The Freedom to Educate

A review of the history, impacts, and challenges from the seminal ruling of the US Supreme Court in 1972

State of Wisconsin v. Jonas Yoder, Wallace Miller, and Adin Yutzy

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I. A Brief History of Christian Day Schooling in the United States.

Education has always been prized in the United States, many of its most influential founders having been well-educated men.[1] Thomas Jefferson famously did not care so much to be remembered as a president of the United States but as the founder of the University of Virginia, thinking it a more important accomplishment. Benjamin Rush, member of Christ Church Philadelphia, physician, professor of the institutes of medicine and clinical practice at the University of Pennsylvania, and signer of the Declaration of Independence, like Jefferson, was convinced that "a free government can only exist in an equal diffusion of literature."[2] Even Benjamin Franklin, with little formal education but great learning, established the College of Philadelphia and, with the oldest charitable trust for education in the US, established a large trade school in Boston a century after his death that included a formidable library.[3] The Northwest Ordinance of 1787 stated that, "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged," yet this was handled principally as a local matter, seen to by towns, cities, churches, and civic organizations. The goal of having compulsory education for all children in the United States, as a state and national matter, did not gain significant momentum until the latter half of the 19th century.

By the year 1900, however, thirty-two of the forty-five US states had compulsory public education laws in place.[4] Most of the resulting new schools displaced parochial and other private schooling with secular state schools. This was partly out of concern for what the large inflow of mainly European immigrants, predominantly adherents of the Roman church, were bringing with them educationally as a foundation for citizenship in the United States. The purposes cited for public education at that time often included establishing a more common American foundation, ensuring that students would become capable of effective communication in written and spoken English regardless

of their native tongue, as well as gaining a sufficient working knowledge in mathematics and other skills to be able to function in the US economic system. If common American social norms and values were not taught at school, it was argued, then students could grow up with little awareness of these if their exposure was mostly limited to their own ethnic and religious communities. If students failed to gain an appreciation for the nation's founding principles, and even for their own rights and responsibilities under the laws established in its history, they reasoned, how were they to understand their new homeland patriotically as participants in its democratic political process, or gain a genuinely American identity?

Establishment of a publicly-funded and -operated school system took time and the results were uneven, but as private education before this had normally involved each family contributing to the expenses of a teacher, materials, and operation of a schoolhouse or the church meetinghouse, this could and frequently did result in the practical exclusion of the poor from formal education anyway, so uneven access to primary and secondary education was not a new problem. Older children, especially, were also needed for labor to assist with the means of family income, and this remained a challenge for the developing public school system, especially in rural areas, just as it had been in private church and community schooling. The difference was that laws were now requiring attendance, sometimes with significant consequences for truancy. As late as the 1940s, President Franklin Roosevelt's administration, as well as certain governors, acknowledged these uneven results and expressed concern that there was a growing gulf of separation between populations in some parts of the country where compulsory public education had still not been employed or was ineffective, and those in other parts where it had been functioning for a century or more.

It was common to churches in early America to connect a lack of skillful knowledge and understandings, coupled with a lack of work ethic, to outcomes of unnecessary poverty and related family and community problems.[5] The highly regarded French observer of early American life, Alexis De Tocqueville, thought it remarkable that wealth in the United States had principally been earned

rather than inherited, in contrast with Europe, and he credited this, in part, to the character and lifestyle of the Christians and their churches.[6] Reflecting on De Tocqueville's description of the American expectation of progress from hard work, a contemporary European author educated in Boston wrote, "[In America,] history is seen not as a nightmare from which we cannot wake, as it often is in Europe, but as something to be transcended, to be fashioned anew."[7]

Where knowledge, understanding, and skillful hard work remained lacking in any American communities, the humanitarian and social ramifications of this became especially clear during the difficult conditions of the Depression in the 1930s, and a range of efforts was undertaken to try to address this disparity, not only through passage and enforcement of additional public-education legislation and funding but also through more indirect efforts such as the public-works projects of the Tennessee Valley Authority and rural electrification.[8]

These may have been new, expensive measures in the US, but the concept of education as a national, public necessity, enforced by law as a governmental system, probably originated in Western culture with the Greek story of the children of Sparta being raised in military schools instead of in their homes in order to cultivate loyalty and to create the kind of adult whom the state wished to rule. However, its modern genesis that informed these American measures, even above the strict system of the Puritans, is found in the heart of the Protestant Reformation. Martin Luther, despite his acknowledgement of two different kingdoms biblically, could only understand the Church as functioning hand-in-hand with and guiding the state rather than truly being separate from it, and he had significant concerns that the average young person in Germany would not necessarily know or adopt the new theological and social concepts of the Reformation and become future leaders in that cause if such a compulsory mechanism did not exist for teaching these interpretations of the Bible to the children of the nation.

In 1524, Luther wrote a letter to the councilmen in all the cities of Germany expressing how this unity of support and defense for their new system should be created, how special knowledge of

languages should be used for biblical interpretation rather than the beliefs and example of the most ancient Christians, and many of the educational ideals that this letter contains have become assumptions that have been used in advocating for compulsory public schooling since that time, irrespective of church-state relations. In 1530 Luther gave a sermon on this topic, also preserved in print, in which he stated his summary view and position this way:

> "I maintain that the civil authorities are under obligation to compel the people to send their children to school, especially such as are promising, as has elsewhere been said. For our rulers are certainly bound to maintain the spiritual and secular offices and callings, so that there may always be preachers, jurists, pastors, scribes, physicians, schoolmasters, and the like; for these cannot be dispensed with. If the government can compel such citizens as are fit for military service to bear spear and rifle, to mount ramparts, and perform other martial duties in time of war, how much more has it a right to compel the people to send their children to school, because in this case we are warring with the devil, whose object it is secretly to exhaust our cities and principalities of their strong men, to destroy the kernel and leave a shell of ignorant and helpless people, whom he can sport and juggle with at [his] pleasure."[9]

Luther assured his German readers and hearers that accepting or rejecting his views was much the same as accepting or rejecting Christ, arguing not only that magistrates and other authorities should compel schooling that accorded with his precepts but arguing a theology known as *cura religionis* [lit. care for religion] under which "true religion" in general, meaning Luther's doctrine in particular, was to be enforced by the authorities, sometimes on pain of death just as Rome had required before him. Portions of the above sermon and various other statements from his arguments on behalf of compulsory public education came to be cited by the National Education Association and other secular entities in the United States as support for their positions over three-and-a-half centuries later.[10]

As another Reformer with great influence in later years but whose sway was quite limited geographically at the time, primarily in and around the Canton of Zürich in Switzerland and in a few allied cantons, Huldrych Zwingli also maintained the ideal and practice of children being principally the subjects of the Christian state, first accounted in its census rolls by their baptism as infants. Not living long enough into the Reformation period to effect a systematic reform of Swiss education, Zwingli nevertheless recognized the importance of education and began to head in a similar direction as Luther. Riemer Faber, a professor of Classics at the University of Waterloo, Ontario, who has written on Zwingli's views on education, states, "While Zwingli may not have affected the development of Reformed education in Switzerland directly, he did provide some significant contributions to this important enterprise. For example, in the city of Zurich he undertook to restructure the two schools associated with the Great Minster church."[11] Because of the co-mingling of kingdoms, Zwingli's official role was that of the *Leutpriestertum*, the People's Priest, but this also entailed significant political involvement and influence. He was even regarded as simultaneously holding the representative views of, and being the mouthpiece for, the city council. Conrad Grebel, Georg Blaurock, and other early Anabaptist leaders in Zürich were first part of this system in Zwingli's teaching and reforms there as young men,[12] studying with him regularly until the relationship began to break down over what they believed was an insufficient speed in Zwingli's reforms.[13] The model of their regular study was, a few years later, formalized by Zwingli into a Latin school called the *Prophezei* (Prophecy). While initially used to re-train other pastors in Zwingli's teachings, over time it took on a more general "church education" function and may represent the first model of what was later adopted by many Anabaptists for church-based day schools, at least when circumstances have allowed them to be openly conducted.

A financial prejudice against church-based education in the United States was established by the Blaine Amendments, adopted by most states beginning in the 1880s. The first Blaine Amendment was originally an effort to amend the US Constitution which would have prohibited government

funding or other assistance from benefitting schools that had any religious affiliation. Though it failed as a constitutional amendment, the vast majority of states adopted some form of it, and its most obvious impact is seen today by families who pay the expenses of their children being educated privately while also paying all of the same educational taxes as if their children attended public schools. Despite this disincentive, church day schools and other private schooling, including homeschooling, are widely used and available.

However, as private schooling and church-based or religious homeschooling, especially, have been seen as contrary to some of the aims of "social good" as defined among those advocating for compulsory public schooling, not just compulsory education generally, a variety of legal challenges have been undertaken to curtail the power of parents and churches to control their children's education as well as to reduce the latitude that private schools have had to offer education that was significantly different in subjects or extent (grades completed or years attended) than the standardized public-school competencies and attendance expected. The most precedent-setting of these actions is perhaps found in two representative court cases: The challenge to the Oregon School Law of 1922, which the voters had passed with the intention of eliminating church-based schooling of any kind in that state, and the State of Wisconsin asserting that its education law, in detail, represented a compelling state interest, challenging Amish and conservative Mennonite non-compliance with post-8th-grade state schooling requirements there in the late 1960s and early 1970s, which resulted in the Yoder case. Other states, most notably Nebraska, had long agreed with this stance as well.

The year after the 1922 Oregon School Law had passed, the State of Nebraska lost in a schooling case before the US Supreme Court after the State had prosecuted a teacher in a church day school for teaching a student the German language.[14] The Court, in that case, summarized that liberty protected by due process includes a person's ability "to acquire useful knowledge, to marry, 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." However, despite this having been decided in 1923, Nebraska only recently conceded that graduates from exempt, unapproved schools in that state will no longer be penalized as out-of-state applicants for purposes of higher education.[15] Two additional cases came before the Supreme Court within just three years of the Oregon School Law which also helped establish the framework and precedent for the Court's ruling nearly fifty years later in Wisconsin v. Yoder.[16]

The freedoms often taken for granted in church-based and home-based schooling today owe much to the loss of these freedoms and the resulting stands that were taken in the previous century. While some conservative Anabaptist-type communities, including the Amish and the Bruderhof, have at times utilized the benefits of public schooling by attempting to monitor and deal with its drawbacks as best they can, it has seemed preferable or even essential to many to avoid worldly, contrary influences and challenges directed at immature minds and hearts when possible.

Another important facet of the educational circumstances faced over the period of these cases, however, is a recognition of just how limited their influence is in the world at large. The United States does not the world make; indeed, this is so far from being the case that the particular court rulings and freedoms discussed in this review are not applicable to roughly 96% of the world's population—and Christians are called to be lights to the world, just as the Apostles and their disciples went to the ends of the known world in their generations. Therefore, the actual freedoms granted by civil authorities to Christians in most circumstances, including with respect to their children's education, have little, if any, reference to these cases and vary widely by geography and over time. There is little to suggest that social and legal changes, with all the challenges that accompany them, will not continue, even within the United States.

II. Summary of the Case of Wisconsin v. Yoder[17]

After having suffered many charges, fines, and court losses in prior decades over their freedom to educate their children,[18] in 1971, two fathers of Amish families in Wisconsin, Jonas Yoder and Wallace Miller, as well as a conservative Amish-Mennonite father there, Adin Yutzy, were also charged by that state with failing to enroll their teenage children in public or private schools after completion of their 8th-grade, church-based schooling.[19] (Once at trial, however, the attorney for the State, Robert Martinson, argued more broadly that the Amish were not sending their children to an approved school. On appeal, the argument narrowed again to the question of schooling after the 8th grade.) The defendants were found guilty and fined, but interest in this matter on trial was taken up by a Lutheran minister, William Lindholm, along with an advocacy committee[20] which provided the defendants with legal counsel, and sought to have the case appealed. This committee also did fundraising in the wider Christian community for the many expenses involved in the appeals process as the Amish believed that paying their legal expenses would be an act of self-defense. Indeed, the Amish now being defended by others, in the spirit of the biblical injunctions regarding submission to civil authorities as ordained of God,[21] wrote to the State, seeking a compromise and educational plan by which both the State's and their communities' interests could be met. This did not escape the later notice of the US Supreme Court:

> "Prior to trial, the attorney for respondents wrote the State Superintendent of Public Instruction in an effort to explore the possibilities for a compromise settlement. Among other possibilities, he suggested that perhaps the State Superintendent could administratively determine that the Amish could satisfy the compulsory-attendance law by establishing their own vocational training plan similar to one that has been established in Pennsylvania … Under the Pennsylvania plan, Amish children of high school age are required to attend an Amish vocational school for three hours a week, during which time they are taught such subjects as

> English, mathematics, health, and social studies by an Amish teacher. For the balance of the week, the children perform farm and household duties under parental supervision, and keep a journal of their daily activities. The major portion of the curriculum is home projects in agriculture and homemaking. See generally J. Hostetler & G. Huntington, *Children in Amish Society: Socialization and Community Education*, c. 5 (1971). A similar program has been instituted in Indiana.[22] The Superintendent rejected this proposal on the ground that it would not afford Amish children 'substantially equivalent education' to that offered in the schools of the area." (Wisc. v Yoder, Chief Justice Burger for the Court, footnote 3)

The State's appellate court upheld the initial conviction of the defendants in Green County. The matter was then further appealed to the Wisconsin Supreme Court, which overturned the lower courts, ruling that the free exercise of religion in the First Amendment of the US Constitution was being violated by the burden placed upon the Amish in this case.[23] The State of Wisconsin then appealed its own Supreme Court's ruling to the US Supreme Court. The State lost this final appeal when the US Supreme Court affirmed the Wisconsin Supreme Court unanimously, with seven of the nine justices available, though with one partial dissent. An example of testimony that had been offered at the state level, and which seemed to remain impactful in the review of the Supreme Court justices, was this by Donald Erickson, professor of education at the University of Chicago: "The public school benefits the majority of the children, but it's a failure in providing for religious or ethnic minorities. The Amish do a better job of educating than the rest of us—judging by the fact that they have little unemployment, delinquency, and divorce." The theme of this testimony is reflected in the majority opinion affirming the Wisconsin State Supreme Court ruling. The justices cited centuries of consistent values and outcomes among the Amish, noting that few other defendants could meet the high bar of a constitutional defense but stating that they believed that the manner of rearing and educating children was so central to these church communities that the alternative was for them to "either abandon belief

and be assimilated into society at large or be forced to migrate to some other and more tolerant region." In any attempt to understand this ruling, as well as those who disagree with the ruling and, even today, are still advocating for it to be overturned, it is useful to remember these two choices that the majority of the Supreme Court justices believed the defendants' Amish communities would be facing if the Court did not rule in their favor.

Despite the caution expressed by the justices that their ruling in this particular matter would be unlikely to be repeated with respect to most other parties seeking exemption from state educational requirements, the reverberations from the Yoder decision in the United States were significant, in both the field of education and the field of law. Among other changes that the ruling ushered in, intended or not, the Supreme Court used this case to establish a new three-part test to determine what protections did or did not apply to religiously motivated conduct, and this has since been referenced by many lawmakers, attorneys, and courts in determining what freedoms ought to be accorded to church schools and to parents seeking to homeschool. In *Cantwell v. Connecticut*[24] in 1940, the Court had stated that the free exercise clause of the Constitution "embraces two concepts—freedom to believe and freedom to act. The first is absolute, but in the nature of things, the second cannot be." This was known as the belief-conduct distinction or belief-action doctrine, but by the time of the Yoder case, it had become less and less dominant in judicial thought and the protection of action that accorded with belief now took the shape of this new three-part test. This was seen as a very different approach that expanded the limitations of the previous precedent considerably. This has not, however, proven to always be controlling in other decisions taken by the US Supreme Court since this ruling.[25] The three-part test for free-exercise-of-religion claims under the US Constitution is intended to provide a standard for differentiating between a general religious belief and a conviction upon which actions are taken—with the nature of the action or practice, its history, and what part it plays in the religion, being the principal demonstrations of whether it qualifies as simply a belief or as action from conviction that is indispensable to the identity and maintenance of the religion itself.

This most famous aspect of the Court's test is known as the *centrality inquiry*—whether a given religious practice is an essential component in the nature or identity of the one(s) practicing it.[26] This is at the heart of the analysis in the first of the three parts of the Court's test—to establish whether the religious beliefs in question are sincerely held. The second part of the test is whether or not a law does, in fact, burden such beliefs (and in an unavoidable way). The third part of the test is how the state's interests balance against the free-exercise interests of a group or individuals practicing their religion—in short, for the state to prevail, the state's interests need to override religious interests to the extent that there must be no other way for state interests to be met apart from impinging upon religious belief or practice. A theme in the lesser protection provided under the belief-action doctrine is that a broad accommodation of the actions of all sincerely held religious beliefs, legally protected, could conceivably result in a society so conflicted in values and accommodated actions in public functioning that it would be contrary to the common interests of the whole of the citizenry. In the Yoder case, the reasoning rested upon how central certain educational practices have been to the very existence of the beliefs and identity of the faith community itself. Additionally, the Court weighed this, in part, by looking at whether the outcomes that the state sought in its educational interests were actually harmed by the outcomes of the educational and community practices of the Amish in question, as the State claimed would be the case, or whether these outcomes were actually supportive of, or even exceeding, the state's professed aims. For this, the justices largely appealed to analysis and testimony regarding the demonstrated outcomes of Amish-type education in centuries of Amish life and in their contributions to society. The question for those involved in similar schools now is perhaps whether they could expect the Court to still regard them as producing the same or better outcomes today, in a far more technology-driven world and marketplace, but especially in students' lives and in their later conduct as adults.

> "The State's claim that it is empowered, as *parens patriae* [lit. "parent of the fatherland"—the legal protector of citizens unable to protect themselves], to extend the benefit of secondary

> education to children regardless of the wishes of their parents cannot be sustained against a free exercise claim of the nature revealed by this record, for the Amish have introduced convincing evidence that accommodating their religious objections by foregoing one or 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." (United States Supreme Court Syllabus (4)).

III. Objections and Opposition

The first indication of the arguments against the Yoder opinion which would be voiced in wider society came from the partial dissent of Justice William O. Douglas, as well as some similar concerns expressed previously in the State proceedings in Wisconsin which Justice Douglas references. Justice Douglas was often a controversial figure as one of the most "liberal" justices of those on the Court during his long tenure.[27] However, he was also known for his staunch defense of rights cases under the Constitution, so his partial dissent cannot simply be dismissed as reflecting sentiments or ideals that would necessarily be absent decades later in any similar case among jurists of other reputation. Probably the most frequent objection to the majority opinion that is repeated among those arguing for a different outcome is with regard to the rights of the children who are, directly or indirectly, removed from any exposure to a public educational setting, from higher levels of education in more diverse subjects, from exposure to their peers of varying backgrounds and beliefs, and denied common certificates of learning achievement, any or all of which may rob them of better understandings and preparedness to face their futures—especially should they choose, for whatever reason, not to remain within the settings of their church communities, however much those communities may be romanticized or idealized by outsiders, including jurists.[28]

“I agree with the Court that the religious scruples of the Amish are opposed to the education of their children beyond the grade schools, yet I disagree with the Court's conclusion that the matter is within the dispensation of parents alone. The Court's analysis assumes that the only interests at stake in the case are those of the Amish parents on the one hand, and those of the State on the other. The difficulty with this approach is that, despite the Court's claim, the parents are seeking to vindicate not only their own free exercise claims, but also those of their high-school-age children … It is, of course, beyond question that the parents have standing as defendants in a criminal prosecution to assert the religious interests of their children as a defense. Although the lower courts and a majority of this Court assume an identity of interest between parent and child, it is clear that they have treated the religious interest of the child as a factor in the analysis … As the child has no other effective forum, it is in this litigation that his rights should be considered. And, if an Amish child desires to attend high school, and is mature enough to have that desire respected, the State may well be able to override the parents' religiously motivated objections. Religion is an individual experience. It is not necessary, nor even appropriate, for every Amish child to express his views on the subject in a prosecution of a single adult. Crucial, however, are the views of the child whose parent is the subject of the suit. Frieda Yoder has in fact testified that her own religious views are opposed to high-school education. I therefore join the judgment of the Court as to respondent Jonas Yoder. But Frieda Yoder's views may not be those of Vernon Yutzy or Barbara Miller. I must dissent, therefore, as to respondents Adin Yutzy and Wallace Miller as their motion to dismiss also raised the question of their children's religious liberty ... These children are ‘persons’ within the meaning of the Bill of Rights. We have so held over and over again … In Board of Education v. Barnette, 319 U.S. 624, we held that schoolchildren, whose religious beliefs collided with a school rule requiring them to salute the flag, could not be required to do so. While the sanction included expulsion of the students and prosecution of the parents, the vice of the regime was its

> interference with the child's free exercise of religion. We said: 'Here...we are dealing with a compulsion of students to declare a belief.' … In emphasizing the important and delicate task of boards of education we said: 'That they are educating the young for citizenship is reason for scrupulous protection of Constitutional freedoms of the individual, if we are not to strangle the free mind at its source and teach youth to discount important principles of our government as mere platitudes'… On this important and vital matter of education, I think the children should be entitled to be heard. While the parents, absent dissent, normally speak for the entire family, the education of the child is a matter on which the child will often have decided views. He may want to be a pianist or an astronaut or an oceanographer. To do so he will have to break from the Amish tradition." (Justice Douglas, excerpts of partial dissent)

Justice Heffernan, dissenting from the majority in the Wisconsin Supreme Court ruling in favor of the Amish, which the US Supreme Court affirmed, stated that he believed the Amish could simply operate their own vocational school from 8th to 10th grade to satisfy the State's interest, where "such basic skills as English and mathematics should be taught—'unpretentious' knowledge that will be useful not only in the Amish community, but would better enable those who fall away from the community to adjust to the outside world and to continue their education if they so desire."[29] Critics have since offered real-life examples of this or that person raised in these educational environments who was unable to compete with their peers in the labor market of a particular place or time due to a lack of recognized educational or vocational certifications, such as high school graduation, and suffered hardship in consequence. No one seems to have collected data suggesting that this is at all common, but it has gone hand-in-hand with the necessity of relying to a greater and greater extent on off-farm work. Indeed, others have declared that so much change has occurred since 1972, both in free-exercise jurisprudence as well as in the Plain communities, that the Yoder case ought to be reconsidered purely against its own rules for relevance, namely: (1) "whether facts have so changed, or

come to be seen so differently, as to have robbed the old rule of significant application or justification," (2) "whether the rule is subject to a kind of reliance that would lend a special hardship to the consequences of overruling and add inequity to the cost of repudiation," (3) "whether related principles of law have so far developed as to have left the old rule no more than a remnant of abandoned doctrine," and (4) "whether the rule has proven to be intolerable simply in defying practical workability."[30]

Another disadvantage put forward in vehement terms in recent years, especially, is the lack of outside monitoring of children's welfare and a channel of outside recourse with respect to physical, sexual, or other abuse occurring in a family that a church community is ineffective in identifying or stopping, or which may be tolerated and hidden by an insular community itself. In this it might be acknowledged that Paul the Apostle could be seen as a potential critic were he to weigh in, warning as he does that those who condemn misconduct in others around them while practicing the same themselves are, "in accordance with your hardness and your impenitent heart … treasuring up for yourself wrath in the day of wrath and revelation of the righteous judgment of God, who 'will render to each one according to his deeds.'"[31] It is not unreasonable to conclude that an organization such as the ironically named Amish Heritage Foundation, campaigning for years to overturn Wisconsin v. Yoder and other aspects of Amish life, was apparently birthed from this sin—from terrible personal wounding and a community being unable or unwilling to see it and stop it from occurring. Of course, this can be said of many other non-Amish communities as well—including public schools until recent decades when awareness advocacy and procedures such as mandatory reporting of abuse have identified thousands of incidents for which teachers, parents, and others have been held accountable, at least according to law if not according to a Christian moral standard.

To whatever extent these arguments against the Yoder opinion may or may not be valid, some arguing them tend to imagine that the Court's decision was about something broader than it actually was. This is noted in the majority's response to Justice Douglas, reminding readers that the question of

the children's rights in this matter were not at issue before the court, but rather the parents' conduct and rights as this is what was charged by the State (and the basis for the State's appeal). Schooling by the religious community was not at stake, but only compliance with about 14 months of additional schooling required under State law, and which the Amish believed was only going to be satisfied by their children's participation in a non-Amish public or private school setting.

In terms of the US Constitution, the question of freedom to practice one's religion is nearly always set against what limitations must necessarily be imposed so that others' rights and freedoms are not unduly infringed upon. Most Americans readily understand this limitation with respect to those whose genuinely held religious convictions include the torture and murder of those they regard as their enemies, or the destruction of cities and their populations or the taking of land by force from those whom they have determined to be the enemies of God. The less obvious question that arises is what lawmakers and courts should do when the convictions involved are peaceful, yet some who grow up in or around the religious practices believe that their personal potential was stifled, their welfare disregarded in various ways, or their future ability to thrive in other settings was compromised even within that measure of peace towards others on the outside. While there is little that anyone can do to eliminate future legal challenges on any number of grounds, or to stop courts from overturning long-held precedents justly or unjustly, how much does this really change anything? Is there not another Judge, who is also King, and who calls His own to carefully account for themselves and their outcomes in advance of His own judgment? "For if we would judge ourselves, we would not be judged. But when we are judged, we are chastened by the Lord, that we may not be condemned with the world."[32] Whether it is for better or worse, no legal standing, no "right" from any earthly kingdom, has ever been guaranteed indefinitely anywhere in this world. The only assurance for the heart and soul, and for the Church, lies in a different Kingdom that is not from here.

IV. The Limited Scope and Durability of Privileges that Humans Grant Each Other

A secular children's author who is read widely in public schools, Roald Dahl, famous for writing the classic children's book, *Charlie and the Chocolate Factory*, once wrote another fictional storybook called *The Magic Finger*[33] in which ducks take on human sentience and communication like Balaam's donkey, and they question who it is that allows human hunters to shoot ducks. "We allow each other," the democratically governed humans in the story explain, to which these ducks respond, "'Very nice'… 'And now we are going to allow each other to shoot you'" (44). The humans are appalled, of course, and while it is easy to impugn the author's implied message that all creatures are equal with equal rights to life and actions taken, there is something more fundamental in what the author illustrates in his characters' juvenile dialog: Law sometimes does just represent the privileges that one or more governing persons have decided to grant to others; or if put in a democratic context, the privileges that people in a particular society have decided to grant to each other, as well as conduct that they have decided to disallow to each other. Many prefer to think of law in higher terms, as representing inescapable moral values, inalienable rights endowed by the Creator, or other foundations of that kind sometimes recognized in history, but this is quite often not its basis. Others assume that the basis of decisions ought to at least be longstanding judicial precedents, such as those embodied in common law ("case law"),[34] but again, there is nothing which secures or guarantees that these grounds will be used in any particular ruling, or that they will be used in any expected or desired way.

We live in a time in which two simple camps, "conservative" and "liberal," are the assigned pigeonholes for nearly anything political, judicial, or religious. While these may be useful sometimes as a general shorthand, they are simplistic and belie how complex social and legal development and regression actually are, and how often changes are not readily detected, or their import is not grasped, by the participants themselves. "Do not say, 'Why were the former days better than these?' For you do not inquire wisely concerning this."[35] As one highly experienced attorney in government service noted

in discussion for this review of Wisconsin v. Yoder, “The minds applying [common law] have changed or are changing as the next generation of jurists arrive ... Case decisions are the product of factual/legal analysis resulting from interpretation/application of law to a set of facts by a single/group of jurists (whether the law is common, statutory, administrative, etc.). As such, when jurists interpret/analyze the law/facts from an approach that is tied to contemporary notions accompanied by their own worldview, versus reference to a strictly historical context (prior decisions, framers' intent, etc.), their decisional outcomes are necessarily significantly impacted. Whether or not the foregoing has been happening all along (though perhaps more subtly than at present), and/or is a societal 'good' or 'bad' is the subject of great debate and beyond my desire or ability to address, but I do believe that debate is much larger than simply whether the jurist's perspective is 'conservative' versus 'liberal.'”

What a society comprehends or labels as being “conservative” or “liberal” changes over time. Just recently, for example, American conservatism has been under greater influence from ideas which conservatives of previous generations would have consigned to anarchism. American liberalism, meanwhile, has been challenged similarly by some in its camp who are convinced that equal justice will never be possible for them, and they therefore believe not only in the right to protest but the right to seize and/or destroy property in compensation. In both cases, one fruit of these influences is often an increase in internal party conflicts and increased public violence. Such common pigeonholes are, themselves, unreliable in exact meaning at least from one generation to the next, and a court may cite common law extensively while its interpretation of that law may differ in significant or subtle ways from how the same legal bedrock was understood and utilized not so long ago. Sadly, Christians themselves should be able to readily identify with this trouble, having experienced over five centuries of differing and conflicting biblical interpretations producing thousands of divergent denominations and churches. Even the most strict “Bible-based” theology is manifestly unable to stem this tide—indeed, it is often seen to breed schism and falling away at even higher rates. The imitation of Jesus and His Apostles, by His Spirit, has always been the Christians’ only hope.

When the basis of law is simply that of "we allow each other," no matter how old or new it may be, the allowance is only as durable as the public, political, or judicial sentiment which supports it. Have such sentiments in the world, whether seen as "liberal" or "conservative," ever been reliably in favor of ancient Christian thought and values in any matter over centuries of time? If not, then Christians can hardly expect the resulting laws and court rulings that impact them to always be favorable, or to remain favorable. Christians rejoice in the goodness that God has seen fit to grant them in some circumstances, the sunshine of His favor in this or that particular, however long or short the fine season might endure, but it is a mercy and blessing while it lasts, not something that can be expected.[36] There are also other needs and purposes that the Lord must attend to in the world.

From the days of the New Testament in which Christians were taught to function this way, as a separated people with their own King, their own culture, and their own governance, being like foreigners and respectful visitors in the countries on earth where they reside,[37] it was also understood that, just like the patriarchs and other faithful from so long ago, it was not part of the Church's identity to seek an enduring place here on earth. "[They] confessed that they were strangers and pilgrims on the earth. For those who say such things declare plainly that they seek a homeland. And truly if they had called to mind that country from which they had come out, they would have had opportunity to return."[38] Should it be a great surprise to Christians to find themselves under the Oregon School Law again, or other similar disallowances that existed not so long ago? Or ought it to be something that is always expected and prepared for in America just as anywhere else on this earth, as the Lord may choose to permit? "Though none go with me, still I will follow."[39] The Way of Life[40] applies wherever Christians may find themselves, however alone or great in numbers, under whatever regime or circumstances of compulsion.

It has always been the responsibility of the elders to determine how best to respond to the circumstances, legal and otherwise, that confront the churches in any given time and place.[41] The burden does not simply fall on each individual Christian. In a world that is in great confusion, with

significant increases in the predominance of conspiracy theories, disinformation, and many popular messages suggesting that association with the right politics or having the right religious associations will protect Christians and cause all of the feared elements and directions in society to be withstood, it is easy to be swept up in trying to preserve what God has never promised to Christians, and has not sought for them to maintain. If only this connection is made, or that truth is embraced, we are told, we will ensure "our rights" and ensure that the values with which we identify will be embraced, or at least protected, in wider society. If there is one thing that the Lamb of God did not do, it was to stand upon His rights. What if He had? As the hymn says, "He could have called ten-thousand angels" and simply been done with us. Even Paul the Apostle, born a natural Roman citizen, uses that right as a way to gain access, to be heard for the Gospel's sake, or to avoid persecution when possible and to move on to the next field of harvest. "I die daily," he writes.[42]

On the road to Emmaus when Jesus accompanied some disciples without revealing Himself, just listening to their conversation, perhaps it is easy to think of how wonderful it must have been to walk along the road and have Jesus teach who He was and what was prophesied to happen to Him from the depths of the Old Testament. But this was the ultimate Christian educational experience, and Jesus assesses what He heard in His disciples' conversation and understandings differently than we might expect: "O foolish ones, and slow of heart to believe in all that the prophets have spoken!"[43] Foolish ones. Slow of heart. Would Christians today get a better grade from Jesus? Does Jesus' own assessment seem at odds with the wonderful joy of that Emmaus event, deep in the Scriptures just after His resurrection, so much so that perhaps we don't go back and listen carefully? Yet He said these things and they are written down for our benefit. The disciples that day were trying to work out a difficult subject—what to make of the death of Jesus followed by His body disappearing from the tomb and a claim of a vision that He was alive. Their expectations did not match all that God had said; all that they knew. Jesus did not hear them appealing to what the Prophets had written, in belief, as the answers to their concerns. How would Jesus assess our conversation in our matters of concern? Do we

ever rest upon speculation, upon social or political or legal devices and assurances, trying to work them out? Or are we willing to simply trust what we are told and have always known—that the King of all Kings is in charge of our journey home, including our families, not anything or anyone else, no matter what "rights" are granted or withheld on earth?

V. Considerations for the Future of Educational Freedom Among Christians

Some have mistaken Jesus and His fishermen disciples—even a tax collector—as representing an anti-intellectual initiative and example, opposed to or at least minimizing the value of education. However, as many others have observed through history, beginning with those who observed the Apostles not long after their ministry began, becoming a follower of Jesus was intended to be an education all its own—a rigorous, right kind of education that, in a fallen world, inculcates in a fallen human a wisdom that is not his or her own, a childlikeness that lives with the highly unusual awareness that it is the worst exchange in any human economy to gain the whole world and lose one's soul—that to truly live, one must die to self; and to lead one must be a humble servant of all. "Now when they saw the boldness of Peter and John, and perceived that they were uneducated and untrained men, they marveled. And they realized that they had been with Jesus."[44] The Apostle born out of season, Paul, a zealous student of a very respected teacher of the Jews, Gamaliel, who detailed some contrasts in Christian education to the Corinthians in the passage below, is also the one to implore his disciple, Timothy, to not only watch his life and doctrine closely,[45] but to be aware of the credibility of both his sources and his work: "Be diligent to present yourself approved to God, a worker who does not need to be ashamed, rightly dividing the word of truth. But shun profane and idle babblings, for they will increase to more ungodliness. And their message will spread like cancer."[46]

"Where is the wise? Where is the scribe? Where is the disputer of this age? Has not God made foolish the wisdom of this world? For since, in the wisdom of God, the world through wisdom did not

know God, it pleased God through the foolishness of the message preached to save those who believe. For Jews request a sign, and Greeks seek after wisdom; but we preach Christ crucified, to the Jews a stumbling block and to the Greeks foolishness, but to those who are called, both Jews and Greeks, Christ the power of God and the wisdom of God. Because the foolishness of God is wiser than men, and the weakness of God is stronger than men. For you see your calling, brethren, that not many wise according to the flesh, not many mighty, not many noble, are called. But God has chosen the foolish things of the world to put to shame the wise, and God has chosen the weak things of the world to put to shame the things which are mighty; and the base things of the world and the things which are despised God has chosen, and the things which are not, to bring to nothing the things that are, that no flesh should glory in His presence. But of Him you are in Christ Jesus, who became for us wisdom from God—and righteousness and sanctification and redemption—that, as it is written, 'He who glories, let him glory in the Lord.'"[47]

No law in any land can restrain or prohibit the most fundamental, transforming work of the Holy Spirit of God where He is present. The justices were clear in their ruling in Wisconsin v. Yoder that the Court would be unlikely to find itself compelled to reach similar opinions against the interest that the state legitimately has in education, as few religious entities would meet the "high bar" that made the sustaining of a favorable judgment on these grounds possible. They stated that this was because few would have met the "unique facts and circumstances" demonstrated in this particular application combined with the success over centuries that the Amish and related communities had in the evidence before them, both in being a productive part of society at large as well as successfully preparing their young to succeed them in the same manner of life and conduct, generation to generation. This necessarily raises the question of whether the cause of those historic lifestyle outcomes and their consistency would seem as intact under judicial review in the present and coming generations among conservative Anabaptists as the justices accepted to be true in the generations

before 1972, particularly in a world that has now presented some very different and difficult challenges, including the rapid spread of information technology with inexpensive and widespread personal access to vast amounts of it.

In a somewhat-promising matter granted review by the US Supreme Court in early July of 2021, the Court overturned the position of the State of Minnesota regarding both its premise and enforcement behaviors against a particular group of Amish in that state who were unwilling to comply with the state demand that a modern septic system be installed for each home. The court noted that the state's compelling interest was limited both by the practical alternative that the Amish had once again offered to meet the State's interest, as well as the State having permitted exceptions to others. For the time being, this suggests that the Court still does not find that a general interest in a matter like public sanitation outweighs all other considerations in every case to become a compelling state interest when applied to a religious community.[48]

However, just as rulings prior to 1972 had not provided for the degree of protection and latitude offered under Wisconsin v. Yoder, including in very similar cases involving the Amish as the defendants, there are no guarantees about which trends may or may not play out in future rulings of the Supreme Court nor with respect to changes in law, perhaps even changes to the US Constitution itself, regardless of the role that historic common law may or may not be seen as playing. In US society as a whole, conservative Christians in general remain a declining and disfavored minority. Writing a dissent in a related case on religious freedoms applied to children in 1944, Justice Frank Murphy of the US Supreme Court wrote unhappily regarding the majority's ruling, "No chapter in human history has been so largely written in terms of persecution and intolerance as the one dealing with religious freedom. From ancient times to the present day, the ingenuity of man has known no limits in its ability to forge weapons of oppression for use against those who dare to express or practice unorthodox

religious beliefs. Even in this nation conceived as it was in the ideals of freedom, the right to practice religion in unconventional ways is still far from secure."[49]

Again, Christians, in the most ancient, Kingdom-focused sense of that name, have never been able to depend upon favorable public opinion nor favorable governance, including favorable court rulings. It has been quickly forgotten just how much trial the Amish were undergoing right up to the time that the Wisconsin v. Yoder case went up through the courts. Many other unconventional religious-education interests, like homeschooling families, faced similar disapproval and prohibitions. In the state of Iowa's stand against the Amish being able to educate their children with their own teachers who were not state-certified, the newspapers, the Rotary Club, the Chamber of Commerce, the Iowa State Education Association (teachers' union), and the Iowa Association of School Administrators all supported having the Amish arrested in response. What these parties did not know, or did not acknowledge, was that half of Iowa's secondary schools at the time had teachers who did not meet certification requirements and no parochial schools in that same county qualified for full state certification, but these same voices did not call for arrests in those cases.[50]

As Hermas, the second-century Christian writer explains in his work, *The Shepherd*, "You know that you who are the servants of God dwell in a strange land. For your city is far away from this one. If, then, you know your city in which you are to dwell, why do you here provide lands, and make expensive preparations, and accumulate dwellings and useless buildings? He who makes such preparations for this city cannot return again to his own … Do you not understand that all these things belong to another, and are under the power of another? ... Take note, therefore. As one living in a foreign land, make no further preparations for yourself than what is merely sufficient. And be ready to leave this city, when the master of this city will come and cast you out for disobeying his law."[51]

While Christians were instructed to be at peace with all men insofar as it lies with them, the same Apostle who gave that instruction wrote to the Corinthian church, “For we do not want you to be ignorant, brethren, of our trouble which came to us in Asia: that we were burdened beyond measure, above strength, so that we despaired even of life. Yes, we had the sentence of death in ourselves, that we should not trust in ourselves but in God who raises the dead, who delivered us from so great a death, and does deliver us; in whom we trust that He will still deliver us, you also helping together in prayer for us, that thanks may be given by many persons on our behalf for the gift granted to us through many.”[52]

There is good cause for gratitude and thanksgiving for the ruling in Wisconsin v. Yoder which granted a scope of freedoms for the decades of time in which these have been enjoyed since, and for those who invested the time and resources to see the case through, but ultimately the thanksgiving must be to God—as well as trust that it is He who will continue to deliver His own when and where, and in what manner, He sees fit to do so. Have churches and Christian families examined whether this gift is being utilized, let alone maximized, for God’s purposes in this world in return? Or is it a gift that is accepted as one of increased personal or community latitude, without any expectation that the Master will ask for an accounting of how a wealth of freedom to educate was used? May the Lamb who was slain receive the reward of His sufferings.

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"The issues you are addressing are broad and complex" even within the legal community, one contributing attorney noted, yet this research was not compiled and written by a legal professional. As a result, a great deal of credit and gratitude is due to several attorneys for their input, and some incidental errors may still be present. Insights and corrections in Kingdom perspectives of human legal systems were contributed by David Bercot. Other attorneys who contributed to this content and analysis are currently in, or are recently retired from, significant public roles in government service in the US and did not wish to be named. Their contributions were nevertheless of great value. Certain legal arguments are not set forth in detail to avoid supporting their misuse.

Pastoral concerns and advice contributed by Ron Bontrager.

Notes

[1] "I know no safe depository of the ultimate powers of the society, but the people themselves: and if we think them not enlightened enough to exercise their controul with a wholsome discretion, the remedy is, not to take it from them, but to inform their discretion by education. This is the true corrective of abuses of constitutional power." (Papers of Thomas Jefferson, Letter to William Charles Jarvis, 28 September 1820, Library of Congress; cf. summary of other founders: https://en.wikipedia.org/wiki/Founding_Fathers_of_the_United_States#Education)

[2] "A Plan for the Establishment of Public Schools and the Diffusion of Knowledge in Pennsylvania*"* etc., 1786. *Essays on Education in the Early Republic*, Frederick Rudolph (ed.). Harvard University Press, 2013.

[3] Schwartz, Stephan. "Ben Franklin's Gift that Keeps on Giving," *American History*, February, 2009.

[4] Gelbrich, Judy. "Compulsory Education." *American Education* (1999). Oregon State University. www.oregonstate.edu/instruct/ed416/ae4.html. Accessed 08/12/2020.

[5] Holy Bible, Proverbs 4; Hosea 4:6; Ephesians 4:17-19. Unless otherwise indicated, Scriptures quoted are from the New King James Version (NKJV). Thomas Nelson, 1982.

[6] "[On Sundays], neither the movements of industry are heard, nor the accents of joy, nor even the confused murmur which arises from the midst of a great city. Chains are hung across the streets in the neighborhood of the churches; the half-closed shutters of the houses scarcely admit a ray of sun into the dwellings of the citizens. Now and then you perceive a solitary

individual who glides silently along the deserted streets and lanes. Next day, at early dawn, the rolling of carriages, the noise of hammers, the cries of the population, begin to make themselves heard again. The city is awake. An eager crowd hastens towards the resort of commerce and industry; everything around you bespeaks motion, bustle, hurry. A feverish activity succeeds to the lethargic stupor of yesterday; you might almost suppose that they had but one day to acquire wealth and to enjoy it." (Alexis de Tocqueville. Democracy in America, Vol. 2 (1835), Append. E. Trans. by Henry Reeve.)

[7] Handy, Charles. "Tocqueville Revisited: The Meaning of American Prosperity." *Harvard Business Review*, Jan. 2001. https://hbr.org/2001/01/tocqueville-revisited-the-meaning-of-american-prosperity . Accessed 09/25/2021.

[8] US Information Agency. "The Valley of the Tennessee." Film campaign. US National Archives and Records Administration, 1944. https://catalog.archives.gov/id/47040. Accessed 08/12/2020.

[9] Luther, Martin. "A Sermon on Keeping Children in School." German:Weimar Ed. 302 :517 ff.; Erlangen Ed.1, 20:1 ff.; Erlangen Ed.2 , 17:378 ff.; English trans. by F. V. N. Painter, Luther on Education, 1889. Digitized at babel.hathitrust.org/cgi/pt?id=hvd.32044005122486 Harvard University, pp. 269-270; cf. trans. by C. M. Jacobs in Works of Martin Luther Vol. 4. Books for the Ages, 1997.

[10] National Education Association. "Addresses and Proceedings - National Education Association of the United States." 1901, Google Books. www.google.com/books/edition/Addresses_and_Proceedings_National_Educa/Px8WAAAAIAAJ?hl=en, p. 614. Accessed 08/12/2020

[11] Faber, Dr. R. "Huldrych Zwingli on Reformed Instruction." *Clarion*, 48(1), 1999.

[12] Potter, G.R. Zwingli. Cambridge, Cambridge University Press, 1976.

[13] Potter, pp. 130-131 (Second Disputation, 1523).

[14] *Meyer v. Nebraska*, 262 U.S. 390, US Supreme Court, 1923. *United States Reports*. Library of Congress.

[15] "Change residency requirements for college tuition purposes for students from exempt schools and prohibit discrimination against such students," LB92, Nebraska State Legislature; signed into law 4/21/2021 by Gov. Ricketts. https://nebraskalegislature.gov/bills/view_bill.php?DocumentID=43859 . Accessed 07/14/2021.

[16] *Pierce v. Society of Sisters*, 268 U.S. 510 and *Gitlow v. New York*, 268 U.S. 652, US Supreme Court, 1925. *United States Reports*. Library of Congress. The latter case was not related to education directly but resulted in the Court ruling

that the Fourteenth Amendment's guarantee that individuals cannot be "deprived of liberty without due process of law" applied free-speech protections not only to federal matters but to state matters as well, including schooling laws.

[17] Wisconsin v. Yoder 406 U.S. 205 US Supreme Court. No. 70-110. Decided May 15, 1972. Records of Cornell Univ. law library, https://www.law.cornell.edu/supremecourt/text/406/205 . Accessed July, 2020-July, 2021.

[18] P. T. R. *The Right Not to Be Modern Men: The Amish and Compulsory Education*. (1967). Virginia Law Review, 53(4), 925-952; cf. One of the only previous successes on this matter before a court: *Commonwealth v. Petersheim* et al. 70 Pa. D. & C. 432 (1949). Common Pleas Court of Somerset County, Pennsylvania. A prominent loss in the prior period: *State v. Garber* 419 P.2d 896 (1966), State Supreme Court of Kansas.

[19] Wisconsin Statutes §118.15, convicted in Green County, 1971.

[20] The National Committee for Amish Religious Freedom. Founded 1967 by non-Amish advocates, University of Chicago. www.amishreligiousfreedom.com. Accessed 10/17/2020; cf. Kraybill, Donald (ed.). The Amish and the State (1993, 2003). Johns Hopkins University Press.

[21] (Bible) Romans 13:1-7; Titus 3:1-2; 1 Peter 2:11-17

[22] Chief Justice Burger notes: "See also Iowa Code § 299.24 (1971); Kan.Stat.Ann. § 72—1111 (Supp. 1971)."

[23] *State v. Yoder*, 49 Wis. 2d 430, Wisconsin Supreme Court, 1971. Wisconsin State Law Library.

[24] *Cantwell v. Connecticut*, 310 U.S. 296, 304. US Supreme Court. 1940. *United States Reports*. Library of Congress.

[25] "…[The Free-Exercise] Clause does not relieve an individual of the obligation to comply with a law that incidentally forbids (or requires) the performance of an act that his religious belief requires (or forbids) if the law is not specifically directed to religious practice and is otherwise constitutional as applied to those who engage in the specified act for nonreligious reasons." Employment Div. v. Smith, 494 U.S. 872. Scalia, J. for the majority. US Supreme Court 1990. See also Reynolds v. United States, 98 U.S. 145, 166-167. 1878. *United States Reports*. Library of Congress.

[26] Brooks, Samuel D. *Native Americans' Fruitless Search for First Amendment Protection of Their Sacred Religious Sites* (1990). Valparaiso University Law Review. 24(3), 521-550; cf. Tribe, Laurence. American Constitutional Law (1988). Second Ed., 1248, Foundation Press.

[27] "William Orville Douglas was both the most accomplished and the most controversial justice ever to serve on the United States Supreme Court. He emerged from isolated Yakima, Washington, to be dubbed, by the age of thirty, 'the most

outstanding law professor in the nation'; at age thirty-eight, he was the chairman of the Securities and Exchange Commission, cleaning up a corrupt Wall Street during the Great Depression; by the age of forty, he was the second youngest Supreme Court justice in American history, going on to serve longer—and to write more opinions and dissents—than any other justice. In evolving from a pro-government advocate in the 1940s to an icon of liberalism in the 1960s, Douglas became a champion for the rights of privacy, free speech, and the environment." Murphy, Bruce Allen. *Wild Bill: The Legend and Life of William O. Douglas* (2003). Random House, overview.

[28] For example, Buss, Emily. "What Does Frieda Yoder Believe?" *University of Pennsylvania Journal of Constitutional Law*. 2(1), December, 1999, pp. 53-76.

[29] *State v. Yoder*, 182 N.W.2d 539, 550. Wisconsin Supreme Court, 1971.

[30] *Planned Parenthood of Southeastern Pennsylvania v. Casey*. 505 U.S. 833. US Supreme Court, 1992. *United States Reports*. Library of Congress. cf. Raley, Gage. "Yoder Revisited: Why the Landmark Amish Schooling Case Could—And Should—Be Overturned." *Virginia Law Review*, 97(3), May, 2011. pp. 681-722

[31] (Bible) excerpt from Romans 1:32 – 2:11.

[32] (Bible) 1 Cor. 11:32-33.

[33] Dahl, Roald. *The Magic Finger* (2009). Puffin Books. Originally released, 1966.

[34] For example, see Entrikin, J. Lyn. "The Death of Common Law." *Harvard Journal of Law and Public Policy*, 42(2), Spring 2019, pp. 351-487

[35] (Bible) Ecclesiastes 7:10

[36] (Bible) 2 Timothy 3:12.

[37] (Bible) John 17; Romans 12-13; 2 Corinthians 6; Titus 3; Hebrews 11; 1 Peter 2.

[38] (Bible) Hebrews 11:13-15

[39] *I Have Decided to Follow Jesus*. Hymn. Attributed to Simon Marak and Nokseng, Garo tribe, India. Excerpt.

[40] *The Didache*. earliest summary of Christian practice. Section I. c. AD 80-120.

[41] (Bible) Titus 1:5; Hebrews 13:7, 17; 1 Peter 5:1-7

[42] (Bible) 1 Corinthians 15:31

[43] (Bible) Luke 24:25

[44] (Bible) Acts 4:13; cf. Lewis, C.S. *Mere Christianity* (1960 ed.), Sec. II, "The Cardinal Virtues": "Anyone who is honestly trying to be a Christian will soon find his intelligence being sharpened: One of the reasons why it needs no special education to be a Christian is that Christianity is an education itself. That is why an uneducated believer like Bunyan was able to write a book that has astonished the whole world."

[45] (Bible) 1 Timothy 4:16; 2 Timothy 3:10

[46] (Bible) 2 Timothy 2:15-17

[47] (Bible) 1 Corinthians 1:20-31

[48] *Mast v. Minnesota*, 594 U.S. [preliminary / unassigned]. Docket #20-7028. US Supreme Court, 2021, Summary Disposition. https://www.supremecourt.gov/orders/courtorders/070221zor_4gc5.pdf Accessed 07/05/2021.

[49] Justice Frank Murphy, dissenting, *Prince v. Massachusetts*, 321 US 158, 175. US Supreme Court, 1944. *United States Reports*. Library of Congress. In this decision, the majority upheld a commercial statute in Massachusetts that prohibited boys under age 12 and girls under age 18 from selling newspapers or other literature on the streets. The state subsequently applied it to children who were doing so non-commercially, as part of the activities of their guardians and church (Jehovah's Witnesses), even though this was recognized as being one of the group's standard forms of religious expression and even worship.

[50] Lindholm, William C. Amish and the State (2003). Kraybill, Donald (ed.); Johns Hopkins University Press. 116.

[51] Roberts, A. & Donaldson, J. (eds.), Ante-Nicene Fathers (1871). Ante-Nicene Christian Library: Vol. 2, p. 31. T.&T. Clark, Pub., American reprint by Eerdmans, 1988.) From about the year AD 150. Excerpted and modernized English.

[52] (Bible) 2 Corinthians 1:8-11