

\$100,000 Verdict In Abortion Case Reversed by Court

A \$100,000 jury verdict against Long Island College Hospital, which allegedly refused to perform an abortion on a mother who had contracted German measles and subsequently delivered a retarded child, was overturned in Brooklyn Supreme Court yesterday.

Justice Charles J. Beckinella, in setting aside the verdict, upheld a separate award of \$10,000 to the 25-year-old mother, Mrs. Barbara Stewart, a bookkeeper in the main office of the Chase Manhattan Bank. The court held that the hospital had failed in its duty to the mother when it informed her she did not need an abortion and should not seek one elsewhere.

In the original case four physicians on a hospital committee reviewed the case and two reportedly favored an abortion and two opposed. The child, a girl, was born Jan. 4, 1965, with physical and mental disabilities.

The child, through her father, Robert, 29, a student at Lin-

coln University, near Philadelphia, charged that her birth defects were either caused or could have been prevented by the hospital. The suit had charged the hospital with negligence and malpractice in "failing to carry out the indicated and necessary therapeutic abortion," which had been suggested by her family physician because of his "forebodings" that the child would be abnormal.

The original suit resulted in a jury verdict of \$100,000 to the child and \$10,000 to the mother. The child was born a spastic, totally deaf, blind in one eye, mentally retarded, and had a congenital heart disease.

Justice Beckinella held there was no proof that the hospital had caused the child's birth defects and that "a plaintiff has no remedy against a defendant whose offense is that it failed to consign the plaintiff to oblivion . . . such a cause of action is alien to our system of jurisprudence."