaves marks which quickly fade away. What I'm putting into my children is love."²³

A witness testified that during his five years in the community, he administered the rod to about sixty-five children. Some had failed to

obey adults on the first command, some asked for seconds at meals, and others had interrupted adults at the dining table.²⁴

On May 25, Judge Mahady granted custody of the children to the father. In so doing, he ruled sternly that in Island Pond they were “sub-
jected to frequent and methodical physical abuse by adult members of
the community, in the form of hours-long whipping with balloon sticks.
If the children are returned to Island Pond it is reasonably probable that
abuse will resume. The continued abuse ... is destructive of the already
badly damaged state of their well-being.”²⁵

PROCEDURAL REQUIREMENTS FOR INVESTIGATING CHILD ABUSE

When allegations of abuse became known to the Department of So-
cial and Rehabilitation Services (SRS, now the Department of Children
and Families), the department was legally required to begin an abuse
investigation within seventy-two hours, without exception, and to locate
and interview the child. If SRS could not locate or gain access to the
child, a social worker would contact the court if there were reasonable
grounds to believe the child was “in need of care and supervision” as a
result of the abuse, and request a temporary custody order for up to sev-
enty-two hours.²⁶

If a judge issued the order, law enforcement officers were required to
locate the child and place the child into temporary state custody, pend-
ing an immediate court hearing. If, upon gaining access to the child, it
was determined that the child was not abused and was not in need of
care and supervision, the child would be returned to the parents, pending
the court hearing.²⁷

The use of the courts and law enforcement to gain access to a child
alleged to be abused and in need of care and supervision was not uncom-
mon. In the three years before the intervention, there had been more
than 200 such occasions. It is important to understand that the juvenile
laws are protective and preventive, unlike criminal laws that are reac-
tive, after a crime has been committed.²⁸

THE STATE’S INITIAL INVESTIGATION OF ALLEGATIONS OF ABUSE

In October 1982, SRS began to receive allegations that certain chil-
dren within the Island Pond community had been physically abused.
Social workers were sent to the homes where these children were
thought to live, but were denied entry and told that the persons they
were looking for were unknown or had moved away a long time ago.²⁹

SRS then sought judicial involvement. On November 10, 1982, Sten
Lium, the part-time Essex County state’s attorney (the county that in-
cludes Island Pond), filed juvenile petitions in court, and obtained tem-

porary custody orders from a judge for four named children, but law enforcement officers were unable to locate the children or their parents. Church members claimed no knowledge of these persons, and the scheduled hearing for December 6 was canceled.³⁰

Then in January 1983, Lium refiled the petitions and again was issued temporary custody orders, with a hearing scheduled for February 2. Registered notices were sent to the parents, but the receipts were never returned, and again the parents and children could not be located, and the hearing was again canceled.³¹

John Burchard, the commissioner of Social and Rehabilitation Services, expressed his frustration to David Weinstein, who had succeeded Lium as the part-time Essex County state's attorney, in a letter dated February 11, 1983:

Our investigation of individuals at the Northeast Kingdom Community Church in Island Pond has been seriously frustrated by a lack of cooperation by Church members. The affidavits submitted to Sten Lium leads us to believe that the children named above are at extreme risk of serious physical and mental abuse. To date, the legal system has not responded to protect them. At this time, our Agency has no further options which would contribute to their safety.³²

Weinstein subsequently requested the assistance of the attorney general's office because of his lack of resources, and the AG's office became responsible for all ongoing investigations and legal proceedings involving the NEKCC that spring.³³

On March 30, 1983, a letter was received from a Dr. Grover C. Murchison Jr., a family practitioner in Montgomery, Alabama. It was addressed "To whom it may concern" and summarized an examination of a female child who had been living in the church community. He wrote: "Positive findings include multiple long, narrow, discolored scar tissue areas over the child's buttocks and posterior thighs—the result of severe blows to this area with a rod-like instrument."³⁴

CONTINUING INVESTIGATIONS

Investigations continued throughout the summer and fall of 1983. During the summer, an SRS district director and a Vermont state trooper traveled to Florida, Louisiana, Tennessee, and California to gather information about the NEKCC and its practices, mostly from community defectors. In the fall, an investigator for the attorney general's office traveled to Massachusetts and Long Island to investigate the abuse allegations, also by interviewing former church members.³⁵

Eighteen children were specifically identified as having been physically abused. A confidential "Summary of Child Abuse Allegations In-

volving Members of NEK Community Church” was prepared in fall 1983, which listed each child and his or her parents by name, the age of each child, and a brief description of the alleged abuse of that child.³⁶

For example, one entry read, “Between 12/82 and 3/83 witness observed parents and two others repeatedly beat [child] with [a] rod resulting in welts and bruises on buttocks, back and sides of legs.” The child was two years old. All other entries in the document were similar.³⁷

Also, during the spring and summer of 1983 truancy charges against several parents of school-age children in the community were brought in court by the attorney general’s office, but the cases were later dismissed without a successful adjudication because of noncooperation.³⁸

On July 26, 1983, charges of assault were filed against the church’s second in command behind Elbert Spriggs, Charles “Eddie” Wiseman, for an alleged seven-hour beating on May 12 of a thirteen-year-old girl, leaving eighty-nine welts from her neck to her ankles. Wiseman appeared in court on August 10 and pleaded not guilty to the simple assault charge.³⁹

The alleged beating was punishment for the girl’s sexual interaction with two eight-year-old boys in the sect, following her own sexual abuse by a young man in the community sometime earlier. Her parents observed the beating, but did not interfere; the father simply determined that this was the will of the Lord, although he later changed his mind after temporarily leaving the community.⁴⁰ The case would later proceed to trial.

MOUNTING PRESSURE ON THE ATTORNEY GENERAL’S OFFICE

Pressure was mounting on the attorney general’s office to take decisive action on the allegations of abuse. Susan Cloutier, an anticult activist in Island Pond with extensive interaction with the church community and in-depth knowledge of the church’s disciplinary practices, wrote to John Easton on August 3, 1983, imploring him to do more to protect the children. She wrote that “They are individuals that have had their bodies & minds violated.”⁴¹

Cloutier attached an editorial from the *Barton Chronicle*, a weekly newspaper covering the Northeast Kingdom, written by Chris Braithwaite, the paper’s publisher, editor, and frequent reporter, and himself an anti-NEKCC crusader, titled “Is the Island Pond Cult Invincible, After All?”

How did everybody suddenly get so inept? Members of the Island Pond Community Church, clad in the armor of self-righteousness, would tell you that their faith renders them invincible to the laws of men—the laws the rest of us live by. Attorney General John Easton, Essex State’s Attorney David Weinstein, and the Vermont State Police seem determined to prove them right.⁴²

In early August 1983, the Canadian Broadcasting Company (CBC) aired a radio series about the Northeast Kingdom Community Church, including allegations of child abuse and the Wiseman case in particular. Vermont Attorney General John Easton was interviewed live on August 12.⁴³

Easton was asked why it was taking so long for his office to press charges since allegations of child abuse had surfaced in November 1982. He explained that his office had only been involved since spring 1983 at the request of the Essex County state's attorney because of his lack of resources, but since then his office was devoting its full resources into investigation of each and every allegation.⁴⁴

In describing the difficulties in developing a criminal case, Easton said, emphasizing the problem of truancy:

Well, interestingly, let's take abuse, for example. Often abuse is noticed by school officials or hospital officials when children either go to school or go to a hospital for their injuries. In the case of the church, the children haven't been attending public schools, they've been treated within the church community itself, and so the abuse has not been noticed by officials who would normally report it to the department of social and rehabilitation services.⁴⁵

Then, regarding Wiseman, Easton said that he was confident that there was enough evidence for a conviction, or his office would not have filed the charges.⁴⁶

Easton was then asked about the religious aspects of the case, and whether it's more difficult to work on a case like Wiseman's because religion is involved. Easton answered as follows:

It hasn't been up until now because it doesn't . . . to my way of thinking, no matter what one's religious beliefs are, those beliefs don't entitle a person to abuse his children, so up until now over the religious problem, the religious belief aspect has not been a problem with respect to our investigation of abuse cases. It certainly does loom out there, but it's not been a factor yet.⁴⁷

Easton then responded to Susan Cloutier's letter on August 16:

If you can identify any step or procedure which we can take and have not taken, I welcome your suggestions. Furthermore, if you can identify a witness who might have credible information with whom we have not spoken, I would welcome that. However, generalized expressions of urgency do not enable us to do any more than we are presently doing. I think we both have common objectives. You must appreciate, however, that there are constraints imposed by our criminal justice system which we cannot ignore.⁴⁸

Because of the lack of success prosecuting truancy charges against the parents earlier in 1983, and because of the emphasis Easton placed on attending school in his CBC interview, Charles Bristow communicated with Robert Luce, an assistant attorney general representing the Department of Education, about a better strategy for prosecuting the parents. In a lengthy memorandum to Bristow on September 13, 1983, Luce outlined the statutory requirements, the procedural issues, and the evidentiary issues. He concluded:

I recommend that before deciding whether or not to pursue prosecution against one or more of these parents, we determine which parents are more often at home, which live where they can be easily observed, and which appear to play the greatest role in their children's day to day activities. It will be easier to establish control of children who live with their parents and whose parents are more often at home playing an active part in their children's care. It will be easier to establish all the necessary elements with parents who can be more easily observed.⁴⁹

But no progress resulted.

THE EXHUMATION

On September 22, 1983, Assistant Attorney General Robert Gagnon filed a petition with Superior Court Judge Stephen Martin seeking an order for the exhumation and autopsy of remains buried in a grave in Brighton, Vermont. The supporting affidavit stated that this was a new grave located on the property of a member of the church, and that there was no death certificate on file with the town clerk's office. The order was issued by Judge Martin on that same date, and the exhumation proceeded a week later.⁵⁰

The exhumation was described in an article in the *Burlington Free Press* on September 29, titled "Fetus Dug Up at Cemetery in Island Pond":

Remains sealed inside a garbage bag and exhumed from a Northeast Kingdom Community Church cemetery were identified Wednesday as an eight-month-old fetus.

Acting on tips from two defectors, a team of 10 state officials with shovels and a search warrant dug at the secluded cemetery for six hours Tuesday, said Robert Simpson, assistant attorney general.

State officials probably will not be able to identify the body, sealed in a green bag and stuffed inside a small fiberboard box, he said.

Dr. Eleanor McQuillen, state medical examiner, said the fetus was attached to an umbilical cord and placenta.⁵¹

Assistant Attorney General Simpson explained the legal implications: "It's a criminal offense to bury a body without a burial permit, but I don't know who we would charge. We probably will never know."⁵²

Easton's interview with the CBC was not well received by Wiseman's attorneys, public defenders Jean Swantko and Walter Morris, who filed a motion with the Caledonia District Court on September 23 to disqualify the Office of the Attorney General because of prejudicial pretrial publicity in violation of the defendant's constitutional rights.⁵³ The motion was ultimately denied, and the case was scheduled to proceed to trial in the summer of 1984.

THE HASAZI REPORT; INFORMING THE GOVERNOR

On October 4, 1983, a six-page, single-spaced report of a psychological evaluation was submitted to John Burchard, commissioner of SRS, from Dr. Joseph Hasazi, PhD, a respected Burlington psychologist at the University of Vermont, who had been retained to conduct the evaluation. He had gained a detailed knowledge of the church's structure and practices from numerous interviews with defectors who had personal knowledge and experience, both adults and children.⁵⁴

Hasazi's report explained the disciplinary practices as described above: use of a rod for spankings several times a day starting at age six months by any member of the community, often for minor infractions or simply engaging in common child-like behavior; and scourging for more serious offenses, at least as perceived by the adults, which would be harsher and longer lasting.⁵⁵

Dr. Hasazi reached the following conclusion: "Based on the results of my investigation, I feel strongly that **all** of the children residing in the Island Pond community can be considered at risk for physical and emotional abuse"⁵⁶ (emphasis added).

His elaboration was forceful:

The disciplinary practices of the Island Pond community pose a specific threat to the children residing there. The practices themselves appear to be excessive in terms of frequency, duration and intensity. They are begun in infancy at a period in which children are particularly vulnerable to physical and emotional harm. They appear to be used without due regard for the intention of the child or for mitigating circumstances. Indeed, they appear to be used at times in a capricious and arbitrary manner in response to youthful enthusiasm, imagination, or age-appropriate autonomy. They appear to be designed to humiliate as well as hurt without regard for the children's sense of modesty or dignity. The public nature of spankings and scourging seem to be emotionally difficult for the children who observe them and exposes them to models of child care which may adversely affect their own parenting abilities later in life.

.....

All of the problems cited above are compounded by the fact that all adults in the community can punish any child, and under certain circumstances, are obligated to do so.⁵⁷

Dr. Hasazi's analysis and stark conclusion would prove to have a significant impact on the working group. As I explained to the Senate Judiciary Committee, which was evaluating my judicial nomination, on March 7, 1985:

I think that report precipitated some further action on the part of the Human Services Agency and they became, they came to realize that the situation was perhaps more serious than they had originally believed. And, they felt at that time, again, October of 1983, that the matter ought to be brought to the attention of the governor.⁵⁸

The attorney general continued to be pressed to take action. For example, a letter dated October 6 from William A. Hunter of Hunter Broadcasting of Burlington, who was familiar with the CBC series, stated:

I, in all candor, think the progress and actions taken by your office make you and your department look weak and ineffectual.

I urge you to take strong action to determine the extent of the beating of innocent children in the Northeast Kingdom.

I believe there is nothing more pressing before your office than this humane issue.⁵⁹

According to a handwritten note on the letter, Easton "Met with Bill Hunter to discuss this letter and our activities."

Indeed, following Hasazi's report, the pace of activities increased, and intense discussions were initiated within the administration, including the Attorney General's office, the Health Department, Social and Rehabilitation Services, Public Safety, and others, to explore options for examining the children. The option of a physical intervention was discussed, and preliminary plans were drafted by John O'Donnell.⁶⁰

Dr. Novick, secretary of human services, then updated the governor in a memorandum dated October 24, 1983, regarding the allegations of child abuse, with reference to Dr. Hasazi's report and the document listing the eighteen abused children. The memo concluded: "Obviously, this is a matter of great concern to the agency. I have had several discussions with the Attorney General's Office and the Department of Public Safety. We are currently evaluating different approaches to this matter. The possibility exists that it will be necessary to take some action affecting all of the children in this church community."⁶¹

A meeting was held with the governor the following day to introduce him to the plan drafted by O'Donnell: taking all the children into state

custody to be examined by medical and social services personnel.⁶² But the attendees at that meeting, including the governor, decided that it was a more prudent course of action to exhaust all less intrusive measures first. As I explained at my confirmation hearing:

Well, this was an evolving situation and when the issue was first presented to the Governor, in a meeting which I participated in, the feeling was, after that meeting, that despite the seriousness of the allegations, and everyone felt they were very serious, that more needed to be done at the Executive Branch level.⁶³

In furtherance of the governor's directive, Novick and O'Donnell personally visited Island Pond on October 26 in an attempt to arrange a cooperative examination, but without success.⁶⁴

ADDITIONAL PUBLICITY

Starting on October 23, the *Burlington Free Press* ran a lengthy five-part investigative series by reporter John Donnelly titled "The Kingdom and the Cult," which brought the church, its practices, and its beliefs to the attention of the larger public. Prior to that, most of the reporting about the church had been done locally by the weekly *Barton Chronicle*, which had a more limited circulation. Examples of the articles in the series include: "Sect Doesn't Spare the Rod with Children," "Followers Learn to Have One Mind," "Defectors Find Leaving the Cult Difficult," and "Cult Opponents Critical of State's Investigation," among others.⁶⁵

The series was followed by an editorial on October 28 in the *Burlington Free Press*, "State Should Make Effort to Probe Charges of Abuse." It stated:

Cult members have been accused of beating young children with wooden rods for what some defectors regard as minor infractions of church rules. They charge that disciplinary sessions continue for hours until welts are raised on the children's buttocks. And they contend that the beatings constitute child abuse.

As citizens of the state, the children merit the same protection as is accorded other youngsters and adults. If, indeed, the children of cult members are being as severely beaten as defectors claim, the state has an obligation to conduct an intensive investigation into the church's practices. Efforts should be made by Attorney General John Easton to find witnesses and talk to the children to determine if prosecution is warranted.

At the same time, authorities should tread carefully in dealing with the issue, insuring that the religious freedom of cult members is scrupulously respected.⁶⁶

HEALTH DEPARTMENT INVOLVEMENT

On November 1, 1983, Dr. Roberta Coffin, commissioner of health, communicated with Dr. Novick about a meeting the previous day in her office involving five medical doctors with expertise in abuse of children, along with John O'Donnell. The purpose was to determine the level of risk to the children of the NEKCC, and to develop strategies for protecting them. They also wanted to reach out to national experts with expertise in dealing with religious communities and child abuse.⁶⁷

The group determined that the children of the church "are at risk of child abuse and inappropriate disciplinary practices," but that "positive behavior alteration of adults in the community will probably not change as a result of state intervention." The highest priority was to evaluate the eighteen children already identified in affidavits as having been abused.⁶⁸ They recommended meeting with the church elders in an effort to establish a public health well-child clinic on the church's premises, to be staffed by a physician of their choice to do regular assessments of the children and to provide guidance for the adults.

The group also urged caution:

It was the consensus of the group that a one-time, large-scale, multi-disciplinary entry and inspection of the children in the community would do more harm to the children and their potential for long-term well-being than it would benefit them. In addition, the risk of physical violence to state employees cannot be minimized.⁶⁹

Dr. Coffin forwarded to Dr. Novick a memorandum to her from Dr. Richard Aronson, who had been in contact with Dr. Ray Helfer, an expert in child abuse who had direct experience with the House of Judah community in Michigan. This community had been raided by police because of the death of a child, and sixty-six children were removed and examined by physicians. Of the sixty-six, fifteen to twenty had suspicious physical findings, and legal proceedings followed.⁷⁰

Dr. Helfer was of the opinion that his experience with the House of Judah demonstrated the ineffectiveness of legal methods for dealing with child abuse, noting that the proceedings had been "delayed and tangled up." He recommended a two-day conference, bringing together experts from different disciplines, including representatives from similar sects, to better understand the situation in Island Pond; no such conference ever took place.⁷¹

Dr. Novick then communicated with Attorney General Easton to review progress to date, and to recommend next steps. He referred to the efforts to gain cooperation from the elders for an examination of the

children, including repeated contacts by John O'Donnell with elder Gary Long, all without success. He went on to say:

The primary concern is the health and well-being of the children in this community and the best method to reach that objective. It is my assessment at this time that while we must be prepared to implement an evacuation of children with a police action, it should only be used as a last resort after further intermediate measures are attempted. Apart from difficulties and potential hazards of mounting this action, there is little reason to believe that it is an effective mechanism to achieve the objective [making reference to Dr. Helfer and the House of Judah situation in Michigan.]⁷²

Over the next several months into early 1984, state officials redoubled their efforts to obtain cooperation from the elders of the church to examine the children. These efforts included personal visits to the church by Dr. Novick, O'Donnell, and others, as well as numerous phone contacts, but their many entreaties were repeatedly rebuffed.⁷³

ADDITIONAL EVIDENCE

On February 1, 1984, Charles Bristow forwarded to me the results of an investigation undertaken by Assistant AG Robert Gagnon of alleged sexual abuse of a four-year-old girl who had relocated to Florida after leaving the church with her father. A physical examination conducted by a medical doctor with the Child Protection Team in Orlando, Florida, stated, "It is the impression of this examiner that the child has been chronically and repeatedly sodomized."⁷⁴

Then, on February 20, another evaluation report was submitted, this time by a pediatrician and a clinical psychologist from Michigan who had been retained by Commissioner Coffin. Their conclusions included the following: "We think you do have sufficient grounds to consider a screen of **all** children in the group. The target area in such an effort would be physical abuse, with screening for other areas of abuse and neglect including especially general health care, the children's health care, and signs of sexual abuse" (emphasis added). However, the evaluators cautioned that the State should use a cooperative approach with the church.⁷⁵

Also in February 1984, a further attempt was made to obtain voluntary examinations of the children through a Maine physician who had a relationship with the community. Dr. Novick made personal contact with a Dr. Hanson of Poland Springs, who had provided medical care to several members of the church, to see if the church would agree to a mass screening of the children. Hanson contacted an elder to arrange a phone call with Novick, but after a week the elder had not returned Novick's call. After several more phone calls back and forth with an-

other elder, Gary Long, with whom O'Donnell had communicated previously, Novick was informed on March 7 that the church would not agree to a screening.⁷⁶

Novick wrote to Long that same day and implored him to reconsider, saying that the screening could be carried out by medical personnel of their choice, and asking for a response by March 9, which never came.⁷⁷

ADDITIONAL PRESSURE TO TAKE ACTION

The state's attorney for Orleans County, Philip White, who was also an Essex County deputy state's attorney, had been following the Island Pond situation for some time with great concern. He wrote a letter to Attorney General Easton and Governor Snelling, dated February 23, 1984, expressing his frustration with the lack of decisive action in view of his belief that probable cause existed that the children were being abused.

White insisted that it was necessary to obtain

a search warrant to permit the physical examination by a doctor of every single child presently residing with the Island Pond community. Such an examination is the only way to establish the frequency, severity, and extent of excessive discipline if there is any at all. A search warrant with the element of surprise is absolutely essential given the publicly available evidence that, in the past, children have been hidden, spirited out of state, and at least one body of a dead child was hidden from a medical examiner and buried without authorization.⁷⁸

White's recommendations were not accepted.⁷⁹

State's Attorney White then resigned his position as the deputy in Essex County, again expressing his frustration. State's Attorney David Weinstein responded,

I presume that you are well aware that the Attorney General's Office is coordinating all of the Island Pond church cases including the simple assault case against Eddie Wiseman . . . and investigations about the newly discovered fetal bodies. I personally am satisfied that their office is proceeding with due diligence and charging whatever they have a reasonable basis to believe is a crime.⁸⁰

White wrote to Snelling and Easton again on April 30, 1984, attaching a press release that he had intended to circulate to the media but then changed his mind. It was highly critical of these two top officials for lack of action during the preceding six months.⁸¹

In the accompanying letter, White said:

If there are any good reasons justifying the relative inaction in this case and if there are any good reasons why I should remain quiet about this matter, I would certainly appreciate hearing from you.

I want to say that I have a great deal of respect for both of you and have no desire to make public my complaints. However, the past six months of virtually no action on your part, to me, is absolutely inexcusable.⁸²

A handwritten note on the letter by Easton says, "Met with Phil to discuss."

The State continued to try to meet with church elders to reach an accommodation. Randall Moran, the investigator for the attorney general's office, wrote to Charles Bristow on May 18 that he had spoken to two of the elders about the possibility of a meeting in Montpelier, and was told that they would discuss it with others. Moran said he asked for their assent in writing, if such were the case, but it never happened.⁸³

Also in May, another juvenile court action was filed in Essex County, supported by Moran's twenty-seven-page affidavit describing church practices, in an effort to obtain the names of certain children. Seven adults from the community appeared in court, but would not disclose any information. Retired Supreme Court Justice Ray Keyser, who was presiding in the case, issued contempt orders, and one person spent two days in jail. But, on June 19, the case was dismissed, and the contempt orders were vacated, without obtaining information about any of the children allegedly abused. However, Justice Keyser did say that "The affidavit accompanying the petition filed in the above matter on April 24, 1984 set forth sufficient facts establishing that **all** children within the control of the Northeast Kingdom Community Church are within the jurisdiction of the court" (emphasis in original).⁸⁴

STATE'S ATTORNEY WHITE OBTAINS A SEARCH WARRANT

While the juvenile case was pending through mid-June, Orleans County State's Attorney Philip White, who had long been pursuing the church and expressing his frustration, took a bold, unilateral action, and obtained a search warrant on June 9 from Judge Joseph Wolchik. The application for the warrant was supported by two lengthy affidavits describing church practices, one from White himself and the other from Christopher Braithwaite, the publisher, editor, and frequent reporter for the *Barton Chronicle*, the weekly paper covering the Northeast Kingdom.⁸⁵

The application also contained no fewer than sixteen exhibits, many of which were investigative reports and taped interviews with church defectors describing church practices. Also submitted were a map of the church community and a list of eighteen houses to be searched. Prior to issuing the warrant, Judge Wolchik also took extensive sworn testimony from James Leene, the investigator for the Orleans County State's Attorney's Office.⁸⁶

The warrant ordered the search of the eighteen buildings, and the seizure of all children under sixteen; all rods and paddles; all medical supplies indicative of illegal medical practice; all photographs of discipline and illegal medical practice; and any other evidence of physical discipline, the children's education, and illegal medical practice.⁸⁷

Upon learning of this warrant, and after internal discussions and a meeting with SA White, I informed him that the governor would not execute that warrant. Instead, he would rely on the Attorney General's Office to obtain a warrant if that turned out to be necessary, which it did shortly thereafter.⁸⁸

THE ATTORNEY GENERAL'S OFFICE OBTAINS A SECOND WARRANT

As noted above, on June 19, Justice Keyser had dismissed the juvenile case that had been filed by the Attorney General's Office in May. The dismissal proved to be a significant event in propelling our immediate actions. As I explained at my confirmation hearing:

I think the feeling at that time, at least the feeling expressed to me and the Governor by the Attorney General's Office, was that the last strategy which was available to us through the traditional juvenile process had resulted in failure, it had not succeeded. The information which the Attorney General's Office wanted to obtain through that process, was not forthcoming and we had run the course on that. But we waited until that occurred before thinking seriously of the next step, despite the fact that Phil White had come to us two weeks prior with a warrant from Judge Wolchik, which as I said, we instructed him rather categorically that we weren't going to participate in.⁸⁹

We also learned that the church had a plan to remove all the children away from Island Pond in order to avoid contact with state officials. As I said at my confirmation hearing:

But we did have information to the effect that the children were being spirited away from Island Pond, and that information came from, I believe, Norchester [sic], Massachusetts where there was another facility and I think perhaps Nova Scotia, but I'm a little bit vague on that, plus information from people in Island Pond that they have seen buses pulling into town and so forth. And there may be rational explanations for all those things, but at the time, we viewed that as significant.

So we have a choice, assuming that information was correct, and I now believe that it was not correct, but at the time we had the choice of accepting it at face value that we either let the children be moved and make it someone else's problem or do something rather quickly and try to act, what in our view, was a responsible way to act and do something about it.⁹⁰

This urgent information, coupled with the dismissal of the juvenile case, the total lack of cooperation over a lengthy period of time, and the

ongoing risk of harm to all of the children, at least as we perceived it based on the expert evaluations, caused the working group to conclude, reluctantly but unanimously, that all less-intrusive options had been exhausted as required by the governor. The time had come to strongly recommend to him that he should approve the execution of the protective action plan as developed by John O'Donnell.

Thus, on June 20, O'Donnell again presented his plan to the governor at a meeting in his office. Present were John Burchard, O'Donnell, Charles Bristow, AAG Robert Gagnon, Commissioner of Public Safety Paul Philbrook, and me. After a vigorous discussion, the governor agreed to move forward with the plan on an expedited basis, contingent on judicial authorization. Following the meeting, the governor wrote a personal memorandum to an internal file (the Northeast Kingdom Community Church File) titled "Plan of Action," which summarized this critical meeting and which attached O'Donnell's detailed action plan. Snelling wrote in part:

I stated [in the meeting] that I believed the decision to ask for court authority to conduct a "protective action," such as that described in O'Donnell's memorandum was persuasive. I think we have adequate reason to believe that child abuse is widespread and that children suffering from life-threatening illnesses are deprived of needed medical attention.

Since we have a burden to demonstrate the persuasiveness of the evidence which we have in this regard, before a judge authorizes the contemplated raid, I believe the civil rights of the individuals involved are adequately safeguarded.⁹¹

With the governor's contingent agreement to proceed, the date of the intervention was set for the following day, June 22. An operational team, which had been organized earlier pursuant to O'Donnell's plan, was mobilized and placed on high alert. The Attorney General's Office then applied for a search warrant to authorize the intervention, as well as an emergency order to detain the children in state custody.

A hearing on the warrant application was held on June 21 by Judge Wolchik, who was already familiar with much of the extensive documentation, exhibits, and testimony supporting the State's application from the prior hearing, although additional evidence was submitted including Dr. Hasazi's compelling report. Representing the State were Assistant Attorney General Robert Simpson and State's Attorney Philip White, who had just been appointed as a special assistant attorney general moments before the hearing began in the judge's chambers. Also present was investigator James Leene. They argued that all of the chil-

dren in the church community were at risk of abuse, and should be placed into emergency state custody.⁹²

Judge Wolchik methodically addressed all of the factual, legal, and technical issues for the proper issuance of the orders being sought. He ultimately determined that there was probable cause that all the children were at risk of abuse, and therefore issued the search warrant and emergency detention order.⁹³

One of the issues was whether the State would be allowed to take photographs of each child to aid in proper identification. The judge declined to include this authority in an order, but said, “identification and photographing procedures can proceed as a course without an order for that. And I think proper photographing of the children is probably the easiest way to keep them separated as to who is whom. But I don’t think it’s appropriate to make an order to that effect.”⁹⁴ This would become a significant legal issue following the protective action.

During this hearing, Judge Wolchik received a phone call from Administrative Judge Thomas Hayes, and left his chambers to take it. Upon returning he said:

I have conferred only in terms of the need for court personnel with Judge Hayes. And it is our considered opinion because of my extensive involvement up to this particular point that the court’s neutrality is best maintained as it has been up to this point that I not sit on the emergency detention hearings.

There will be a lead judge assigned by Judge Hayes if I sign the order, and we’ll take it from there.

Your lead judge is [Frank] Mahady backed by [George] Ellison and [Paul] Hudson.⁹⁵

The hearing concluded with Judge Wolchik saying that he would transfer all the materials that had been filed with him to Judge Mahady.⁹⁶

The appointment of Judge Mahady would prove to be highly controversial.

The search warrant, based on Judge Wolchik’s finding of probable cause, was very similar to the one he had issued on June 9, and authorized the entry into nineteen buildings (not eighteen as in earlier warrant) between the hours of 4:00 AM and 10:00 PM, for the purpose of searching for and seizing all children under eighteen (not sixteen as in the earlier warrant), all rods or paddles, all medical supplies indicative of illegal practice of medicine, all photographs of discipline and/or illegal medical practices, and all evidence of physical discipline of children, education, and/or illegal medical practices.⁹⁷

With the search warrant and emergency custody order in hand, the governor approved the operation. He dictated his private notes on June 21 memorializing his precise understanding of all the steps in O'Donnell's action plan. He noted: "Judge Wolchik has issued order. We have plan. Court administrator has promised two judges. Warrant is ours—new—provides specific warrant, house by house." But his notes ended with a word of caution: "Gagnon—says this is difficult legal posture."⁹⁸

THE RAID

Thus, on the night of the June 21, 1984, the phalanx described at the outset mobilized at Burke Mountain not far from Island Pond, where everyone, including me, would spend a restless night. Before dawn, the convoy moved out and, upon arriving in Island Pond at about 6:00 AM, the troopers entered all the residences and removed no fewer than 112 children, all of whom were photographed by the police.⁹⁹

The children and parents were frightened and confused as would be expected, but largely cooperative. They were all delivered to Newport in buses for the children's medical and social checkups, and for court proceedings. It was a day of chaos, given the large number of children and families, plus the police, social workers, and medical personnel, as well as lawyers who arrived to represent the children. And throughout the day and evening, Judge Mahady worked his way through the confidential emergency detention hearings in juvenile court.

To our shock, Mahady denied all of the applications for emergency detention, orally from the bench, for what he said was a lack of current and specific evidence, as well as constitutional violations including an overly broad warrant.¹⁰⁰ Forty of the cases were dismissed outright because their petitions did not contain the name of a specific child; the other seventy-two, which did name a specific child as provided that day by the parents, were held over for nonemergency hearings at a later date.¹⁰¹ All the children were released back to their parents. The church members were ecstatic, and considered this a significant victory for their way of life.

I had the difficult responsibility of calling the governor and informing him of this unanticipated turn of events that foiled the protective plan. He was obviously not pleased, but did not equivocate about the correctness of his decision.

The event created a media firestorm, both locally and nationally. The front-page headline of the *Boston Herald* on June 23 blared, "Troopers Crack Child Abuse Sect, 112 Kids Rescued," along with a picture of a

state trooper escorting a child out of one of the residences.¹⁰² On the same day, the *New York Times* ran a front-page story with a photo, “Children of Sect Seized in Vermont.”¹⁰³ And the *Boston Globe* ran a headline, “Vermont Seizes 112 Children from Sect,” along with three front-page photos.¹⁰⁴

Locally, the *Burlington Free Press* ran two front-page stories on June 23: “At Dawn, Officials Moved In” and “Judge Blocks State.”¹⁰⁵ And the Barre-Montpelier *Times Argus* published a headline on June 23, “Judge Sends Sect’s Children Home,”¹⁰⁶ along with a picture and article, “From Left, Right, Lawyers Rap Raid.” The article stated: “Vermont lawyers said grave constitutional questions remained about the tactics used by the state to learn whether any were victims of child abuse.”¹⁰⁷ And a headline in the *Rutland Herald* read, “Mahady Releases 112 Cult Children After Dawn Raid by State Troopers.”¹⁰⁸

State officials vigorously responded to the mounting opposition. In a front-page story, along with a photo on June 26, the *Burlington Free Press* stated: “State officials ardently defended their incursion into the Northeast Kingdom Community Church, contending Monday that the constitutional rights of small children and not those of religious extremists were foremost in their minds when they decided to launch the controversial raid.”¹⁰⁹

The *Times Argus* also reported that “Governor Richard A. Snelling defended the controversial police raid on the Northeast Kingdom Community Church, saying that his decision to go ahead was the “most difficult decision that I have made in my public life.”¹¹⁰

Attorney General John Easton also defended the raid in “Easton Claims Children ‘at Risk,’” wherein he asserted that the roundup of all the children was warranted, but he conceded that it was a “close call.”¹¹¹

JUDGE MAHADY’S DECISIONS

On June 26, Judge Mahady issued two scathing written decisions addressing the issues he had ruled on orally at the emergency detention hearings on June 22.¹¹² In the first decision, dealing with the State’s petitions for emergency detention orders, Mahady did not mince words:

The state virtually admits that it cannot meet this burden [of producing sufficient evidence]. Its Petition, on its face, does not even allege that the children are, indeed, in need of care and supervision [as required by law]. The allegation is merely a blatantly generalized assumption that “all the children under the age of 18 residing in the Community of the Northeast Kingdom Community Church in Island Pond . . . **may** be in need of care and supervision” (emphasis in original).

Moreover, the state admits that there is not a single piece of evidence in the material submitted that documents a single act of abuse or neglect with regard to any of the 112 children. The theory is that there is some evidence of some abuse at some time in the past of some other children in the community.

Indeed, it is all too clear that the state's request for the protective detention permitted by the statute upon an appropriate showing was entirely pretextual. What the state really sought was investigative detention.¹¹³

The judge went on to say, in a statement that would take on a life of its own and be repeated constantly in the media, "Had the Court issued the detention orders requested by the State it would have made itself a party to this grossly unlawful scheme."¹¹⁴

Mahady concluded by saying:

Upon a proper evidentiary showing of abuse, this court is not the least reticent to take immediate and effective action under the law to protect the children who are the objects of such abuse.

Even such a goal as avoiding the abuse of children, however, cannot justify the means employed here.

The request for detention orders were [sic] properly DENIED.¹¹⁵

In the second opinion addressing the photographs, he pilloried the judge, the state, and law enforcement authorities for photographing the children without the express consent of the judge.

The State represents that they requested such consent from Hon. Joseph Wolchik during an ex parte hearing prior to June 22. The judge, according to the state, refused to specifically give such consent but indicated that the law enforcement authorities could "do whatever was necessary" to identify the children.

The Court finds it difficult, if not impossible, to believe that any judicial officer would issue such a sweeping delegation of his Constitutional duties to law enforcement authorities.¹¹⁶

Even if there were such a sweeping delegation, Judge Mahady went on to say that the police exceeded this very broad consent. He pointed out that the alleged consent was conditioned upon it being necessary to identify the children, but:

A majority of the children taken into custody and their parents identified themselves by name to police. Yet, all 112 children were photographed. Obviously, there was absolutely no need to photograph the majority of the children to identify them.

This fact alone illustrated the evil of such broad delegation of judicial authority to law enforcement.¹¹⁷

He concluded by saying, "The photographs of the children were taken without legitimate authority," and the photographs were ordered to be sealed.¹¹⁸

These decisions were widely reported. The headline in the *Rutland Herald* on June 26 read, "Mahady: Raid 'Grossly Unlawful.'" The accompanying article stated: "Vermont District Judge Frank G. Mahady Tuesday branded last week's raid on the Northeast Kingdom Community Church a 'grossly illegal scheme' that violated America's most cherished constitutional principles. In a pair of scorching opinions, Mahady accused the attorney general's office of trying to hold the 112 children hostage in order to obtain evidence against their parents."¹¹⁹

THE STATE'S RESPONSE

But the State was not immediately prepared to accept these decisions. On that same day, June 26, Special Assistant Attorney General Philip White filed a motion to disqualify Judge Mahady from the case for, as he claimed, repeatedly violating the rights of the children during the hearings on June 22. The motion claimed that Mahady trampled on the children's rights to an informed guardian and effective counsel, and that he "repeatedly, consistently and in some cases unlawfully discounted, ignored and violated the rights of the juveniles."¹²⁰

Just two days later, the parents of the seventy-two children whose cases were still awaiting nonemergency hearings, filed motions through their attorneys to dismiss these proceedings.¹²¹ These cases would come before Judge Mahady in several weeks, as discussed below.

The following day, June 29, John Easton and Charles Bristow briefed Secretary of Administration David Wilson on the many pending legal matters that had to be dealt with by the attorney general's office: the motion by parents to dismiss the seventy-two remaining cases (now consolidated in a single State petition alleging abuse and neglect); the motion to disqualify Mahady; the parents' motion for contempt against Philip White for seeking the disqualification of Mahady; whether to appeal Mahady's two decisions of June 25 denying emergency relief and sealing the photographs; appealing Justice Keyser's decision of June 19; and the pendency of the Wiseman simple assault trial set for August.¹²²

However, that same day a major development occurred that would control all legal proceedings to their conclusion: John Easton appointed William B. Gray, a well-respected lawyer and a former US attorney in Burlington, as a special assistant attorney general and as lead attorney in the Island Pond cases.¹²³ Gray's first order of business was to notify the court that "the State of Vermont hereby withdraws its motions earlier

filed to disqualify the Honorable Frank G. Mahady in each of the [pending cases].”¹²⁴ In an accompanying statement, Gray said:

Major disagreements have developed concerning the factual, legal and constitutional issues underlying these cases which will require deliberate and conscientious efforts by the parties and which will present some very difficult issues to the court for adjudication. Judge Mahady is a highly qualified, conscientious and courteous Judge and, in my experience, even those who occasionally may disagree with the decisions he reaches are compelled to respect the conscientious effort and process by which the decisions were reached.¹²⁵

Governor Snelling weighed in with a lengthy op-ed piece in the *Burlington Free Press* on June 30, titled, “State Took Action to Protect Children and the Constitution.” He argued vigorously that Mahady’s rulings were wrong.¹²⁶ And in a subsequent press conference, Snelling scolded editorial writers for criticizing him for executing the raid.

Tuesday was the first time Snelling has met with reporters since Mahady’s decision was made public. He reiterated his contention that state officials had acted on a judge’s authority and reminded reporters that a former district judge, Deputy Attorney General Charles Bristow, also had taken part in the decision to go ahead with the Island Pond raid.”¹²⁷

Howard Dean, then a state representative and later governor, also joined the fray. Dean was quoted as follows:

I also support the decision to raid the homes of the church members in Island Pond . . . From what I can gather, the State of Vermont (SRS and the state’s attorney) which we charge with the ultimate responsibility for protecting all our children, has been frustrated for more than two years by legal maneuverings and uncooperative witnesses while trying to resolve serious allegations of substantial abuse of children.”¹²⁸

The appointment of Mahady by Judge Hayes, a former lieutenant governor and fierce political rival of Snelling’s, turned out to be very controversial. The *Times-Argus* reported, “If Hayes had not learned of the state’s order to raid the church, Judge Joseph Wolchik would have heard the case. Lawyers familiar with the situation believe he would have granted the state’s request for detention, because he signed the original seizure order.”¹²⁹

It turns out that the assignment of Mahady was hardly routine. This was confirmed by Duncan Kilmartin, an attorney and vigorous opponent of the intervention, in an article in the *Caledonian Record* on August 5, 2017, headlined “Secrets from Island Pond’s Chilling Raid.” According to Kilmartin, Wolchik called Hayes to request additional judges to handle all the juvenile hearings that would take place once the children had

been delivered to court. But Hayes removed Wolchik from any further responsibility because of a purported conflict of interest and instead said he would appoint “his own people to handle the results of the raid.” Hayes then appointed Mahady, and only Mahady, to hear and decide all the cases. Kilmartin later said he believed that this was the result of “divine intervention.”¹³⁰

All the while, the Wiseman simple assault case, which had generated considerable publicity, was working its way through the various pretrial issues. At a hearing before Justice Keyser on June 19, Public Defender Jean Swantko, who was representing Wiseman, was chastised for communicating with the press, and Keyser imposed a gag order prohibiting her from doing so.¹³¹

FURTHER LEGAL PROCEEDINGS

William Gray got to work immediately, and on July 11, filed an extraordinary 111-page memorandum opposing the parents’ motion to dismiss the State’s consolidated petition. The memorandum addressed each of the parents’ claims, most importantly that the State’s petition failed to state specific facts that were sufficient to bring all the children in the NEKCC within the jurisdiction of the court.¹³²

The memorandum explained the State’s theory for taking all the children into custody and having them examined, summarized all of the evidence in support of its case, and cited all the legal authorities and precedents that supported its position. The essence of the State’s case regarding discipline included the following factors:

- the members of the church live communally as a large family, and all children residing in the church’s residences are part of the community
- members are mandated to follow the strict tenets of the church’s interpretation of the Bible
- failure to follow the tenets could result in excommunication and dismissal from the community
- one of the key tenets was to discipline children routinely and often with wooden rods, often for typical childhood behavior, but also for more serious behavior like lying, called scouring
- discipline was carried out not only by parents but by any adult in the community
- sixteen identified children had been abused by their parents and named in the State’s petition

- eighteen identified children had been abused by other adults and named in the State's petition
- this pattern of behavior had continued during the entire five-year life of the church in Island Pond
- all less-intrusive measures had been exhausted
- and, therefore, there was reason to believe that in this ongoing and strictly regimented environment, all children in the community were at risk of abuse and must be examined¹³³

The memorandum also cited Dr. Hasazi's report which concluded that all children in the community were at risk of abuse¹³⁴

The following day Gray filed a fifty-one-page memorandum opposing the parents' motion to suppress all the evidence seized by the police during the intervention, such as rods used for discipline.¹³⁵ Then on July 27, Gray filed a supplemental memorandum, opposing the parents' motion to dismiss and motion to suppress.¹³⁶ With these filings, the case was ready for decision by Judge Mahady following a hearing that took place on July 14.

I was sworn in as a district court judge on July 16, 1984, just over three weeks after the intervention, and it was well known that I was one of the governor's close advisers. It was awkward, to say the least, to be a newly appointed judge and at the same time be under scrutiny for participating in what many people and commentators believed to be an illegal and unconstitutional raid.

On July 17, Commissioner of Social and Rehabilitation Services John Burchard issued a thirteen-page public statement justifying the protective action, titled "Children at Risk: Why Protective Action Was Necessary." He reviewed all of the evidence available to the State, except that which was confidential such as Dr. Hasazi's report, to show that the State had sufficient evidence to support the conclusion that all the children of the church were at risk of abuse, and that the State had exhausted all less-intrusive measures before conducting the raid on June 22.¹³⁷ He also discounted suggestions for alternative ways of gaining information from the church such as planting spies in the church community.¹³⁸

Judge Mahady released two decisions on August 8. The first addressed the parents' motion to dismiss the State's consolidated petition regarding the seventy-two remaining children, and the State's memorandum in opposition, which carefully outlined the State's case. He first determined that the petition itself was defective on its face for failure to comply with technical statutory requirements.

The petition here . . . nowhere alleges that any of the children are children in need of care and supervision. The only allegation is a blatantly generalized assumption that “all children under the age of 18 residing in the community of the Northeast Kingdom Community Church (NEKCC) . . . may be in need of care and supervision.” This simply does not meet the requirements of the statutes.¹³⁹

He went on to say:

This defect [on the face of the state’s petition] underscores the fundamental difficulty with the state’s attempted justification for these proceedings: it sought, through the juvenile proceedings, an investigative detention which, the state hoped, would provide proof to support the initiation of juvenile proceedings. This puts the cart before the horse. Under our system of justice, the state must have an adequate factual basis upon which to act against individuals first; it cannot act first, then hope that the action itself will unearth proof to retroactively justify the action.¹⁴⁰

Mahady then addressed the merits of the State’s case. He determined first that “The state’s argument fails logically with its first assumption, i.e., that the children and custodians found within the buildings of the church are associated with the church,” referring to five people out of the hundreds who were ensnared in the raid who were not church residents. “Simple logic dictates that the conclusion does not necessarily follow from the premise.”¹⁴¹ He went on to negate the substance of the State’s case, in summary fashion:

Even were the state able to overcome this threshold problem, it would be met by another legal obstacle. If we assume for purpose of argument that each child is under the control of a parent, custodian or guardian associated with the church, and further, that it is a tenet of the church to harshly discipline children, simple logic again dictates that the conclusion that each child has been illegally disciplined does not follow. (Many Catholics, for example, exercise birth control.)¹⁴²

Judge Mahady then dismissed the State’s petition.¹⁴³

In his second decision that day regarding the search warrant, he devoted many erudite pages to the development of search-and-seizure law throughout Western civilization, explaining the sanctity of individual dwellings. Turning his attention to the warrant issued in this case, he wrote:

A broader warrant can scarcely be imagined. It is for 20 houses, most of which are residences. The authorization to seize “any and all children under the age of 18 years old” is broader in scope (although admittedly less draconian in purpose) than that of Herod the Great. The directive as to “any and all letters, tapes, writings and records” as well as “any and all photographs” is broader than those condemned by Lord Camden in 1765.

These four separate aspects (20 buildings, “all children,” “all photographs,” and “any and all letters, tapes, writings or records”), taken together, created a warrant more general in scope than any which this court can find, after careful research, in the recorded literature. It may, indeed set a modern record for generality; certainly, no competitor for that dubious title has made itself unknown.¹⁴⁴

Mahady gave scant credence to the Hazasi report:

It does not avail the state to claim that an “expert” concluded that the children in question were “at risk.” Most certainly, “experts” could be found who would conclude that all children in certain neighborhoods with single parents living below the poverty line are “at risk” to abuse. No person who cares the least about individual dignity would claim that such evidence would allow the state to round up all such children to be inspected for evidence of abuse. To select an unpopular neighborhood labeled a “cult” compounds the threat.¹⁴⁵

The judge concluded by ordering that all items seized in the intervention be returned to their owners, and that they would not be admissible in any judicial proceeding.¹⁴⁶

Judge Mahady’s analysis of the State’s position in these decisions was consistent with his decision on June 25, which was simply that “there is some evidence of some abuse at some time in the past of some other children in the community.”¹⁴⁷

Following Judge Mahady’s rulings, the State had to decide whether to appeal. In a statement presented at a news conference on August 31, 1984, William Gray had this to say:

After careful analysis of the law and facts, I have recommended that the state not appeal from Judge Mahady’s two decisions of August 7 [sic], 1984, dismissing the petitions and suppressing the evidence which was found.

The principal reason for making this recommendation is that the appeals, even if successful, would do little to advance the State’s goal of assuring the safety of the children residing in the Northeast community church.

At this point, a successful appeal would accomplish little except a vindication of the State’s past efforts. I have recommended that it is a better use of our resources and energy to look forward rather than backward and to seek new ways to protect those children rather than to be diverted by a lengthy, costly appeal which will not significantly assist our efforts.¹⁴⁸

Attorney General Easton issued a press release that same day “reluctantly accepting Special Assistant Attorney General William Gray’s recommendation not to appeal,” and for the same reason, namely that even a successful appeal would not further the State’s ability to protect the

children. But he did say that “he was by no means throwing in the towel. ‘The rod has no place in a humane society.’” Instead, he would explore all other practical efforts for protecting the children.¹⁴⁹

THE WISEMAN CASE

The legal proceedings concerning the raid were largely concluded, save for the Wiseman simple assault case. That case had continued to generate pretrial publicity, and the venue of the case was transferred to Bennington District Court from the St. Johnsbury District Court.¹⁵⁰

Witnesses for the state against Wiseman, including the putative thirteen-year-old victim and her parents, were deposed and gave incriminating testimony against the defendant about the alleged beating. However, they never read or signed their transcribed depositions, and they departed Vermont for Maine. And once located, they recanted their testimony.¹⁵¹ Justice Keyser ruled that the recantations rendered the depositions untrustworthy, and, on August 21, 1984, he granted the defendant’s motion to suppress the depositions, meaning that they could not be used at the upcoming trial. This ruling severely hampered the State’s case.¹⁵²

When the case finally came before the Bennington District Court for trial months later in June 1985, the case was dismissed for lack of a speedy trial. As described in the *New York Times*,

Vermont’s last child abuse charge against a member of the Northeast Kingdom Community Church was thrown out of court today, five days before it was scheduled to go to trial. Acting Judge F. Ray Keyser . . . ruled that the charges against an elder of the sect, Charles Wiseman, should be dismissed because he had not received a speedy trial.¹⁵³

ONGOING DEVELOPMENTS AFTER THE CONCLUSION OF LEGAL PROCEEDINGS

Regardless of the State’s lack of success in the various legal proceedings, efforts continued within the Snelling administration to pursue several ongoing problems concerning the church. Commissioner of Social and Rehabilitation Services John Burchard created a Child Protection Team, composed of medical and social services personnel, clergy, legal staff, and others, to address these problems, which included not filing birth and death certificates; not obtaining certification for the church’s school by the Department of Education; not obtaining licensure for their day-care center; not using licensed medical care; and not cooperating with good-faith investigations of child abuse and neglect.¹⁵⁴

Three action steps were discussed at the team’s meeting on September 25, 1984: increased dialogue with the church; placement of a social

worker in Island Pond on a regular basis to obtain information necessary to pursue illegal activity through the courts; and placement of a public health nurse in Island Pond on a regular basis to provide services for maternal and child health. Burchard reported that he was ready to place a social worker there, and that occurred shortly thereafter.¹⁵⁵

The controversy about the raid became a hot political issue in the gubernatorial race between Attorney General John Easton and former Lieutenant Governor Madeleine Kunin, eventually won by Kunin in November. For example, "Public Defender Blasts Easton for Church Raid" ran in the *Burlington Free Press* on October 5, 1984. Jean Swantko, who would become a member of the church and would later marry Wiseman, and whose gag order had been lifted, "gave Easton a tongue lashing she said she had been saving since the state's June 22 raid on the Island Pond sect. She charged his motivation in authorizing the raid was his own political advancement, not a desire to protect children in the church from alleged physical abuse."¹⁵⁶

Also, as a result of the November election, Jeffrey Amestoy, who had been serving as commissioner of labor and industry, would replace John Easton as attorney general. Thus, starting in January 1985, there would be a new governor and attorney general who would inherit the Island Pond matter.

But before the end of 1984, Commissioner Burchard proposed several changes in the juvenile law, particularly to clarify and expand investigative powers.¹⁵⁷ It would be for the legislature to decide whether to enact any of the proposed changes in the new session convening in January 1985, but it did not do so.

CONFIRMATION HEARINGS

One of my first assignments after taking the bench in July 1984 was in Caledonia County (St. Johnsbury), the same geographic region in the Northeast Kingdom as the raid. Shortly after the legislature convened, I was summoned to appear before the Senate Judiciary Committee for my confirmation hearing. By this time, Governor Snelling had left office, and all his cabinet officers had also been replaced. No other members of his administration required senate confirmation except for Charles Bristow, who had been nominated as commissioner of public safety.

I was questioned repeatedly and pointedly during four hearings by the committee members, including Mary Just Skinner, the chair, and senator and former governor Phil Hoff, about the constitutionality of the raid, my role in recommending approval, and my judgment.¹⁵⁸ Conversely, Bristow appeared before a different legislative committee, and was not asked a single question about the raid, and was easily confirmed.

I was reading about myself in the papers almost every day. For example, the *Times Argus* ran a front-page story with my photograph on February 20, 1985, with the headline, "Pineles Grilled on Church Raid."¹⁵⁹ I was also the subject of several negative editorials, such as, "Raid on Sect Raises Doubts About Pineles," *Burlington Free Press*, on March 14.¹⁶⁰

Then William Gilbert, who himself had been Snelling's legal counsel, and then secretary of administration and also a close Snelling confidant, became my lawyer. He lined up a number of prominent individuals who agreed to testify on my behalf in the hopes of completing a more accurate picture of who I was. As the *Times-Argus* put it on March 20, "Pineles Lauded by Witnesses at Confirmation Hearing," stating, "The Roster of Pineles' Supporters Reads Like a Who's Who of State Government, Past and Present."¹⁶¹

The *Burlington Free Press* ran a lengthy article on March 21, "Pineles Presents Witnesses to 'Protect My Reputation.'"¹⁶² Witnesses included Lieutenant Governor Peter Smith, Attorney General Jeffrey Amestoy, a former US attorney for Vermont, a former chair of the Vermont Public Service Board, the secretary of the Agency of Human Services, the commissioner of the Department of Health, the commissioner of the Department of Budget and Management, and several well-respected attorneys.

This turned the tide and my nomination was finally voted out of committee favorably on March 28, 4-1,¹⁶³ and then approved by the whole senate, 25-4 on April 3.¹⁶⁴

THE KUNIN ADMINISTRATION

The new Kunin administration eventually grappled with the Island Pond situation. But it did not appear to be an immediate priority; the same could be said for the attorney general's office, now under the supervision of newly elected AG Jeffrey Amestoy, except for a pending truancy case.

It was not until July 16, 1985, that the governor was updated on the situation in a memorandum from John Dooley, her legal counsel, in which he lamented the lack of current information about the church:

We know less about the Island Pond situation today than at any other time in the past. There are no complaints pending, other than the truancy case that the Attorney General has going. There is no reliable source of information on anything that the church is doing. We have no idea whether the church has changed its child disciplinary practices in a substantive way.

Since the raid, we have made one attempt to get more information on the Island Pond church. SRS stationed a social worker, Michael Gray, at Island Pond for purposes of offering services and gathering information. He gained virtually nothing of any use. No one took his services. Eventually, he became a person with whom the church would not speak. Since his usefulness had been eliminated, he was reassigned.¹⁶⁵

Dooley then discussed several possible ways of obtaining additional information about the church and its members, including checking all public records that would identify by name the church members such as driver's licenses; trying again to station a social worker in Island Pond; engaging in a covert operation; changing the law to facilitate information gathering; and establishing a task force involving all relevant agencies to develop additional options.¹⁶⁶

The governor responded favorably to the idea of a task force and to continuing the presence of a social worker in Island Pond from time to time. She said, "I think it is important not to allow total isolation to take place."¹⁶⁷ But it does not appear that a task force was created.

Next, there was a report of an investigation conducted by the Department of Public Safety in which the investigator, Sergeant James M. Candon, interviewed many people involved in, or familiar with, the Island Pond protective action, including representatives for SRS, the attorney general's office, the Orleans and Essex Counties' state's attorneys, the state police and others, each of whom made recommendations for how to proceed, if at all. He concluded that "not much has happened" since June 22, 1984; there had been only one complaint of abuse and that had been resolved, although the attorney general's office was still pursuing a truancy case.¹⁶⁸

Candon also concluded that an undercover operation "was not warranted and probably not feasible," involving serious safety and security problems. Overall, he determined, there were two options: "(1) conduct active investigations and surveillance . . . in hopes of gathering sufficient evidence on which to take action, (2) attempt to take the diplomatic approach . . . in communicating to the church what it is the state wants them to do and then giving the church plenty of time to comply."¹⁶⁹

Based on his conclusions, he recommended as follows:

This writer recommends that the State proceed cautiously in regards to whatever action it decides to take. This writer was a participant in the 22 June 1984 raid and my impressions of that day are still vivid. This writer observed what appeared to be happy and healthy children at the NEKCC. The house I helped search was clean and neat.

I believe that the Attorney General's office and SRS have stayed on top of the situation and should continue to do so.

I do not recommend that the State initiate a surveillance of the NEKCC. The birth, death, immunization, truancy and such issues are not the level of criminal activity that justifies that type of police action. These issues may be better resolved by (1) communication and (2) time.

The report was forwarded to Ellen Fallon, the governor's new legal counsel (Dooley had moved to become secretary of administration) from Charles Bristow, now commissioner of public safety. In a cover memorandum, Commissioner Bristow said, "I agree with Sargeant Candon's conclusions and recommendations."¹⁷⁰ Fallon then summarized the situation in a memorandum to Governor Kunin, dated October 30, 1985, with a view to a "closure" discussion of the church issues.¹⁷¹

On January 28, 1986, Secretary of Human Services Gretchen Morse communicated with Ellen Fallon in a memorandum, "Update—Island Pond." She said two incidents had been reported at SRS's Newport office, and that "Both of these incidents were investigated thoroughly and in each case there were no grounds to substantiate abuse or neglect." Moreover, "We do not recommend from a legal perspective or from a case management perspective, any intervention with regard to the church at this time."¹⁷²

Morse's position appears to have concluded the Island Pond matter within the Kunin administration. And there were no legislative hearings, as had been suggested by some opponents shortly after the raid, bringing the matter to a close.

CONCLUSION

The Island Pond raid was based on well-meaning intentions by everyone involved, but it turned out to be a legal, political, and cultural debacle. And the single goal of examining the children for signs of abuse was never accomplished.

Officials in the Snelling administration were faced with an intractable dilemma: How do we protect vulnerable children in the face of substantiated allegations of abuse, while at the same time respect the rights of their custodians to practice their religion according to their own beliefs, including how they disciplined their children?

There was no easy answer.

The strategy of the Snelling administration was to take a very cautious approach and give the church elders every possible opportunity to

cooperate with the State, even on their own terms, but all overtures were repeatedly rejected over a period of two years.

Indeed, perhaps the governor should have acted sooner in the fall of 1983 or the early months of 1984 when all the evidence and professional reports regarding abuse were more current; this could have resulted in a stronger legal case. But this approach would have given officials a shorter window to interact with the church and try to come to a cooperative agreement. Or perhaps other approaches could have been tried: to do nothing but hope for the best, or to plant an undercover law enforcement agent in the community, neither of which was palatable.

John Burchard summed up the situation well in his public report of the intervention, released on July 17, 1984:

The action taken in Island Pond to protect the children from allegations of abuse and neglect has generated a vast array of opinions and emotions. On the surface even the temporary removal of all of the children residing in 20 different buildings sounds repulsive. "How could this happen in America?"

These comments reflect a response to the situation that is over simplified. The action that was taken to protect the children in the Northeast Kingdom Community Church involved a large number of people from many diverse professions and backgrounds [child protection experts, medical doctors, psychologists, lawyers, law enforcement officials, investigators, health officials, social workers, elected prosecutors, judges].

Are all these people uncaring, incompetent human beings who are only interested in abuse of power? Those of us who were responsible for the decision struggled with the complex legal and human issues involved. But no one who had the opportunity to participate in the decision or the action that followed refused to do so. Why? I do not believe it was because they were coerced, cajoled or brainwashed into taking action contrary to their beliefs. Rather those individuals had some very compelling information which guided their actions; information which was not available to the public.¹⁷³

But the fundamental question about the raid at Island Pond persists: Was the intervention proper or not? My answer to that question at the time was quoted in the *Rutland Herald* in an article on March 21, 1985, "Support Voiced for Judge Pineles." It read, "I would sit here with a heavy conscience if we had done nothing and had been faced with a dead child," Pineles said, referring to a similar case in Michigan [House of Judah] in which the state took action after a child died of a beating. 'I would rather be here defending what we did.'"¹⁷⁴

NOTES

¹ All the documents cited in this article, not including newspaper articles, are on file with the Vermont State Archives and Records Administration (VSARA) in Middlesex, in Box S114-00004, unless otherwise noted. Some are in redacted form to protect the identity of children. I do not disclose any information that would identify any of the children of the church community.

² Our Twelve Tribes, "The Restoration of All Things, A short History of The Twelve Tribes," January 14, 2021 (not paginated), <https://www.twelvetribe.org/article/restoration-all-things>.

³ Ibid.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Our Twelve Tribes, "Community in Island Pond," January 14, 2021 (not paginated), <https://www.twelvetribe.org/community/island-pond>.

⁸ Joseph Hasazi, report to John Burchard, "Re: Island Pond Community," October 4, 1983, 2–3.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Randal R. Moran, affidavit, April 18, 1984, 2.

¹² Ibid., 3–9.

¹³ Ibid.

¹⁴ Ibid., 10–12.

¹⁵ Ibid., 13–14.

¹⁶ Christopher M. Braithwaite, affidavit, June 8, 1984, 1.

¹⁷ Ibid.

¹⁸ Ibid., 2.

¹⁹ Ibid.

²⁰ Ibid.

²¹ John Donnelly, "Island Pond Sect Building an 'Ark' in Nova Scotia," *Burlington Free Press*, October 16, 1983.

²² Braithwaite, 3.

²³ Ibid.

²⁴ Ibid.

²⁵ Ibid., 3–4.

²⁶ John Burchard, "Children at Risk: Why Protective Action in Island Pond Was Necessary," July 17, 1984, 3.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Ibid., 8.

³⁰ Ibid.

³¹ Ibid.

³² John Burchard, letter to David Weinstein, February 11, 1983.

³³ Transcript, interview with Attorney General John Easton, CBC Radio Broadcasting of "Day-break," August 12, 1983, 3.

³⁴ Grover C. Murchison Jr., letter "To whom it may concern," March 30, 1983.

³⁵ "Chronology of events preceding the decision for protective action in Island Pond," internal document summarizing key events, October 1983–June 21, 1984, 1.

³⁶ "Summary of Child Abuse Allegations Involving Members of NEK Community Church," internal document, 1983.

³⁷ Ibid.

³⁸ "Chronology of events."

³⁹ John Donnelly, "Sect Doesn't Spare the Rod with Children," *Burlington Free Press*, October 23, 1983, 9.

⁴⁰ Ibid.

⁴¹ Susan Cloutier, letter to John Easton, August 3, 1983.

⁴² *Barton Chronicle*, editorial, "Is the Island Pond Cult Invincible, After All?" undated, but no later than August 3, 1983.

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- ⁴³ Transcript, CBC interview with Attorney General John Easton, 2.
- ⁴⁴ *Ibid.*, 3–4.
- ⁴⁵ *Ibid.*, 4.
- ⁴⁶ *Ibid.*, 5.
- ⁴⁷ *Ibid.*, 6.
- ⁴⁸ John Easton, letter to Susan Cloutier, August 16, 1983.
- ⁴⁹ Robert Luce, memorandum to Charles Bristow, “Island Pond Truancy,” September 13, 1983, 5.
- ⁵⁰ Petition, affidavit, and order for exhumation and autopsy, September 22, 1983.
- ⁵¹ John Donnelly, “Fetus Dug Up at Cemetery in Island Pond,” *Burlington Free Press*, September 29, 1983.
- ⁵² *Ibid.*
- ⁵³ “Motion to Disqualify the Attorney General and His Office from Prosecution of the Case,” Caledonia District Court, September 23, 1983.
- ⁵⁴ Hasazi report, 1.
- ⁵⁵ *Ibid.*, 3.
- ⁵⁶ *Ibid.*, 5.
- ⁵⁷ *Ibid.*
- ⁵⁸ Transcript, Senate Judiciary Committee hearing on judicial confirmation of Dean Pineles, March 7, 1985, 1, author’s copy.
- ⁵⁹ William A. Hunter, letter to John Easton, October 3, 1983.
- ⁶⁰ “Chronology of events.”
- ⁶¹ Lloyd Novick, “Northeast Kingdom Community Church,” confidential memorandum to Gov. Snelling, October 23, 1983, A.
- ⁶² John O’Donnell, “Plan of action to take all children of the Northeast Kingdom Community Church into temporary custody for examination,” internal document, October 1983.
- ⁶³ Transcript, Senate Judiciary Committee, 2.
- ⁶⁴ “Chronology of events.”
- ⁶⁵ John Donnelly, “The Kingdom and the Cult,” five-part series, *Burlington Free Press*, October 23–27, 1983.
- ⁶⁶ “State Should Make Effort to Probe Charges of Abuse,” editorial, *Burlington Free Press*, October 28, 1983.
- ⁶⁷ Roberta Coffin, memorandum to Lloyd Novick, “Island Pond suspected child abuse,” November 1, 1983, 1.
- ⁶⁸ *Ibid.*, 1–2.
- ⁶⁹ *Ibid.*, 2.
- ⁷⁰ Richard Aronson, memorandum to Roberta Coffin, November 10, 1983, 1.
- ⁷¹ *Ibid.*, 1–2.
- ⁷² Lloyd Novick, letter to Attorney General John Easton, November 21, 1983, 2.
- ⁷³ “Chronology of events.”
- ⁷⁴ Charles Bristow, memorandum to John O’Donnell, February 1, 1984.
- ⁷⁵ Susan L. Scheurer and Margaret Bailey, letter to Roberta Coffin, February 20, 1984, 1.
- ⁷⁶ Lloyd Novick, letter to John O’Donnell, “Northeast Kingdom Community Church,” March 9, 1984.
- ⁷⁷ Lloyd Novick, letter to Gary Long, March 7, 1984.
- ⁷⁸ Philip White, letter to Attorney General John Easton and Governor Richard Snelling, February 23, 1984.
- ⁷⁹ Transcript, Senate Judiciary Committee, 3, 5.
- ⁸⁰ David Weinstein, letter to Philip White, April 24, 1984.
- ⁸¹ Philip White, press release, April 23, 1984.
- ⁸² Philip White, letter to Richard Snelling and John Easton, April 30, 1984.
- ⁸³ Randall Moran, memorandum to Charles Bristow, May 18, 1984.
- ⁸⁴ In re: Certain Children, District Court of Vermont, Unit 3, Essex Circuit, “Order of Dismissal,” June 19, 1984.
- ⁸⁵ Search warrant and affidavits, June 9, 1984.
- ⁸⁶ *Ibid.*
- ⁸⁷ *Ibid.*
- ⁸⁸ Transcript, Senate Judiciary Committee, 3.
- ⁸⁹ *Ibid.*, 6–7.

- ⁹⁰ Ibid., 12.
- ⁹¹ Richard Snelling, memorandum to the Northeast Kingdom Community Church File, "Plan of Action," June 20, 1984.
- ⁹² Transcript, hearing before Judge Wolchik on the state's application for search warrant, June 21, 1984.
- ⁹³ Ibid., 22.
- ⁹⁴ Ibid., 19–20.
- ⁹⁵ Ibid., 10, 24
- ⁹⁶ Ibid., 36.
- ⁹⁷ Search warrant issued by Judge Wolchik, June 21, 1984.
- ⁹⁸ Richard Snelling, private notes, June 21, 1984.
- ⁹⁹ In re: Certain Children, District Court of Vermont, Unit 4, Orleans Circuit, "Opinion: Photographs," June 25, 1984, 1.
- ¹⁰⁰ There is no indication that Judge Mahady reviewed or received the voluminous search warrant materials that were to be transmitted from Judge Wolchik.
- ¹⁰¹ In re: Certain Children, District Court of Vermont, Unit 4, Orleans Circuit, "State's Memorandum in Opposition to Motion to Dismiss the Petition," July 7, 1984, 3.
- ¹⁰² "Troopers Crack Child Abuse Sect," headline, *Boston Herald*, June 23, 1983.
- ¹⁰³ "Children of Sect Seized in Vermont," *New York Times*, June 23, 1984.
- ¹⁰⁴ "Vermont Seizes 112 Children from Sect," headline, *Boston Globe*, June 23, 1984.
- ¹⁰⁵ "At Dawn, Officials Moved In" and "Judge Blocks State," *Burlington Free Press*, June 23, 1984.
- ¹⁰⁶ "Judge Sends Sect's Children Home," headline, *Times-Argus*, June 23, 1985.
- ¹⁰⁷ Tom Watkin, "From Left, Right, Lawyers Rap Raid," *Times-Argus*, June 23, 1984.
- ¹⁰⁸ "Mahady Releases 112 Cult Children after Dawn Raid by State Troopers," headline, *Rutland Herald*, June 23, 1984.
- ¹⁰⁹ Leslie Brown, "Officials Defend Church Raid as 'Routine,'" *Burlington Free Press*, June 26, 1984.
- ¹¹⁰ Bob Sherman, "Snelling Defends Raid," *Times-Argus*, June 26, 1984.
- ¹¹¹ "Easton Claims Children at Risk," *Rutland Herald*, June 26, 1984.
- ¹¹² It is not the purpose of this article to engage in a legal analysis of Judge Mahady's decisions on June 26 or those issued on August 8, but all of them were highly controversial in both substance and style. Some lauded them as those of a great constitutional scholar and protector of the downtrodden; others believed he completely misunderstood the state's case, and was engaged in self-aggrandizement in the process.
- ¹¹³ In re: Certain Children, District Court of Vermont, Orleans Circuit, "Opinion: Detention Order," June 26, 1984, at 2–3.
- ¹¹⁴ Ibid., 6.
- ¹¹⁵ Ibid., 8. Judge Mahady made no reference to the custody case he had adjudicated in May 1983 in which he graphically described the abuse of children within the church community.
- ¹¹⁶ In re: Certain Children, Vermont District Court, Orleans Circuit, "Opinion: Photographs," June 26, 1984, 2.
- ¹¹⁷ Ibid., 3.
- ¹¹⁸ Ibid., 6.
- ¹¹⁹ "Mahady: Raid 'Grossly Unlawful,'" headline, *Rutland Herald*, June 27, 1984. (The "Text of Judge Mahady's Ruling Dismissing Juvenile Petitions" was published by the *Rutland Herald* on August 16, 1984.)
- ¹²⁰ Mike Donoghue, "White Seeks Mahady Dismissal," *Burlington Free Press*, June 26, 1984, 1, 9A.
- ¹²¹ In re: Certain Children, Vermont District Court, Orleans Circuit, "State's Memorandum in Opposition to Motion to Dismiss the Petition," July 11, 1984, 3.
- ¹²² John Easton and Charles Bristow, memorandum to David Wilson, "Status of NEKCC Cases," June 29, 1984.
- ¹²³ Tom Watkin and Jack Hoffman, "Ex-Federal Attorney to Prepare State Case," *Rutland Herald*, June 29, 1984.
- ¹²⁴ William B. Gray, letter to Claire Comeau, clerk, Orleans District Court, June 29, 1984.

- ¹²⁵ William B. Gray, statement, June 29, 1984.
- ¹²⁶ Richard Snelling, "State Took Action to Protect Children and the Constitution," *Burlington Free Press*, June 30, 1984.
- ¹²⁷ Jack Hoffman, "Raid was Correct Governor Asserts, as He Scolds Press," *Rutland Herald*, July 13, 1984.
- ¹²⁸ Howard Dean, "Obsession with Individual Rights Can be Harmful," *Burlington Free Press*, June 30, 1984.
- ¹²⁹ Tom Watkin, "Choice of Judge Thought Critical for Church Case," *Times-Argus*, date uncertain.
- ¹³⁰ Robin Smith, "Secrets from Island Pond's Chilling Raid," *Caledonian Record*, August 5, 2017.
- ¹³¹ Transcript, hearing before Justice F. Ray Keyser, *State v. Wiseman*, June 29, 1984.
- ¹³² In re: Certain Children, Vermont District Court, Orleans Circuit, "State's Memorandum in Opposition to Motion to Dismiss the Petition."
- ¹³³ *Ibid.*, 78–110.
- ¹³⁴ *Ibid.*, 31.
- ¹³⁵ In re: Search Warrant, Vermont District Court, Orleans Circuit, "State's Memorandum in Opposition to Motion to Suppress," July 12, 1984.
- ¹³⁶ In re: Certain Children, Vermont District Court, Orleans Circuit, "State's Supplemental Memorandum in Opposition to Motion to Dismiss the Juvenile Petition and to Suppress Evidence Obtained Under the Search Warrant," July 27, 1984.
- ¹³⁷ John Burchard, "Children at Risk," 4–11.
- ¹³⁸ *Ibid.*, 12.
- ¹³⁹ In re: Certain Children, Vermont District Court, Orleans Circuit, "Opinion and Order: Petition," August 8, 1984, 2.
- ¹⁴⁰ *Ibid.*, 4.
- ¹⁴¹ *Ibid.*, 8.
- ¹⁴² *Ibid.*
- ¹⁴³ *Ibid.*, 14.
- ¹⁴⁴ In re: Certain Children, Vermont District Court, Orleans Circuit, "Opinion and Order: Search Warrant," August 8, 1984, 9–10.
- ¹⁴⁵ *Ibid.*, 27.
- ¹⁴⁶ *Ibid.*, 28.
- ¹⁴⁷ This analysis would appear to be inconsistent with his analysis in the child custody case a year earlier.
- ¹⁴⁸ William B. Gray, news conference, August 31, 1984.
- ¹⁴⁹ John Easton, press release, August 31, 1984.
- ¹⁵⁰ Leslie Brown, "Sect Leader's Trial Sent to Bennington," *Burlington Free Press*, August 1, 1984.
- ¹⁵¹ *Vermont v. Charles Wiseman*, Vermont District Court, Bennington Circuit, "Findings, Conclusion and Order," August 21, 1984, 2.
- ¹⁵² *Ibid.*, 6.
- ¹⁵³ "Sect Abuse Charge Dismissed," *New York Times*, June 13, 1985, 12.
- ¹⁵⁴ Transcript, "Minutes of the Commissioner's Child Protection Team," September 25, 1984, transcribed October 16, 1984.
- ¹⁵⁵ *Ibid.*
- ¹⁵⁶ Neil Davis, "Public Defender Blasts Easton for Church Raid," *Burlington Free Press*, October 5, 1984.
- ¹⁵⁷ John Burchard and Steven McLeod, memorandum, "Proposed Amendments to Vermont Child Protection Statutes," December 4, 1984.
- ¹⁵⁸ Transcript, Senate Judiciary Committee, 1–48.
- ¹⁵⁹ "Pineles Grilled on Church Raid," *Times-Argus*, February 20, 1985.
- ¹⁶⁰ "Raid on Sect Raises Doubts About Pineles," editorial, *Burlington Free Press*, March 14, 1985.
- ¹⁶¹ Sally Johnson, "Pineles Lauded by Witnesses at Confirmation Hearing," *Times-Argus*, March 20, 1985.

¹⁶² Leslie Brown, "Pineles Presents Witnesses to 'Protect My Reputation,'" *Burlington Free Press*, March 21, 1985.

¹⁶³ Transcript, Senate Judiciary Committee, March 28, 1985, 5.

¹⁶⁴ Senate Session of 1985, Yeas and Nays Called for on Pineles Confirmation, Yeas 25, Nays 4, April 3, 1985. I then had a rewarding career of over twenty-one years on the Vermont trial bench, followed by multiple international rule-of-law assignments over the next decade as described in my memoir, *From Vermont to Russia, Kazakhstan and Georgia, Then on to War Crimes and Organ Trafficking in Kosovo* (Montpelier, VT: Rootstock Publishing, 2022).

¹⁶⁵ John Dooley, memorandum to Governor Madeleine Kunin, "Island Pond," July 16, 1985, 1.

¹⁶⁶ *Ibid.*, 2–4.

¹⁶⁷ Governor Madeleine Kunin, undated note to John Dooley in response to his memorandum of July 16, 1985.

¹⁶⁸ James M. Candon, report to Lt. Glenn E. Hall, "Northeast Kingdom Community Church of Island Pond," August 20, 1985, 8.

¹⁶⁹ *Ibid.*

¹⁷⁰ Charles Bristow, memorandum to Ellen Mercer Fallon, "Northeast Kingdom Community Church," August 22, 1995.

¹⁷¹ Ellen Mercer Fallon, memorandum to Governor Madeleine Kunin, "Northeast Kingdom Community Church—Report of Department of Public Safety dated 08/22/85," October 30, 1985.

¹⁷² Gretchen Morse, memorandum to Ellen Mercer Fallon, "Update—Island Pond," January 28, 1986.

¹⁷³ John Burchard, "Children at Risk," 1

¹⁷⁴ Sally Johnson, "Support Voiced for Judge Pineles," *Rutland Herald*, March 21, 1985.