



WISCONSIN v. YODER
SUPREME COURT OF THE UNITED STATES
406 U.S. 205
May 15, 1972
[6 - 1]*

Based upon their religious beliefs, Amish parents took their children out of public school early. Their convictions for violations of the school compulsory attendance law were reversed on 1st amendment free exercise grounds. Learn about the Amish faith and American freedom.

*Justices Powell and Rehnquist did not participate.

OPINION: Chief Justice Burger...The Wisconsin Supreme Court held that respondents' convictions of violating the State's compulsory school-attendance law were invalid under the Free Exercise Clause of the 1st Amendment...made applicable to the States by the 14th Amendment...We affirm...



Jonas Yoder and Wallace Miller are members of the Old Order Amish religion, and...Adin Yutzy is a member of the Conservative Amish Mennonite Church. They and their families are residents of Green County, Wisconsin. Wisconsin's compulsory school-attendance law required them to cause their children to attend public or private school until reaching age 16 but they declined to send their children, ages 14 and 15, to public school after they completed the eighth grade. The children were not enrolled in any private school, or within any recognized exception to the compulsory-attendance law...They were charged, tried, and convicted of violating the compulsory-attendance law...and were fined the sum of \$5 each. They defended on the ground that the application of the compulsory-attendance law violated their rights under the 1st and 14th Amendments. The trial testimony showed that respondents believed, in accordance with the tenets of Old Order Amish communities generally, that their children's attendance at high school, public or private, was contrary to the Amish religion and way of life. **They believed that by sending their children to high school, they would not only expose themselves to the danger of the censure of the church community, but, as found by the county court, also**

endanger their own salvation and that of their children. The State stipulated that respondents' religious beliefs were sincere...

The respondents presented as expert witnesses scholars on religion and education whose testimony is uncontradicted. They expressed their opinions on the relationship of the Amish belief concerning school attendance to the more general tenets of their religion, and described the impact that compulsory high school attendance could have on the continued survival of Amish communities as they exist in the United States today. The history of the Amish sect was given in some detail, beginning with the Swiss Anabaptists of the 16th century who rejected institutionalized churches and sought to return to the early, simple, Christian life de-emphasizing material success, rejecting the competitive spirit, and seeking to insulate themselves from the modern world. As a result of their common heritage, Old Order Amish communities today are characterized by a fundamental belief that salvation requires life in a church community separate and apart from the world and worldly influence. This concept of life aloof from the world and its values is central to their faith.

A related feature of Old Order Amish communities is their devotion to a life in harmony with nature and the soil, as exemplified by the simple life of the early Christian era that continued in America during much of our early national life. Amish beliefs require members of the community to make their living by farming or closely related activities. Broadly speaking, the Old Order Amish religion pervades and determines the entire mode of life of its adherents. Their conduct is regulated in great detail by the *Ordnung*, or rules, of the church community. Adult baptism, which occurs in late adolescence, is the time at which Amish young people voluntarily undertake heavy obligations, not unlike the Bar Mitzvah of the Jews, to abide by the rules of the church community.

Amish objection to formal education beyond the eighth grade is firmly grounded in these central religious concepts. They object to the high school, and higher education generally, because the values they teach are in marked variance with Amish values and the Amish way of life; they view secondary school education as an impermissible exposure of their children to a "worldly" influence in conflict with their beliefs. The high school tends to emphasize intellectual and scientific accomplishments, self-distinction, competitiveness, worldly success, and social life with other students. Amish society emphasizes informal learning-through-doing; a life of "goodness," rather than a life of intellect; wisdom, rather than technical knowledge; community welfare, rather than competition; and separation from, rather than integration with, contemporary worldly society.

Formal high school education beyond the eighth grade is contrary to Amish beliefs, not only because it places Amish children in an environment hostile to Amish beliefs with increasing emphasis on competition in class work and sports and with pressure to conform to the styles, manners, and ways of the peer group, but also because it takes them away from their community, physically and emotionally, during the crucial and formative adolescent period of life. During this period, the children must acquire Amish attitudes favoring manual work and self-reliance and the specific skills needed to perform the adult role of an Amish farmer or housewife. They must learn to enjoy physical labor. Once a child has learned basic reading, writing, and elementary mathematics, these traits, skills, and attitudes admittedly fall within the category of those best learned through example and

"doing" rather than in a classroom. And, at this time in life, the Amish child must also grow in his faith and his relationship to the Amish community if he is to be prepared to accept the heavy obligations imposed by adult baptism. In short, high school attendance with teachers who are not of the Amish faith -- and may even be hostile to it -- interposes a serious barrier to the integration of the Amish child into the Amish religious community. Dr. John Hostetler, one of the experts on Amish society, testified that the modern high school is not equipped, in curriculum or social environment, to impart the values promoted by Amish society.

The Amish do not object to elementary education through the first eight grades as a general proposition because they agree that their children must have basic skills in the "three R's" in order to read the Bible, to be good farmers and citizens, and to be able to deal with non-Amish people when necessary in the course of daily affairs... While Amish accept compulsory elementary education generally, wherever possible they have established their own elementary schools in many respects like the small local schools of the past...

On the basis of such considerations, Dr. Hostetler testified that compulsory high school attendance could not only result in great psychological harm to Amish children, because of the conflicts it would produce, but would also, in his opinion, ultimately result in the destruction of the Old Order Amish church community as it exists in the United States today. The testimony of Dr. Donald A. Erickson, an expert witness on education, also showed that the Amish succeed in preparing their high school age children to be productive members of the Amish community. He described their system of learning through doing the skills directly relevant to their adult roles in the Amish community as "ideal" and perhaps superior to ordinary high school education. The evidence also showed that the Amish have an excellent record as law-abiding and generally self-sufficient members of society...

Providing public schools ranks at the very apex of the function of a State. Yet even this paramount responsibility was, in *Pierce*¹, made to yield to the right of parents to provide an equivalent education in a privately operated system. There the Court held that Oregon's statute compelling attendance in a public school from age eight to age 16 unreasonably interfered with the interest of parents in directing the rearing of their offspring, including their education in church-operated schools. As that case suggests, **the values of parental direction of the religious upbringing and education of their children in their early and formative years have a high place in our society.** State's interest in universal education, however highly we rank it, is not totally free from a balancing process when it impinges on fundamental rights and interests, such as those specifically protected by the Free Exercise Clause of the 1st Amendment, and the traditional interest of parents with respect to the religious upbringing of their children so long as they, in the words of *Pierce*, "prepare them for additional obligations."

It follows that in order for Wisconsin to compel school attendance beyond the eighth grade against a claim that such attendance interferes with the practice of a legitimate religious belief,

¹Case 1A-R-005 on this website.

it must appear either that the State does not deny the free exercise of religious belief by its requirement, or that there is a state interest of sufficient magnitude to override the interest claiming protection under the Free Exercise Clause...

The essence of all that has been said and written on the subject is that only those interests of the highest order and those not otherwise served can overbalance legitimate claims to the free exercise of religion...

A way of life, however virtuous and admirable, may not be interposed as a barrier to reasonable state regulation of education if it is based on purely secular considerations; to have the protection of the Religion Clauses, the claims must be rooted in religious belief. Although a determination of what is a "religious" belief or practice entitled to constitutional protection may present a most delicate question, the very concept of ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests. Thus, if the Amish asserted their claims because of their subjective evaluation and rejection of the contemporary secular values accepted by the majority, much as Thoreau rejected the social values of his time and isolated himself at Walden Pond, their claims would not rest on a religious basis. Thoreau's choice was philosophical and personal rather than religious, and such belief does not rise to the demands of the Religion Clauses...

The record in this case abundantly supports the claim that the traditional way of life of the Amish is not merely a matter of personal preference, but one of deep religious conviction, shared by an organized group, and intimately related to daily living. That the Old Order Amish daily life and religious practice stem from their faith is shown by the fact that it is in response to their literal interpretation of the Biblical injunction from the Epistle of Paul to the Romans, "**be not conformed to this world...**" This command is fundamental to the Amish faith. Moreover, for the Old Order Amish, religion is not simply a matter of theocratic belief. As the expert witnesses explained, the Old Order Amish religion pervades and determines virtually their entire way of life, regulating it with the detail of the Talmudic diet through the strictly enforced rules of the church community.

The record shows that the respondents' religious beliefs and attitude toward life, family, and home have remained constant -- perhaps some would say static -- in a period of unparalleled progress in human knowledge generally and great changes in education. The respondents freely concede, and indeed assert as an article of faith, that their religious beliefs and what we would today call "life style" have not altered in fundamentals for centuries. Their way of life in a church-oriented community, separated from the outside world and "worldly" influences, their attachment to nature and the soil, is a way inherently simple and uncomplicated, albeit difficult to preserve against the pressure to conform. Their rejection of telephones, automobiles, radios, and television, their mode of dress, of speech, their habits of manual work do indeed set them apart from much of contemporary society; these customs are both symbolic and practical.

As the society around the Amish has become more populous, urban, industrialized, and complex, particularly in this century, government regulation of human affairs has correspondingly become

more detailed and pervasive. The Amish mode of life has thus come into conflict increasingly with requirements of contemporary society exerting a hydraulic insistence on conformity to majoritarian standards. So long as compulsory education laws were confined to eight grades of elementary basic education imparted in a nearby rural schoolhouse, with a large proportion of students of the Amish faith, the Old Order Amish had little basis to fear that school attendance would expose their children to the worldly influence they reject. But modern compulsory secondary education in rural areas is now largely carried on in a consolidated school, often remote from the student's home and alien to his daily home life...The values and programs of the modern secondary school are in sharp conflict with the fundamental mode of life mandated by the Amish religion; modern laws requiring compulsory secondary education have accordingly engendered great concern and conflict. The conclusion is inescapable that secondary schooling, by exposing Amish children to worldly influences in terms of attitudes, goals, and values contrary to beliefs, and by substantially interfering with the religious development of the Amish child and his integration into the way of life of the Amish faith community at the crucial adolescent stage of development, contravenes the basic religious tenets and practice of the Amish faith, both as to the parent and the child.

The impact of the compulsory-attendance law on respondents' practice of the Amish religion is not only severe, but inescapable, for the Wisconsin law affirmatively compels them, under threat of criminal sanction, to perform acts undeniably at odds with fundamental tenets of their religious beliefs. Nor is the impact of the compulsory-attendance law confined to grave interference with important Amish religious tenets from a subjective point of view. It carries with it precisely the kind of objective danger to the free exercise of religion that the 1st Amendment was designed to prevent... Compulsory school attendance to age 16 for Amish children carries with it a very real threat of undermining the Amish community...; they must either abandon belief and be assimilated into society at large, or be forced to migrate to some other and more tolerant region...

[The State contends that its] interest in universal compulsory formal secondary education to age 16 is so great that it is paramount to the undisputed claims of respondents...**Wisconsin concedes that under the Religion Clauses religious beliefs are absolutely free from the State's control, but it argues that "actions," even though religiously grounded, are outside the protection of the 1st Amendment. But our decisions have rejected the idea that religiously grounded conduct is always outside the protection of the Free Exercise Clause. It is true that activities of individuals, even when religiously based, are often subject to regulation by the States in the exercise of their undoubted power to promote the health, safety, and general welfare, or the Federal Government in the exercise of its delegated powers. *Reynolds v. United States*². But to agree that religiously grounded conduct must often be subject to the broad police power of the State is not to deny that there are areas of conduct protected by the Free Exercise Clause of the 1st Amendment and thus beyond the power of the State to control...*Murdock v.***

²Case 1A-R-001 on this website.

*Pennsylvania*³; *Cantwell v. Connecticut*⁴. This case, therefore, does not become easier because respondents were convicted for their "actions" in refusing to send their children to the public high school...

Nor can this case be disposed of on the grounds that Wisconsin's requirement for school attendance to age 16 applies uniformly to all citizens of the State and does not, on its face, discriminate against religions or a particular religion, or that it is motivated by legitimate secular concerns. A regulation neutral on its face may, in its application, nonetheless offend the constitutional requirement for governmental neutrality if it unduly burdens the free exercise of religion. *Walz v. Tax Commission*⁵.

... We turn, then, to the State's broader contention that its interest in its system of compulsory education is so compelling that even the established religious practices of the Amish must give way. Where fundamental claims of religious freedom are at stake, however, we cannot accept such a sweeping claim; despite its admitted validity in the generality of cases, we must searchingly examine the interests that the State seeks to promote by its requirement for compulsory education to age 16, and the impediment to those objectives that would flow from recognizing the claimed Amish exemption.

The State advances two primary arguments in support of its system of compulsory education. **IT NOTES, AS THOMAS JEFFERSON POINTED OUT EARLY IN OUR HISTORY, THAT SOME DEGREE OF EDUCATION IS NECESSARY TO PREPARE CITIZENS TO PARTICIPATE EFFECTIVELY AND INTELLIGENTLY IN OUR OPEN POLITICAL SYSTEM IF WE ARE TO PRESERVE FREEDOM AND INDEPENDENCE.**

In other words, "Earn It, Learn It or Lose It."

Further, education prepares individuals to be self-reliant and self-sufficient participants in society. We accept these propositions.

However, the evidence adduced by the Amish in this case is persuasively to the effect that an additional one or two years of formal high school for Amish children in place of their long-established program of informal vocational education would do little to serve those interests. Respondents' experts testified at trial, without challenge, that the value of all education must be assessed in terms of its capacity to prepare the child for life. **It is one thing to say that compulsory education for a year or two beyond the eighth grade may be necessary when its goal is the preparation of the child for life in modern society as the majority live, but it is quite another**

³Case 1A-R-017 on this website.

⁴Case 1A-R-011 on this website.

⁵Case 1A-R-039 on this website.

if the goal of education be viewed as the preparation of the child for life in the separated agrarian community that is the keystone of the Amish faith.

The State attacks respondents' position as one fostering "ignorance" from which the child must be protected by the State. No one can question the State's duty to protect children from ignorance but this argument does not square with the facts disclosed in the record. Whatever their idiosyncrasies as seen by the majority, this record strongly shows that the Amish community has been a highly successful social unit within our society, even if apart from the conventional "mainstream." Its members are productive and very law-abiding members of society; they reject public welfare in any of its usual modern forms. The Congress itself recognized their self-sufficiency by authorizing exemption of such groups as the Amish from the obligation to pay social security taxes.

It is neither fair nor correct to suggest that the Amish are opposed to education beyond the eighth grade level. What this record shows is that they are opposed to conventional formal education of the type provided by a certified high school because it comes at the child's crucial adolescent period of religious development. Dr. Donald Erickson, for example, testified that their system of learning-by-doing was an "ideal system" of education in terms of preparing Amish children for life as adults in the Amish community, and that "I would be inclined to say they do a better job in this than most of the rest of us do." As he put it, "These people aren't purporting to be learned people, and it seems to me the self-sufficiency of the community is the best evidence I can point to -- whatever is being done seems to function well."

We must not forget that in the Middle Ages important values of the civilization of the Western World were preserved by members of religious orders who isolated themselves from all worldly influences against great obstacles. There can be no assumption that today's majority is "right" and the Amish and others like them are "wrong." A way of life that is odd or even erratic but interferes with no rights or interests of others is not to be condemned because it is different.

The State, however, supports its interest in providing an additional one or two years of compulsory high school education to Amish children because of the possibility that some such children will choose to leave the Amish community, and that if this occurs they will be ill-equipped for life. The State argues that if Amish children leave their church they should not be in the position of making their way in the world without the education available in the one or two additional years the State requires. However, on this record, that argument is highly speculative. There is no specific evidence of the loss of Amish adherents by attrition, nor is there any showing that upon leaving the Amish community Amish children, with their practical agricultural training and habits of industry and self-reliance, would become burdens on society because of educational short-comings. Indeed, this argument of the State appears to rest primarily on the State's mistaken assumption, already noted, that the Amish do not provide any education for their children beyond the eighth grade, but allow them to grow in "ignorance." To the contrary, not only do the Amish accept the necessity for formal schooling through the eighth grade level, but continue to provide what has been characterized by the undisputed testimony of expert educators as an "ideal" vocational education for their children in the

adolescent years.

There is nothing in this record to suggest that the Amish qualities of reliability, self-reliance, and dedication to work would fail to find ready markets in today's society. Absent some contrary evidence supporting the State's position, we are unwilling to assume that persons possessing such valuable vocational skills and habits are doomed to become burdens on society should they determine to leave the Amish faith, nor is there any basis in the record to warrant a finding that an additional one or two years of formal school education beyond the eighth grade would serve to eliminate any such problem that might exist.

Insofar as the State's claim rests on the view that a brief additional period of formal education is imperative to enable the Amish to participate effectively and intelligently in our democratic process, it must fall. The Amish alternative to formal secondary school education has enabled them to function effectively in their day-to-day life under self-imposed limitations on relations with the world, and to survive and prosper in contemporary society as a separate, sharply identifiable and highly self-sufficient community for more than 200 years in this country. In itself this is strong evidence that they are capable of fulfilling the social and political responsibilities of citizenship without compelled attendance beyond the eighth grade at the price of jeopardizing their free exercise of religious belief. When Thomas Jefferson emphasized the need for education as a bulwark of a free people against tyranny, there is nothing to indicate he had in mind compulsory education through any fixed age beyond a basic education. Indeed, the Amish communities singularly parallel and reflect many of the virtues of Jefferson's ideal of the "sturdy yeoman" who would form the basis of what he considered as the ideal of a democratic society. Even their idiosyncratic separateness exemplifies the diversity we profess to admire and encourage.

The requirement for compulsory education beyond the eighth grade is a relatively recent development in our history. Less than 60 years ago, the educational requirements of almost all of the States were satisfied by completion of the elementary grades, at least where the child was regularly and lawfully employed. The independence and successful social functioning of the Amish community for a period approaching almost three centuries and more than 200 years in this country are strong evidence that there is at best a speculative gain, in terms of meeting the duties of citizenship, from an additional one or two years of compulsory formal education. Against this background it would require a more particularized showing from the State on this point to justify the severe interference with religious freedom such additional compulsory attendance would entail...

The requirement of compulsory schooling to age 16 must...be viewed as aimed not merely at providing educational opportunities for children, but as an alternative to the equally undesirable consequence of unhealthy child labor displacing adult workers, or, on the other hand, forced idleness. The two kinds of statutes -- compulsory school attendance and child labor laws -- tend to keep children of certain ages off the labor market and in school; this regimen in turn provides opportunity to prepare for a livelihood of a higher order than that which children could pursue without education and protects their health in adolescence.

In these terms, Wisconsin's interest in compelling the school attendance of Amish children to age 16 emerges as somewhat less substantial than requiring such attendance for children generally. For, while agricultural employment is not totally outside the legitimate concerns of the child labor laws, employment of children under parental guidance and on the family farm from age 14 to age 16 is an ancient tradition that lies at the periphery of the objectives of such laws. There is no intimation that the Amish employment of their children on family farms is in any way deleterious to their health or that Amish parents exploit children at tender years. Any such inference would be contrary to the record before us. Moreover, employment of Amish children on the family farm does not present the undesirable economic aspects of eliminating jobs that might otherwise be held by adults...

Contrary to the suggestion of the dissenting opinion of Justice Douglas, our holding today in no degree depends on the assertion of the religious interest of the child as contrasted with that of the parents. It is the parents who are subject to prosecution here for failing to cause their children to attend school, and it is their right of free exercise, not that of their children, that must determine Wisconsin's power to impose criminal penalties on the parent. The dissent argues that a child who expresses a desire to attend public high school in conflict with the wishes of his parents should not be prevented from doing so. There is no reason for the Court to consider that point since it is not an issue in the case. The children are not parties to this litigation. The State has at no point tried this case on the theory that respondents were preventing their children from attending school against their expressed desires, and indeed the record is to the contrary. The State's position from the outset has been that it is empowered to apply its compulsory-attendance law to Amish parents in the same manner as to other parents -- that is, without regard to the wishes of the child. That is the claim we reject today...

The State's argument...appears to rest on the potential that exemption of Amish parents from the requirements of the compulsory-education law might allow some parents to act contrary to the best interests of their children by foreclosing their opportunity to make an intelligent choice between the Amish way of life and that of the outside world. The same argument could, of course, be made with respect to all church schools short of college. There is nothing in the record or in the ordinary course of human experience to suggest that non-Amish parents generally consult with children of ages 14-16 if they are placed in a church school of the parents' faith.

Indeed it seems clear that if the State is empowered...to "save" a child from himself or his Amish parents by requiring an additional two years of compulsory formal high school education, the State will in large measure influence, if not determine, the religious future of the child...This case involves the fundamental interest of parents, as contrasted with that of the State, to guide the religious future and education of their children. The history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. If not the first, perhaps the most significant statements of the Court in this area are found in *Pierce v. Society of Sisters*, in which the Court observed:

"...The child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

Keep the foregoing in mind. This is a 1972 case. As the years go by, let's take note of how true the Supreme Court remains to "family values" and the role of parents (natural or adoptive) vs. the role of government "as parent."

The duty to prepare the child for "additional obligations," referred to by the Court, must be read to include the inculcation of moral standards, religious beliefs, and elements of good citizenship. *Pierce*, of course, recognized that where nothing more than the general interest of the parent in the nurture and education of his children is involved, it is beyond dispute that the State acts "reasonably" and constitutionally in requiring education to age 16 in some public or private school meeting the standards prescribed by the State.

However read, the Court's holding in *Pierce* stands as a charter of the rights of parents to direct the religious upbringing of their children. And, when the interests of parenthood are combined with a free exercise claim of the nature revealed by this record, more than merely a "reasonable relation to some purpose within the competency of the State" is required to sustain the validity of the State's requirement under the 1st Amendment. To be sure, the power of the parent, even when linked to a free exercise claim, may be subject to limitation...if it appears that parental decisions will jeopardize the health or safety of the child, or have a potential for significant social burdens. But in this case, the Amish have introduced persuasive evidence undermining the arguments the State has advanced to support its claims in terms of the welfare of the child and society as a whole. The record strongly indicates that accommodating the religious objections of the Amish by forgoing one, or at most two, additional years of compulsory education will not impair the physical or mental health of the child, or result in an inability to be self-supporting or to discharge the duties and responsibilities of citizenship, or in any other way materially detract from the welfare of society...

For the reasons stated we hold...that the 1st and 14th Amendments prevent the State from compelling respondents to cause their children to attend formal high school to age 16...It cannot be overemphasized that we are not dealing with a way of life and mode of education by a group claiming to have recently discovered some "progressive" or more enlightened process for rearing children for modern life...

Nothing we hold is intended to undermine the general applicability of the State's compulsory school-attendance statutes or to limit the power of the State to promulgate reasonable standards that, while not impairing the free exercise of religion, provide for continuing agricultural vocational education under parental and church guidance by the Old Order Amish or others similarly situated. The States have had a long history of amicable and effective relationships with church-sponsored schools, and there is no basis for assuming that, in this related context, reasonable standards cannot be established

concerning the content of the continuing vocational education of Amish children under parental guidance, provided always that state regulations are not inconsistent with what we have said in this opinion. *Affirmed...*

DISSENT: Justice Douglas...I think the children should be entitled to be heard...[A child] may want to be a pianist or an astronaut or an oceanographer. To do so he will have to break from the Amish tradition...The Court rightly rejects the notion that actions, even though religiously grounded, are always outside the protection of the Free Exercise Clause of the 1st Amendment. In so ruling, the Court departs from the teaching of *Reynolds v. United States*, where it was said concerning the reach of the Free Exercise Clause of the 1st Amendment, "Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order." In that case it was conceded that polygamy was a part of the religion of the Mormons. Yet the Court said, "It matters not that his belief in polygamy was a part of his professed religion: it was still belief, and belief only." Action, which the Court deemed to be antisocial, could be punished even though it was grounded on deeply held and sincere religious convictions. **What we do today, at least in this respect, opens the way to give organized religion a broader base than it has ever enjoyed; and it even promises that in time *Reynolds* will be overruled...**