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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1939

No. 690

■

MINERSVILLE SCHOOL DISTRICT, BOARD OF
EDUCATION OF MINERSVILLE SCHOOL DIS-
TRICT, Consisting of DAVID I. JONES, DR. E. A.
VALIBUS, CLAUDE L. PRICE, DR. T. J. McGURL,
THOMAS B. EVANS and WILLIAM ZAPF, and
CHARLES E. ROUDABUSH, Superintendent of
MINERSVILLE PUBLIC SCHOOLS,
Petitioners,

v.

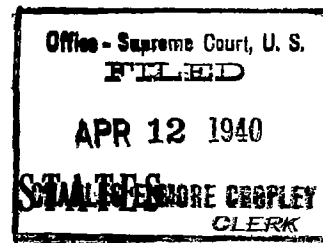
WALTER GOBITIS, Individually, and LILLIAN
GOBITIS and WILLIAM GOBITIS, Minors,
by WALTER GOBITIS, Their Next Friend,
Respondents.

■

On Writ of Certiorari to the
United States Circuit Court of Appeals for the Third Circuit

RESPONDENTS' BRIEF

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WALTER GOBITIS, Individually, and LILLIAN
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by WALTER GOBITIS, Their Next Friend,

Respondents.



On Writ of Certiorari to the
United States Circuit Court of Appeals for the Third Circuit

RESPONDENTS' BRIEF

Opinions Below

The opinion of the United States District Court for the
Eastern District of Pennsylvania after final hearing on
the merits is reported in 24 F. Supp. 271 (R. p. 120).*

The opinion of the United States Circuit Court of Ap-
peals for the Third Circuit is reported in 108 F. (2) 683
(R. p. 182).

*The opinion of the trial court reported in 21 F. Supp.
581 was on the motion to dismiss for want of jurisdiction,

Jurisdiction

Jurisdiction of the Supreme Court of the United States has been invoked under Section 240 (a) of the Judicial Code as amended by the Act of February 13, 1925, c. 229, paragraph 1, 43 Stat. 938 [28 USC 347 (a)].

The Statute

The statute and the regulation, the validity of which as construed and applied to respondents is here drawn in question by respondents, are, respectively:

The Act of May 18, 1911, P. L. 309, Art. XVI, paragraph 1607, as amended by the Act of May 29, 1931, P. L. 243, paragraph 37, and Act of May 20, 1937, P. L. 732 (24 P. S., paragraph 1551), provides that all public schools and private schools in the Commonwealth of Pennsylvania shall teach certain enumerated subjects including "the history of the United States and of Pennsylvania, civics, including loyalty to the State and National Government."

Claiming the above statute as authority, the school board made the following regulation:

"That the Superintendent of the Minersville Public Schools be required to demand that all teachers and pupils of said schools be required to salute the flag of our country as a part of the daily exercises. That refusal to salute the flag shall be regarded as an act of insubordination and shall be dealt with accordingly." (R. p. 45)

filed by defendants-petitioners. The trial court based jurisdiction upon Section 24 (1), Judicial Code, and on hearing all evidence found as a fact that the amount in controversy exceeded \$3,000 exclusive of interest and costs. Should it be contended here that the trial court did not have jurisdiction under Section 24 (1), Judicial Code, then we submit that the court did have jurisdiction under Section 24 (14), Judicial Code, conferring jurisdiction upon the district courts, without regard to amount, where only "civil rights" which are incapable of money valuation are involved. See *Hague v. C. I. O. et al.*, 307 U. S. 496, opinions of Mr. Justice Roberts and Mr. Justice Stone.

The Act of May 18, 1911, P. L. 309, Art. IV, paragraph 404, as amended by the Act of May 29, 1931, P. L. 243, paragraph 9 (24 P. S., paragraph 338), and Act of May 18, 1911, P. L. 309, Art. XIV, paragraph 1411 (24 P. S., paragraph 1383), were invoked by the school board as its alleged authority to expel the minor respondents.

Statement

WALTER GOBITIS and his two minor children, respondents herein, are native-born American citizens residing at Minersville, Pennsylvania; the two minor respondents attended the public school at Minersville, Pennsylvania.

In the year 1935 the Minersville School Board promulgated the following rule, to wit: "That the Superintendent of the Minersville Public Schools be required to demand that all teachers and pupils of said schools be required to salute the flag of our country as a part of the daily exercises. That refusal to salute the flag shall be regarded as an act of insubordination and shall be dealt with accordingly."

DAILY CEREMONY

Each day at the opening of the school exercises the teachers and pupils of said school perform a certain ceremony in the following manner, to wit: Standing, each one places the hand over the breast and then with the right hand outstretched toward the flag specific words are repeated: "I pledge allegiance to my flag and the Republic for which it stands, one nation indivisible, with liberty and justice for all." (R. 92)

The form of salute is very like that of the Nazi régime in Germany.

While this ceremony was being performed the two Gobitis children stood in respectful silence but declined to participate in the ceremony mentioned. Their reason for not participating in the ceremony of saluting the flag was and is that they conscientiously believe that by so doing

they would violate the law of Almighty God, which infraction would in due time result in their loss of everlasting life. Their father had so taught them from infancy. (R. 51, 82, 83)

Walter Gobitis, the father, is a follower of Jesus Christ having made a solemn covenant to do the will of Almighty God. (R. 48, 49) He has taught his infant children to likewise follow Christ Jesus by being obedient to the law of Almighty God, as set forth in the Bible, and they too had entered into a covenant to obey the law of Almighty God whose name alone is Jehovah. (R. 50, 82) The two minor respondents were always diligent to obey every rule of the school except the rule relating to the formal saluting of the flag as above stated. Respondents willingly and diligently obey all the laws of the state when such laws do not conflict with the law of Almighty God.

The minor respondents were expelled from the school, and hence denied the privilege of attending the public school. This suit at equity was brought by respondents to enjoin the School Board from enforcing the rule as to the two infant respondents. The United States District Court granted the relief prayed.

FINDINGS AND OPINION

At the request of plaintiffs (respondents here) the trial court entered of record findings of fact and conclusions of law of which the following is a part, to wit:

“That plaintiffs are members of an unincorporated association of Christian people designated as Jehovah’s Witnesses; that each and every one of Jehovah’s Witnesses has entered into an agreement or covenant with Jehovah God, wherein they have consecrated themselves to do His will and to obey His commandments; they accept the Bible as the Word of God, and conscientiously believe that a failure to obey the precepts and commandments laid down therein will in due time result in their eternal destruction. Plaintiffs and all of Jehovah’s Witnesses sincerely and honestly be-

lieve that the act of saluting a flag contravenes the law of Almighty God in this, to wit:

“(a) To salute a flag would be a violation of the Divine commandments stated in verses 3, 4 and 5 of the twentieth chapter of Exodus of the Bible, which read as follows, to wit:

‘Thou shalt have no other gods before me. Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them, nor serve them . . . ’

in that said salute signifies that the flag is an exalted emblem or image of the government and as such entitled to the respect, honor, devotion, obeisance and reverence of the saluter.

“(b) To salute a flag means in effect that the person saluting the flag ascribes salvation and protection to the thing or power which the flag stands for and represents, and that since the flag and the government which it symbolizes are of the world and not of Jehovah God, it is wrong to salute the flag, and to do so denies the supremacy of Almighty God, and contravenes His express command as set forth in Holy Writ.

“That the said Lillian Gobitis and William Gobitis did not and were conscientiously unable to salute the flag because their religious beliefs and manner of worship forbade such salute, and the giving of such salute was in contravention of and in conflict with the commands of Almighty God, as they sincerely believed.

“That the sole reason for the said expulsion and their subsequent inability to attend classes at the said school was the refusal by the said Lillian and William Gobitis to salute

the flag as required by the regulation of the Board of Education hereinbefore referred to.

“That the acts and conduct of defendants in excluding the minor plaintiffs from the public schools of Minersville cannot be justified under the police power of the state in that the failure and refusal of said minor plaintiffs to salute the national flag in accordance with the provisions of said regulation could not and did not in any way prejudice or imperil the public safety, health or morals or the property or the personal rights of their fellow citizens.”

The finding of the District Court was for plaintiffs; appeal was taken to the United States Court of Appeals for the Third Circuit, which court affirmed the judgment of the District Court. The opinion of the United States District Court for the Eastern District of Pennsylvania is reported at 24 F. Supp. 271 (R. p. 120).

The opinion of the United States Circuit Court of Appeals for the Third Circuit is reported in 108 F. (2) 683 (R. p. 182).

IDENTIFICATION

The opinion filed in the Appellate Court for the purpose of identifying respondents quotes (R. 161) from Professor Elmer T. Clark's book *The Small Sects in America*, p. 58, 59. Manifestly Professor Clark was not fully advised with reference to the group with whom respondents are associated. For that reason, and that respondents may be properly identified, the following statement is made:

Jehovah's witnesses are not a sect, small or great. No man organized them. They have no human leader. They are a group of Christians who have covenanted to be obedient to the will of Almighty God, which requires them to give testimony to the name of Jehovah.

All persons who covenant to do the will of Almighty God, who do His will, and who worship and serve Him as commanded, are Jehovah's witnesses; and this is true without

regard to denomination. Jehovah's witnesses are not a *recently* organized group.

The apostle Paul, one of Jehovah's witnesses, sets forth at Hebrews 11:1-40 the names and a brief history of a number of Jehovah's witnesses, showing that Jehovah's witnesses have been on the earth for more than fifty centuries and long before any sects were known. The prophecy of Almighty God recorded centuries ago, and addressed to all persons who are in a covenant with Him and who sincerely serve Him by declaring His name, says: "Ye are my witnesses, saith the Lord, that I am God."—Isaiah 43:10-12.

Christ Jesus is the Great Witness to the name and kingdom of Jehovah, the Almighty God. The Bible designates Him as "The Faithful and True Witness". (Revelation 1:5; Revelation 3:14) Before the Roman governor Jesus said that He came to earth to bear witness to the truth and that His followers must likewise be witnesses. (John 18:37; John 15:27) Recognizing the obligation upon all Christians or covenant people of God, the apostle Peter wrote that all such must follow in the footsteps of Christ Jesus, bearing witness to the truth. (1 Peter 2:21) Those who worship Jehovah God in spirit and in truth have committed to them the testimony concerning Jehovah, His name, and His kingdom, and hence all such are Jehovah's witnesses. (Revelation 12:17; Matthew 24:14) Such Christians are found in many denominations.

CHRISTIANITY means to be obedient to the law of Jehovah, the Almighty God. (Hebrews 10:7; Psalm 40:6-8) There is one Christianity. There are many religions practiced in defiance of God's law. The fundamental law of America declares that there shall be no discrimination between any of such nor any interference with regard to religion or with persons in their worship of Almighty God but that each shall worship according to the dictates of his own conscience as long as the exercise of such right does not endanger public safety or infringe personal rights.

Respondents are sincere Christians, conscientiously en-

deavoring to obey Almighty God and to worship Him in spirit and in truth, as commanded by Him.

CONCEDED

It is conceded by the petitioners in the instant case:

(1) That respondents are sincere, conscientious and honest in their belief that they are witnesses of Jehovah God, and have covenanted to obey God, and that they believe that their refusal to obey God's commandments will result disastrously to them.

(2) That the flag of the United States is a symbol of the government. (R. 94)

(3) That the respondents sincerely, conscientiously and honestly believe that their participation in the ceremony of saluting the flag, as required by the regulation of the Minersville public school, would violate the law of Almighty God, as set forth in the Bible.

CONSTITUTIONAL QUESTIONS

FIRST: The rule promulgated and enforced by the Minersville School Board compelling respondents to participate in the ceremony of saluting the flag and the act of said School Board in expelling the minor respondents from said school, because of refraining from saluting the flag, are violative of the rights guaranteed to respondents by Article One, Section Three, of the Constitution of Pennsylvania, to wit:

"That the general, great and essential principles of liberty and free government may be recognized and unalterably established, we declare that . . .

"Sec. 3. All men have a natural and indefeasible right to worship Almighty God according to the dictates of their own consciences; no man can of right be compelled to attend, erect or support any place of worship, or to maintain

any ministry, against his consent; no human authority can, in any case whatever, control or interfere with the rights of conscience and no preference shall ever be given by law to any religious establishments or modes of worship.”

SECOND: The rule made by petitioners’ School Board compelling the minor respondents to daily participate in the ceremony of saluting the flag, and enforced by expelling them from said school because of declining to salute the flag, violates the Fourteenth Amendment of the Constitution of the United States, to wit:

“No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law.”

FOR ARGUMENT

Point I

The vital question in the instant case is this: Shall the creature man be free to exercise his conscientious belief in God and his obedience to the law of Almighty God, the Creator, or shall the creature man be compelled to obey the law or rule of the State, which law of the State, as the creature conscientiously believes, is in direct conflict with the law of Almighty God?

In brief the issue may be stated thus:

The arbitrary totalitarian rule of the State versus full devotion and obedience to the THEOCRATIC GOVERNMENT or Kingdom of Jehovah God under Christ Jesus His anointed King.

This honorable court takes judicial notice that the Holy Bible is the authoritative Word or law of Almighty God,

given for man's instruction in righteousness. (2 Timothy 3:16, 17) The highest legal authorities have held that the law of God is supreme. (*Church v. United States*, 143 U. S. 457)

The law of God "is binding over all the globe, in all countries, at all times. No human laws are of any validity if contrary to this; and such of them as are valid derive all their force and all their authority, mediately or immediately, from the original." (*Blackstone Commentaries*, Chase 3d ed., pages 5-7)

"No external authority is to place itself between the finite being and the Infinite when the former is seeking to render homage that is due, and in a mode which commends itself to his conscience and judgment as being suitable for him to render, and acceptable to its object." (Cooley's *Constitutional Limitations*, 8th Ed., page 968)

The Commonwealth of Pennsylvania was established by men who recognized the supremacy of the law of Jehovah God. The preamble to that Constitution, and Section Three of Article One, definitely prove this point.

The original thirteen states of America unanimously adopted a Declaration, which we call the Declaration of Independence, and wherein are employed these words, to wit: "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness."

Liberty necessarily embraces the right of the individual to exercise his conscience and that without interference. Chief Justice Gibson in *Commonwealth v. Leshner*, 17 S. & R. 155, in discussing the right of conscience within the meaning of the Pennsylvania Constitution, amongst other things said, that the right of conscience is: "A right to worship the Supreme Being according to the dictates of the heart. To adopt any creed or hold any opinion whatever on the subject of religion; and to do or forbear to do any act for conscience' sake, the doing or forbearing (to do) of which is not prejudicial to the public weal."

Mr. Justice Maris, in delivering the opinion of the trial court in the instant case said:

“In these words that eminent jurist [Justice Gibson] clearly stated the principle which underlies the Constitutional provision of the state, and which is one of the fundamental bases upon which our nation was founded, namely, that individuals have the right not only to entertain any religious belief but also to do or refrain from doing any act on conscientious grounds, which does not prejudice the safety, morals, property or personal rights of the people. . . .

“On the contrary, that regulation [of the School Board], although undoubtedly adopted from patriotic motives, appears to have become in this case a means for the persecution of children for conscience’ sake. Our beloved flag, the emblem of religious liberty, apparently has been used as an instrument to impose a religious test as a condition of receiving the benefits of public education. And this has been done without any compelling necessity of public safety or welfare. . . . In these days when religious intolerance is again rearing its ugly head in other parts of the world it is of the utmost importance that the liberties guaranteed to our citizens by the fundamental law be preserved from all encroachment.” (R. 18, 21, 22)

As an example, totalitarian governments, such as the Hitler régime, deny Jehovah God and Christ Jesus and adopt the religion of Hitler. In obedience thereto all citizens in Germany are required to salute and to “heil” Hitler, and thereby impute to him supreme rulership, protection, worship and salvation.

A rule which compels school children to daily participate in a formal ceremony, to wit, placing the hand over the heart, stretching forth the hand toward the flag and at the same time repeating words of reverence and devotion, thereby recognizing the State as the sovereign, higher or supreme power, and attributing to the State protection and salvation, is a form of religious worship. Enforcing such rule against pupils or children is thereby compelling them to adopt and

practice a religion. Such rule is clearly in violation of Article One, Section Three, of the Constitution of Pennsylvania, and of the Fourteenth Amendment of the Constitution of the United States.

Compelling citizens to violate their conscience is one of the chief rules enforced by the Corporate or Totalitarian States. The corporate state is recognized and held as the superior or supreme power. It is called the "higher powers". In view of the tendency of the nations to return to the totalitarian rule, and therefore to adopt and practice religion in opposition to Jehovah God and His government, it is well and fitting to briefly review the history of compulsory religion, and which discloses a clear distinction between religion and the conscientious worship of Almighty God.

HISTORY

The first totalitarian government, which was organized shortly after the flood of Noah's day, adopted and practiced religion compelling men to defame the name of Almighty God. Nimrod, the ruler, set himself up as the higher or supreme power, above and before Almighty God. He compelled the people to recognize him as the state or sovereign ruler to be obeyed rather than Almighty God. His action was in defiance of Almighty God. (Genesis 10:8-10) Thereafter other totalitarian governments were organized, ruling the people of their respective nations, and each of such adopted and practiced a religion in defiance of Almighty God. Within those governments there were a few men who refused to bow down to or recognize any human power as supreme or above Almighty God; because of such refusal they suffered martyrdom. The Bible declares that such men were witnesses to the name of Almighty God, and hence are called JEHOVAH'S WITNESSES. Their names are set forth in the Scriptures in connection with their heroic deeds as examples for other witnesses to follow.—Hebrews 11:1-40; Hebrews 12:1, 2.

Jehovah God selected the descendants of Abraham and organized them as a people for His name to bear testimony

to His name and kingdom. God led them out from the nation of Egypt, a corporate or arbitrary State, and led them into the land of Canaan, where demon religion and totalitarian rule also prevailed. God warned the Israelites to shun the practice of religion of that people of Canaan because it would be a snare unto them. (Deuteronomy 7:4, 16) The Israelites were the covenant and typical people of Jehovah God. (Exodus 19:5) God gave to them His law to safeguard them from idolatry, that is, from the worship of creatures. (Galatians 3:19) The law of God never changes. (Malachi 3:6) All persons who have entered into a covenant with Jehovah God are subject to the same law that applied to the Israelites.—1 Corinthians 10:11; Romans 15:4.

God's law, given to and which applies to all of His covenant people, states: "Thou shalt have no other gods before me. Thou shalt not make unto thee any graven image, or any likeness of any thing that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; thou shalt not bow down thyself to them, nor serve them; for I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of them that hate me."—Exodus 20:3-5.

BASIS OF BELIEF

Petitioners, in support of the School Board rule, say: "While the members of Jehovah's witnesses may *mistakenly* believe that saluting the flag contravenes the law of God, as set forth in the twentieth chapter of Exodus, it does not follow that such pupil's refusal to salute the flag is based on a religious belief."

This raises the question, What is a religious belief? Based upon the Bible the proper definition of religion is this: A formal ceremony of reverence, adoration, devotion, or praise, practiced or indulged in by human creatures and directed toward, or bestowed upon, a higher power, real or supposed, thereby attributing to such higher power sovereignty, protection and salvation, is a religion. When such ceremony ignores the specific commandment of Almighty

God, that ceremony is idolatry.—Matthew 15:1-9; Acts 17:16-29; Revelation 19:10; Exodus 20:12; Isaiah 29:13; 44:8-10; John 4:23.

The foregoing Bible definition of religion is further supported by what follows: Paul, at one time a Pharisee and as such a practitioner of religion, said: "I am a Pharisee, [and] the son of a Pharisee." (Acts 23:6) When before King Agrippa he said: "After the most straitest sect of our religion I lived a Pharisee." (Acts 26:5) After Paul became a Christian and the apostle of Jesus Christ and one of Jehovah's witnesses, he wrote these words, to wit, recorded in the Bible at Galatians chapter one: "For ye have heard of my conversation in time past in the Jews' religion, how that beyond measure I persecuted the church of God, and wasted it; and profited in the Jews' religion above many my equals in mine own nation, being more exceedingly zealous of the traditions of my fathers." (Galatians 1:13, 14) Religion is taught by the traditions of men. Christianity is taught by Jesus Christ, based entirely upon the Bible, which is the Word of God.—Matthew 15:1-9.

A rule which compels school children daily to participate in a formal ceremony by placing the hand over the heart (which is the symbol of loving devotion) and then extending the hand in a salute to a flag, a symbol of the State, and at the same time repeating formal words by which the State is recognized as the "Higher Power" and thereby attributing to the State protection and salvation, is compelling those children to adopt and practice a religion. If such children are in a covenant with Jehovah God to obey His will, that formal ceremony or practice is compelling such children to practice a religion and idolatry contrary to the commandments of Almighty God, which Divine commandments such children conscientiously believe and rely upon.

This honorable court has repeatedly held that the individual alone is privileged to determine what he shall or shall not believe. The law, therefore, does not attempt to settle differences of creeds and confessions, or to say that

any point or doctrine is too absurd to be believed. That rule was laid down more than one hundred years ago by the Pennsylvania courts in *Schriber v. Rapp*, 5 Watts 351, 363, 30 AM, Dec. 327.

As early as 1784 a like question was before the House of Delegates of the State of Virginia. Mr. Jefferson prepared a Bill: "For establishing religious freedom." In the preamble of that Act religious freedom is defined and in which the following appears:

"That to suffer the civil magistrate to intrude his powers into the field of opinion, and to restrain the profession or propagation of principles on supposition of their ill tendency, is a dangerous fallacy which at once destroys all religious liberty, it is declared that it is time enough for the rightful purposes of civil government for its officers to interfere when principles break out into overt acts against peace and good order."

This honorable court in *Reynolds v. United States*, 68 U. S. 145 (162), adopted that rule as the law of this country.

Will any court attempt to say that respondents *mistakenly* believe what is set forth in the twentieth chapter of Exodus in the Bible? The belief of respondents is not based upon conjecture or a myth. Respondents' belief is based strictly upon the Bible. The minor respondents from their infancy have been taught by their father to rely upon the Bible. In the testimony of respondent Lillian Gobitis she quotes this text from the Bible: "Little children, keep yourselves from idols." (1 John 5:21) (R. 83) These children testified that they had covenanted to do God's will. A person who is in a covenant to obey the commandments of Almighty God, and who stubbornly refuses to obey, is declared guilty of idolatry. (1 Samuel 15:22, 23) Respondents conscientiously believe these statements thus made in the Word of God, and they rely upon them as their guide.

THE FLAG

Is the saluting of the flag of any earthly government by a person who is in a covenant to do the will of God a form of religion, and which constitutes idolatry?

In *Halter v. Nebraska*, 205 U. S. 36-41, this honorable court held that the flag "is an emblem of sovereignty".

To many persons the saluting of a national flag means nothing. To a sincere person who believes in God and the Bible as His Word, and who is in a covenant to do His will, it means much. To such person "sovereignty" means the supreme authority or power. Many persons believe that "the higher powers", mentioned in the Bible at Romans thirteen, means the Sovereign State, but to the Christian this means only Jehovah God and Christ Jesus, His anointed King, The Higher Powers, to which all must be subject.

Concerning the flag *The Encyclopedia Americana*, Volume 11, page 316, says:

"The flag, like the cross, is sacred. . . . The rules and regulations relative to human attitude toward national standards use strong, expressive words, as, "Service to the Flag," . . . "Reverence for the Flag," "Devotion to the Flag."

Webster's International Dictionary defines the words above used as follows:

"SACRED, set apart by solemn religious ceremony."

"DEVOTION, a form of prayer or worship."

"REVERENCE, veneration, expressing reverent feeling, worship."

"SALUTE means to greet with a kiss, to bow and courtesy, the uncovering of the head, a clasp or wave of the hand or the like . . . to honor formally or with ceremonious recognition." (Century Dictionary, page 5321)

“To GREET with a sign or welcome, love or deference, as a bow and embrace, or a wave of the hand.” (Webster)

It is conceded that the flag is a symbol of the State, an image which represents the State.

Under the word “image” this definition is given by Webster’s Dictionary: “Image, in modern usage, commonly suggests religious veneration.”

According to the Bible: “Bow down to a symbol or image” includes all postures or attitudes toward the image. Even a kiss. (See 1 Kings 19:18; Hosea 13:2; Job 31:25-27.)

Any token of reverence is a bowing down to. (See Webster’s International Dictionary under the word *bow*.)

It appears from the recognized lexicographers that saluting the flag is a religious formalism. According to the Bible there cannot be the slightest doubt about it, because by such salute there is bestowed upon the image or thing, reverence, devotion, and a form of prayer or worship, and which thing or image or that which it represents is regarded as *sacred*.

Respondents sincerely believe the Word of God and conscientiously believe that saluting a flag is a violation of His law. Any willful disobedience to the divine law *to them* means complete or eternal destruction. “For Moses truly said unto the fathers, A prophet shall the Lord your God raise up unto you of your brethren, like unto me; him shall ye hear in all things, whatsoever he shall say unto you. And it shall come to pass, that every soul, which will not hear that prophet, shall be destroyed from among the people.” —Acts 3:22, 23.

DIVINE PRECEDENTS

The conclusion or belief of respondents is not *their* interpretation of God’s law. Jehovah God interprets His own law and records the meaning thereof. If they believe the Bible they cannot “mistakenly believe” that saluting a flag is religious. Relative to idolatry the following precedents are cited from the Bible, showing that respondents have a clear basis for their belief and action.

The totalitarian ruler of the empire of Persia promulgated a rule that all persons of the realm must bow down to Haman. Mordecai, a Jew, and one of the covenant people of God's typical nation (and therefore one of Jehovah's witnesses), refused to bow down to Haman, as it is written: 'Mordecai bowed not, nor did he reverence to Haman.' Because of his disobedience to the totalitarian ruler's command, preparation was made to hang Mordecai. Because of Mordecai's faithful devotion to Jehovah God he was saved from death.—Esther, chapters 3, 4, and 5.

Another divine example is that recorded in the prophecy of the third chapter of Daniel. The totalitarian ruler of Babylon made an image and set it up and issued a decree that at a given signal all persons should bow down to that image. Three Hebrews of the covenant people of God, held in bondage within the realm of Babylon, refused to bow down, preferring to obey the law of Almighty God, as recorded in Exodus the twentieth chapter, and take the consequences. For such refusal to bow they were cast into the fiery furnace with the intent to destroy them. Because of their faithfulness to Jehovah God He delivered them from that fiery furnace. They were therefore witnesses to Jehovah, bearing testimony to the supremacy of His name and to His power.

The Jewish nation was in a covenant to do the will of Jehovah God. They were His typical people. Zedekiah the king of that nation broke his covenant, made himself an arbitrary ruler, turned to idolatry by practicing religion of the heathen nations, led most of the people of Israel into idolatry, and for that reason the nation fell: "And they served their idols; which were a snare unto them."—Psalm 106: 36; Ezekiel 21: 26, 27.

Respondents are in a covenant to do the will of God and they sincerely and conscientiously believe that if they break that covenant they must suffer complete loss of life. Neither the government of Pennsylvania, nor the United States, or any other earthly government, can give life to man. Jehovah God is the fountain of life. (Psalm 36: 9) 'Salvation be-

longeth to God alone.' (Psalm 3:8) Respondents thus sincerely believing have no alternative. If they would live they must obey God, because disobeying means their destruction. They are therefore commanded not to fear what man may do to them. To all covenant people the commandment is given: "And fear not them which kill the body, but are not able to kill the soul; but rather fear him which is also able to destroy both soul and body in hell."—Matthew 10:28.

Early settlers of America fled to this land because of arbitrary and oppressive rule, the enforcement of which violated their conscientious belief and God-given rights. The founders of the Commonwealth of Pennsylvania were of such and therefore were Jehovah's witnesses. This matter is well covered in the opinion of Mr. Justice Clark, in the instant case. (R. 176)

"The constitutional guaranty of religious liberty covers above all the two cardinal points of worship and doctrine, the two forms in which the uncontrollable facts of faith and opinion find their principal outward expression; it includes secondarily also customs, practices and ceremonies, which even where they do not form directly a part of worship, are prescribed by religion."

Freund, *Police Power*, p. 497.

The rule of the Minersville School Board promulgated and enforced in the instant case is a form of religion, and hence violative of the Constitution of Pennsylvania and of the Fourteenth Amendment of the Constitution of the United States. It denies the free exercise of conscience.

From Nimrod till now all totalitarian rulers have put the State above or before Almighty God. They have operated and ruled in defiance of Jehovah God's supreme law. Such nations in their order, and in the march of time, have perished.

In recent years the totalitarian method of rule has again raised its head with blighting results. In many of the European states the liberties of the people are gone. The policy of saluting flags and "heiling" men is a movement to com-

pel the people to recognize the State as before or superior to Almighty God.

If a person desires to salute the flag or to "heil" men, that is HIS privilege and no human power can properly interfere with his so doing. But there is a VAST DIFFERENCE between such a person and the one who has made a solemn covenant to be obedient to *Almighty God*, the breaking of which covenant is IDOLATRY. Respondents are in a covenant to be obedient to Almighty God; and this is conceded. They are conscientious in their belief and practice. That is conceded. In all good conscience they render obedience to the laws of the state, when such laws do not violate God's law. They fully recognize and believe that one who voluntarily breaks his covenant with Jehovah will suffer everlasting destruction.

Appropriate hereto is the language of Mr. Justice Maris in the trial court:

"In these days, when religious intolerance is again rearing its ugly head in other parts of the world, it is of the utmost importance that the liberties guaranteed to our citizens by the fundamental law be preserved from all encroachment."

It is not the prerogative of any court to decide what a man shall or shall not conscientiously believe. Any contrary rule would destroy the liberty of conscience. It is the duty of the law-making bodies to stand by and fully support the Constitution, instead of trying to destroy what the Constitution guarantees.

CRUEL EXPERIMENT

The modern-day compulsory flag saluting as a daily exercise or ceremony in the public schools is clearly an experiment. The nation has existed for more than a century without any such enforced rule or even the thought thereof. To expel little children from school, and deny them the opportunity of an education because they refuse to violate their

conscience, is wrong and is cruel and unusual punishment. "No cruel experiment on any living creature shall be permitted in any public school of this Commonwealth."

24 Purdon's Pa. Stat. Ann. Sec. 1554

Well has Mr. Justice Clark, in the instant case, said,

"Compulsory flag saluting is designed to better secure the state by inculcating in its youthful citizens a love of country that will incline their hearts and minds to its more willing defense. That particular compulsion happens to be abhorrent to the particular love of God of the little girl and boy now seeking our protection. One conception or the other must yield. Which is required by our Constitution? We think the material and not the spiritual. Compulsion rather than protection should be sparingly exercised. Harm usually comes from doing rather than leaving undone, and refraining is generally not sacrilege. We do not find the essential relationship between infant patriotism and the martial spirit."

TOTALITARIAN ZEAL

Why this modern burning zeal compelling the saluting of flags and "heiling" of men? It is a movement in support of Satan's original challenge to Jehovah God that he, Satan, could turn all men against God. (Job 2:5) The Hitler totalitarian régime denounces Jehovah God, snatches children from their parents who worship Jehovah God; imprisons or kills the parents who persist in obeying Almighty God. The flag saluting rule by school children, adopted and enforced in the States of Pennsylvania, New Jersey and Massachusetts, are leading in that same direction. Children have been expelled from schools, taken away from their parents, and committed to reform schools, and thus the sanctity of the home broken up. Such is cruelty heaped upon citizens without any just cause or excuse. (See Appendix A and B.)

Mr. Justice Brandeis, in the *Olmstead* case (*Olmstead v. United States*, 277 U. S. 479), appropriate to this point

stated: "The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well meaning, but without understanding."

In the case of *Associated Press v. N. L. R. B.*, 301 U. S. 103, 141, 57 S. Ct. 650, 659, the following pertinent statement is made by Mr. Justice Sutherland: "Do the people of this land—in the providence of God, favored, as they sometimes boast, above all others in the plenitude of their liberties—desire to preserve those so carefully protected by the First Amendment: liberty of religious worship. . . . ? If so let them withstand all *beginnings* of encroachment. For the saddest epitaph which can be carved in memory of a vanished liberty is that it was lost because its possessors failed to stretch forth a saving hand while yet there was time."

GOD OR STATE

Since the day of Christ on the earth some nations have put God above the State. Authors of the Constitution of Pennsylvania and of the United States were in that class. Modern-day compulsory flag saluting is a retrograde movement to return to the totalitarian rule and to put the State above Jehovah God and ultimately to turn the nations and the people against Jehovah God.

More than fifty centuries ago God gave His Word that He will set up His kingdom, the THEOCRATIC GOVERNMENT through which all blessings shall come to mankind. (Genesis 22:18-22) He is certain to make good that promise. (Isaiah 46:11; Isaiah 55:11) God's Kingdom must be set up sometime. The physical facts in the light of His sure Word of prophecy strongly indicate that such time is at hand. Totalitarian rulers, of which Nimrod, Stalin and Hitler are examples, openly oppose the THEOCRATIC GOVERNMENT under Christ. All opposers to the THEOCRATIC GOVERNMENT Jehovah God denounces as wicked, and concerning which He says: "The Lord preserveth all them that love him; but all the wicked will he destroy."—Psalm 145:20.

By the decision of this honorable court in *Church v. United States*, supra, "this is a Christian nation"; which is an acknowledgment that the nation puts Almighty God above the State, and recognizes God's law as supreme. The Constitution of Pennsylvania likewise recognizes God as supreme and guarantees liberty of conscience and liberty of worship to every person. The law of compulsory flag saluting, as applied to persons who are in a covenant to do the will of God, such as respondents in the instant case, takes away the liberty of conscience and liberty to worship. Such law carried to its finality leads the nation to forget God and to return to the totalitarian rule. Concerning this very thing Jehovah God, the Supreme One, gives warning in these words: "The wicked shall be turned into hell, and all the nations that forget God."—Psalm 9:17.

In this day ambitious men put the State above Jehovah God, conspire against the Kingdom of God under Christ, and deny His supremacy. In that they are very unwise. Concerning such conspirators Jehovah God says: "He that sitteth in the heavens shall laugh; the Lord shall have them in derision. Then shall he speak unto them in his wrath, and vex them in his sore displeasure."—Psalm 2:4, 5.

In this connection, and concerning Christ Jesus, the Head of His Kingdom, God further says: "Yet have I set my king upon my holy hill of Zion. . . . Ask of me, and I shall give thee the nations for thine inheritance, and the uttermost parts of the earth for thy possession. Thou shalt break them with a rod of iron; thou shalt dash them in pieces like a potter's vessel." (Psalm 2:6, 8, 9) Then to the rulers of the nations, and particularly to those nations that claim to be Christian, Jehovah says: "Be wise now, therefore, O ye kings; be instructed, ye judges of the earth. Serve the Lord with fear, and rejoice with trembling. Kiss [salute, worship] the Son [Christ Jesus, the Theocratic King], lest he be angry, and ye perish from the way, when his wrath is kindled but a little. Blessed are all they that put their trust in him."—Psalm 2:10-12.

Point II

The rule made and enforced by petitioners compelling children and teachers to indulge in a ceremony of saluting the flag, is violative of the Fourteenth Amendment of the Constitution of the United States of America,

to wit: "No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States, nor shall any State deprive any person of life, liberty or property, without due process of law." That rule certainly abridges the privileges of the respondents and deprives them of liberty and property without due process of law.

Walter Gobitis testified that he had taught his children from infancy to believe the Bible, and to obey God's commandments. The divine law commands that all persons in a covenant with Jehovah God must teach the law of Jehovah God to their children, as it is written: "And what nation is there so great, that hath statutes and judgments so righteous as all this law, which I set before you this day? Only take heed to thyself, and keep thy soul diligently, lest thou forget the things which thine eyes have seen, and lest they depart from thy heart all the days of thy life; but teach them thy sons, and thy sons' sons." (Deuteronomy 4:8,9) Again, it is written in the Word of Almighty God: "And, ye fathers, provoke not your children to wrath; but bring them up in the nurture and admonition of the Lord." (Ephesians 6:4) To the children God gives this commandment: "Honour thy father and thy mother."—Exodus 20:12.

Appropriate to the divine rule above announced this honorable court in the case of *Meyer v. Nebraska*, 262 U. S.

390, in considering the liberty guaranteed to the citizen said:

“While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual to contract, to engage in any of the common occupations of life, to acquire useful knowledge, to marry, to establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. . . .

“The established doctrine is that this liberty may not be interfered with, under the guise of protecting the public interest, by legislative action which is arbitrary or without reasonable relation to some purpose within the competency of the State to effect. . . .

“Corresponding to the right of control, it is the natural duty of the parent to give his children education suitable to their station in life; and nearly all the States, including Nebraska, enforce this obligation by compulsory laws.”

Respondent Walter Gobitis has given heed to the Divine law and he has taught his minor children, Lillian and William, to be obedient to the Divine commandments. The Minersville School Board, by the rule promulgated and enforced, compels the father Walter Gobitis to refrain from teaching his children to be obedient to the Divine law, or otherwise to deny his children the right to have an education in the public schools. Thus respondents are deprived of their liberty and property without due process of law.

In the case of *Pierce v. Society of Sisters*, 268 U. S. 510, this Court said:

“Under the doctrine of *Meyer v. Nebraska*, 262 U.S. 390, we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education of children under their control. As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the State. The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the State to standardize its children . . . 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.” (Pages 534-535)

LOYALTY

Should not all citizens be loyal to the country in which they live? Emphatically yes. Jesus stated the correct rule, to wit: “Render to Cæsar the things that are Cæsar’s, and to God the things that are God’s.” (Mark 12:17) Caesar was the totalitarian, arbitrary ruler representing the government of Rome. He stood for the State. The Lord Jesus declared that everything to which the State was entitled, such as payment of taxes, should be rendered unto the State. He then added that everything to which God is entitled should be rendered unto God. Clearly that means that God is supreme, that His law is above the law of the State, and that laws of the State that are in harmony with God’s law should be readily obeyed. Respondents follow that rule. They are diligent to obey every law of the State not in conflict with the law of Almighty God. Any rule or law enacted in the State of Pennsylvania that is contrary to God’s law is void.

FALSE PATRIOTISM OR RIGHTEOUSNESS?

Petitioners claim that the purpose of saluting the flag is to “Instil in the children patriotism and love of country.” But why limit that compulsory rule to teachers and pupils of the public schools? Why not require that same ceremony in all the schools? Why not apply the same rule to all officials of the Nation and State, from the President and the members of Congress down to the very least and humblest citizen? The general answer would be that the enforcement of such a rule is ridiculous and nonsensical. The opinion of the United States Circuit Court of Appeals (R. 157) quotes appropriately the following:

“Another form that false patriotism frequently takes is so-called ‘Flag-worship’—blind and excessive adulation of the Flag as an emblem or image,—super-punctiliousness and meticulousity in displaying and saluting the Flag—without intelligent and sincere understanding and appreciation of the ideals and institutions it symbolizes. This, of course, is but a form of idolatry—a sort of ‘glorified idolatry’, so to speak. When patriotism assumes this form it is nonsensical and makes the ‘patriot’ ridiculous.”

Chap. 14, “Patriotism of the Flag,” Moss, *The Flag of the United States, Its History and Symbolism*, pp. 85-86.

Summary

Respondents herein are God-fearing, conscientiously endeavoring to obey the law of Almighty God. The minor respondents, by the law of Pennsylvania, are required to attend a public school.

The Minersville School Board rule would compel respondents to violate their conscience and to violate their understanding of God's law by indulging in the religious ceremony of saluting the flag.

Because of that refusal the minor respondents are punished by being expelled from school, and thereby denied the privilege of a public-school education and denied an opportunity of obeying the law concerning attendance at public schools.

The father of these minor children is thereby deprived of his liberty and property without due process of law.

God-fearing men of Pennsylvania who wrote the Bill of Rights of that Commonwealth said: "We, the people of the Commonwealth of Pennsylvania, grateful to Almighty God for the blessings of civil and religious liberty, and humbly invoking His guidance, do ordain and publish this Constitution." Thus those faithful men bore testimony to the name of Jehovah God, and therefore were *JEHOVAH'S WITNESSES*.

Compare their words of sincere and conscientious devotion to Jehovah God with the words of the modern-day Pennsylvania legislators and school boards, who say that school teachers and children must daily perform a religious ceremony of saluting the flag or suffer punishment for declining to do so.

It is therefore easy to see that the great issue here is The CORPORATE STATE versus ALMIGHTY GOD. Shall America uphold the principles of liberty of conscience and freedom of worship of Almighty God as guaranteed by the Constitution of Pennsylvania and of the United States, or shall the nation now turn its back upon

these constitutional guarantees and follow the totalitarian rule of putting the State above Almighty God?

THE STATE VS. GOD, *which is the precise issue to be determined in the instant case, has never before been presented to this honorable court.*

The cases involving compulsory flag saluting, decided by the State courts, have made no distinction between persons in general and those persons who are in a covenant to do the will of Almighty God. The State courts that have upheld the rule of compulsory saluting of the flag have elected to determine what is the proper interpretation of the Scriptures, and assuming that responsibility they have said: "The act of saluting the flag of the United States is by no stretch of imagination a religious rite." * In thus attempting to interpret the Scriptures the State courts have exceeded their authority.

It is not the prerogative of any human power or authority to interpret the Scriptures. It is written, in 2 Peter 1:20, that 'no scripture is of private interpretation'. God alone interprets the Scriptures, and those who are able to read, and who believe the Bible, are governed by what it says. Counsel for petitioners insist that respondents have "mistakenly interpreted the Scriptures". In answer to that we say that respondents have made NO ATTEMPT to interpret the Scriptures. They sincerely and conscientiously believe what is stated in God's Word.

Almighty God says concerning images and symbols: "Thou shalt not bow down to them." That commandment is not subject to interpretation by human creatures, be they judges of courts or religious experts. No doubt is

* *Nichols v. Lynn*, 7 N.E. (2) 577, 580; *People v. Sandstrom*, 279 N. Y. 523, 529-30; 18 N.E. (2) 840, 842; *Leoles v. Landers*, 184 Ga. 585; 192 S.E. 218, 222; *Hering v. State Board*, 117 N. J. L. 455; 189 Atl. 629; *Gabrielli v. Knickerbocker*, 12 Cal. (2) 85; 82 Pac. (2) 391.

left in the mind as to what is the meaning of those words, because God himself has given the plain interpretation thereof.

The sole question, therefore, is: Does the individual sincerely and conscientiously believe what God has said? And if so, then that individual alone has the right, under the Constitution, to choose to obey his conscience, based upon the Scriptures and instructed by the Scriptures.

Men who are NOT in a covenant to do the will of God do attempt to interpret the Scriptures; but not so with God's covenant people. For the purpose of guiding men who desire to follow in righteousness the Lord God has caused to be recorded numerous instances in the Bible specifically interpreting the meaning of Exodus 20:2-5. In reply to what the State courts and counsel for petitioners say about "mistaken interpretation" we refer to the following divine interpretation:

THE STATE required everyone to salute or bow down to Haman. Mordecai, a man in a covenant with God, refused to obey that order. Preparation was made to hang Mordecai. Because of his faithful obedience to his covenant with Almighty God Jehovah saved him from the gallows.—Esther chapters 3, 4, 5.

THE STATE, at the instance of all the political officials, made a law that no man be permitted to present a petition (prayer) to any one save the king. That rule prohibited Daniel, a covenant man of God, from praying to Almighty God. Daniel refused to obey that rule, but publicly bowed down and prayed to Jehovah God. For his offense against the State he was cast into a den of lions. Because of Daniel's faithfulness to his covenant the Almighty God Jehovah sent his angels from heaven who delivered him from the lions, unscathed and unhurt. (Daniel chapter 6)

THE STATE made a law that every man, at a given signal, should bow down to a certain image. Meshach, Shadrach and Abed-nego, they being of the covenant people of

God, refused to bow down, choosing to obey God rather than THE STATE. For their offense they were cast into a red-hot furnace. Because of their faithfulness to Almighty God and their covenant God delivered them from the furnace unsinged. (Daniel chapter 3) They did not need to interpret the Scriptures. They only needed to obey. They trusted in the supreme power of the Almighty.

The prophet Jeremiah stood before THE STATE charged with treason because he had delivered God's message of warning to the rulers. His lifeblood was demanded. He remained faithful and true to God, reminding his accusers that if he was put to death his innocent blood would be upon their heads. Because of his continued faithfulness Almighty God saved him from death.

Another prophet, Urijah, also stood before the same authority charged with a like offense, and his lifeblood was demanded. He became fearful and fled, failing to trust in Jehovah God. He was apprehended and put to death. (Jeremiah chapter 26)

Why are these things recorded in the Bible? God caused these instances to be recorded for the guidance of His covenant people until the world shall end; and concerning this it is written in the Scriptures: "Now all these things happened unto them for ensamples; and they are written for our admonition, upon whom the ends of the world are come." (1 Corinthians 10:11) "For whatsoever things were written aforetime were written for our learning, that we through patience and comfort of the scriptures might have hope." (Romans 15:4) These words need no human interpretation.

Paul, at one time a member of the Supreme Court at Jerusalem, according to his own testimony, practiced a religion that led him to persecute the followers of Christ Jesus. (Acts 9:1-22; Galatians 1:1-16) Paul became a Christian and therefore suffered much persecution because of his faithful devotion to the Lord, and proved himself a faithful witness of Jehovah. Under inspiration from the Lord he recorded at the eleventh chapter of Hebrews a long

list of faithful men who had covenanted to do the will of God, and who suffered because of their faithful obedience to that covenant. All of those men refused to obey the law of the State that violated God's law recorded at Exodus twenty. This they did conscientiously. All of those men received the approval of Almighty God because of their faithfulness. Recounting their sufferings it is written in the Scriptures concerning them: "Of whom the world was not worthy." All of these received a good report through faith. They had God's approval, and thus God interpreted Exodus 20:3-5. (Hebrews 11th chapter)

Attention is called to these instances recorded in the Bible for the purpose of showing that respondents have made no attempt to interpret the Scriptures, but have followed the lead of the faithful men of God who have gone before. They are conscientious and are faithful and diligent to obey Almighty God. Only the STATE COURTS HAVE ATTEMPTED TO INTERPRET THE SCRIPTURES IN THIS MATTER, which according to the fundamental law of the state and the supreme law of Almighty God THEY HAVE NO RIGHT TO DO.

The covenant people of Almighty God have pledged their lives to Him. All such who remain faithful to their covenant are properly designated Jehovah's witnesses. A violation of that covenant means to them loss of everything. Therefore they have no alternative. They must obey God. If the STATE and its courts insist upon interpreting God's Word and inflicting punishment upon those who conscientiously continue to obey God's law, then THE STATE must bear the responsibility before Almighty God.

For the covenant people to obey Almighty God means to them everlasting life. They desire to live, regardless of the suffering it may cost them. This rule is not limited to any sect. It applies to all who have made a covenant with Almighty God whether that person be Catholic, Protestant, Jew or Gentile, bond or free.

Jehovah's witnesses are here asking only that they may be permitted to enjoy the liberty and freedom granted to all by the fundamental law of the land. All persons who are sincere in their obedience to Almighty God trust Him implicitly as to the result. Confidently we ask this Court to affirm the decision of the District Court and the Circuit Court of Appeals.

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APPENDIX A

COMPULSORY FLAG SALUTING AND ITS RESULTS

Expulsions from the Public Schools

Children have been denied the right to attend public schools in the following states:

California	New York
Florida	Ohio
Georgia	Oklahoma
Maryland	Pennsylvania
Massachusetts	Texas
New Jersey	Washington*

Additional Punishments Inflicted on Children and Parents

Nemacolin, Pa. JOHN KUROLA, age 14. Father arrested and fined on truancy charge, to wit, for failure to send his child to school after he had been expelled from school. The father had sent the boy regularly to school for quite a period of time, but each day the boy would be sent home.

Grindstone, Pa. STANLEY BRACHNA, age 12. Was knocked around by teacher; thrown against a desk; hit; teacher tried to force him to salute by holding up his hand.

Nemacolin, Pa. LOUIS WILKOVICH, age 11. Whipped and sent home from school. Parents arrested under the truancy law.

Nemacolin, Pa. MIKE KOROLY, age 9. Whipped. Tried to force him to salute.

Royal, Pa. CATHERINE KURNAVA, age 8. Tried to force her to salute.

New Ringgold, Pa. PAUL JONES, age 10. Punished by teacher. Had to stand for the entire day.

Canonsburg, Pa. ANNA PRINOS, age 13. Whipped and choked by principal. Sent home with great welts on back from beatings. No Canonsburg doctor would testify in court

* Many other states now join the list. See U. S. C. C. A. opinion, *Minersville*, etc., v. *Gobitis*, 108 F. (2) 683, first sentence (R. p. 155).

as to her condition. Pittsburgh physician had to be secured. Action brought against the teacher, but under Pennsylvania law malice must be proved, and apparently teacher is not considered malicious, no matter how hard the rod is applied.

Canonsburg, Pa. PAULINE PRINOS, age 12. Whipped. Threatened by principal with being sent to reform school.

Canonsburg, Pa. RUTH GEORGE, age 13. Beaten and taunted by principal. Needed medical aid. Called "anarchist" by teacher.

Canonsburg, Pa. TIMOTHY GEORGE, age 11. Beaten by teacher. Carried marks of the beating for a week. Threatened with incarceration in reform school. Child's health was upset so he could not eat and became hysterical.

Secaucus, N. J. JOHN and ELLA HERING. These parents were charged under the truancy law with failure to send children to school after they had been expelled. Proof given in court that the children were receiving equivalent education in a private school. Nevertheless parents were each fined five dollars.

Atlanta, Ga. GEORGE LEOLLES. His daughter Dorothy was expelled from school. His place of business was boycotted and picketed by the Ku Klux Klan. He was hounded by newspapers and various organizations until his business was ruined; threatened with deportation.

Bondsville, Mass. IGNACE OPIELOUSKI. His three children were sentenced to county reform school for failure to salute the flag. Cases were nolle prossed by district attorney when appealed. Father was fined forty dollars for failure to send them to school. Children now in school, but, nevertheless, the fine was affirmed by the Superior Court on appeal.

Chicago, Ill. MARY SCHLORCHETKA. Fined \$200 or given six months in jail for refusal to salute the flag at the command of an irate judge in court. Sentence reversed by the Appellate Court.

New Weston, Ohio. JONAS E. JENKINS. His business was boycotted; his children were threatened with incar-

ceration by juvenile officials; had to move to another community.

Ansonia, Ohio. Several children slapped, taunted, and insulted in school.

Teachers Discharged

Canonsburg, Pa. GRACE ESTEP.

Henry Clay Township, Pa. IRA BIRD.

Lynn, Mass. CORA M. FOSTER.

Quincy, Mass. ELIZABETH M. GRAHAM.

Monessen, Pa.

Jehovah's witnesses established a private school in this town; rented a building, and put a teacher in charge. Eighteen pupils attend. Mayor James C. Gold, of Monessen, decided it was a "communist" school. Had the chief of police padlock it, and held the teacher incommunicado two days. Took as evidence of its "communistic" character one song book, a Bible, two small United States flags, and a book explaining the Bible, entitled "The Harp of God". The song book taken is entitled "Songs of Praise to JEHOVAH". The school was opened and locked three different times; finally held open through securing an injunction against the mayor and chief of police. After the injunction was secured bricks were thrown through the school windows on three different occasions. A petition was circulated throughout the community, protesting against the unlawful acts of the mayor and police; 146 of those engaged in circulating that petition were thrown into jail, their petitions taken from them, and they were found guilty of disorderly conduct in Mayor Gold's court, without any semblance of a trial.

Gates, Pa.

Jehovah's witnesses established a private school, which houses 38 pupils. Application was made to the court for a corporation charter to hold title to the school property. This was refused because of prejudice on account of the flag-salute situation. The children attending this school were expelled from the public schools; their parents were jailed

for failure to send them to school; and, additionally, the law refuses the parents a charter whereby they can provide for their children private schooling as required by law.

Washington State

ELLIOT CHILDREN were charged with being delinquents, and a petition was filed in court to remove them from their parents. The court overruled the petition.

Other Cases

In various places there has been mob action; beatings by police officials; loss of work by parents; parents taken off "relief" list; boycotting; all on account of children's refusal to salute the flag. The number of expulsions from school now run into the hundreds.

APPENDIX B

PART ONE

Extract from "The German Civil Code: Translated and Annotated by Chung Hui Wang, D.C.L.; Member of the International Vereinigung für vergleichende Rechtswissenschaft und Volkswirtschaftslehre zu Berlin; Member of the Société de Legislation Comparée; London: Stevens and Sons, Limited, Law Publishers, 1907."

Par. 1666. "If the moral or physical welfare of a child is endangered by the fact that the father abuses his right to take care of the child's person, or neglects the child, or is guilty of any dishonest or immoral conduct, the Guardianship Court shall take the necessary measures to avert the danger. The Guardianship Court may, e.g., order the child, for the purpose of his education, to be sent to a suitable family or an institution of education, or a reformatory . . ."

Par. 1909. "A curator is appointed for a person under parental power or guardianship, to take charge of the af-

fairs of which the parent or guardian is prevented from taking charge . . . ”

PART TWO

Extract from “Deutsche Justiz” [Official Gazette of the German Administration of Law; Bulletin of the Department of Justice] Berlin, November 26, 1937; Ausgabe A; No. 47; page 1857; [Translation supplied to the respondents by Dr. Anton-Hermann Chroust; Ph.D., Munich; J.U.D. Erlangen; S.J.D., Harvard; Formerly Sub-Judge (Referendar) in Bavaria; Formerly Research Fellow at the Law School of Harvard University]

Note: The following is a complete translation of the above-described periodical’s report of the case in question. The matter is arranged in the same order as it appears in the report.

PARENTS WHO USE THEIR EDUCATIONAL INFLUENCE ON THEIR CHILDREN IN SUCH A MANNER AS TO BRING THESE CHILDREN INTO OPEN CONFLICT WITH THE NATIONAL SOCIALISTIC IDEA OF COMMUNITY ABUSE THEIR RIGHT OF GUARDIANSHIP.

DISTRICT COURT, WALDENBURG,
SILESIA, NOVEMBER 2, 1937,
— VIII, 195 —

Excerpts from the *ratio decidendi*:

The parents of the children belong to the sect of International Bible Students. Like all Bible Students, this sect is concerned not only with purely religious matters but also deduce from their religious premises the necessity to deny the simplest and most self-evident duties towards the State and the German people. Obstinate they refuse, even on solemn occasions, to take part in the German salute, and by doing so express their disagreement with the principles

upon which the new German state rests. Purposely they put themselves outside of the German community. The father admits openly that even in case of war he would refuse to take up arms. The philosophy which the parents espouse is inimical to the will to resist by armed force, and, therefore, capable of impairing the foundations of the State.

This conviction of the parents is also transmitted to the children. Of course, the parents have denied this during the hearing; they have declared that they did not influence the children's general view of life (*Weltanschauung*). But such an attitude, as encouraged by the Bible Societies, dominates the whole of life. It is a matter of practical experience that such a philosophy of life, expressing itself daily in the narrow family circle, influences the children, even though it is not put in express words. Indubitable evidence has also been introduced to prove that in this case such active influence actually exists. The father, when admonished by the court, had to admit that he had already been penalized for not sending his children to National Socialistic festivals. The father, in this connection, also made the plausible statement that his children did not care for such meetings, and that they themselves had expressed the desire to be excused from going. This statement only goes to prove the strength of the influence which actually originates from the parents; and, furthermore, the degree to which the children have already succumbed to such influence.

This statement of fact compels us to the following juristic considerations:

If parents through their own example teach their children a philosophy of life which puts them into an irreconcilable opposition to those ideas to which the overwhelming majority of the German people adheres, then this constitutes an abuse of the right of guardianship as expressed in Par. 1666 of the Civil Code. This abuse of the power of guardianship endangers to the highest degree the welfare of the children, inasmuch as it ultimately leads to a state of mind through which the children will some day find that they have cut themselves off from the rest of the German people. To avert such danger the Guardianship Court has

to take the necessary steps according to Par. 1666 of the Civil Code. A permanent remedy in this respect can only be found if the right of guardianship over the person is withdrawn from the parents, because only through such withdrawal we can be sure that the evil educational influence of the parents is eliminated and broken.

In accordance with the opinion of the Guardianship Court, the following must be admitted: the law, as a National Socialistic form of State order, entrusts German parents with the right to educate only on condition that this right is exercised in a manner which the people and the State have a right to expect—a condition which is not specifically expressed by the law but which must be considered as something self-evident. Here in particular we have to remember that all education must have as its ideal aim the creation of the belief and conviction in children that they are brothers forming a great nation; that they are molded into the great union of the German people together with all other German comrades through the sameness of their fundamental ideas. Whoever in the exercise of a purely formal right to educate his children evokes in those children views which must bring them ultimately into conflict with the German community ideal does not comply with those self-evident presuppositions. Therefore, out of purely general considerations the right to educate must be denied to such a person without the necessity of having to refer to the implicit presuppositions of Par. 1666 of the Civil Code.