

**State v. Yoder**  
49 Wis. 2d 430 (1971)  
and  
**Wisconsin v. Yoder**  
406 US 205, 32 L Ed 15, 92 S Ct 1526

*In this case, the Wisconsin Supreme Court weighed the state's interest in educating children against the First Amendment guarantee of religious freedom. The Court held that a state law requiring children to attend school full time was unconstitutional because it infringed on the freedom of the Amish to practice their religion, reversing a Green County Circuit Court decision. In reaching this decision, the Court distinguished itself from courts around the country that had upheld compulsory education. The majority opinion was authored by Chief Justice E. Harold Hallows. Justice Connor T. Hansen concurred joined by Justices Horace W. Wilkie, Bruce F. Beilfuss, Leo B. Hanley, and Robert W. Hansen. Justice Nathan S. Heffernan dissented.*

*The case was appealed to the U.S. Supreme Court, which affirmed the state Supreme Court's ruling in a 6-1 decision authored by Chief Justice Warren E. Burger. Justice William O. Douglas dissented in part from the majority. Justices William H. Rehnquist and Lewis F. Powell, Jr. did not take part in the case.*

In this case, the Wisconsin Supreme Court held that Amish parents could remove their children from public schools after the 8th grade as an exercise of their right to religious freedom. The Amish separate themselves from modern society and provide their children with their own system of education structured in accord with their beliefs.

The appellants were the parents of three teenagers who had attended the New Glarus public schools. The parents were fined for refusing to enroll the children in the high school in the fall of 1968. This was in violation of the compulsory school law.\* The respondent, the state of Wisconsin, argued that the state had a legitimate interest in compelling children to attend school and that this outweighed the interference with religious freedom.

In making its decision, the Court weighed the appellants' constitutional right to religious freedom\*\* against the state's interest in compulsory education. In determining how heavy a burden the statute placed on the Amish, the Court considered the beliefs of the Amish religion. Justice Hallows wrote:

The period of adolescence is critical in the religious and cultural development of the child because at this time the child enters gradually into the fullness of Amish life, is given responsibilities which would be directly interfered with if he were compelled to go to high school . . . To the Amish, secondary schools . . . teach an unacceptable value system . . . We view this case as involving solely a parent's right of religious freedom to bring up his children as he believes God dictates.

---

\* Pertinent sections of Wis. Stat. sec. 118.15 are quoted in the Wisconsin Supreme Court decision: "(1) Unless the child has a legal excuse, any person having under his control a child between the ages of 7 and 16 years shall cause such child to attend school regularly, during the full period and hours, religious holidays excepted, that the public or private school in which such child should be enrolled is in session, to the end of the school term, quarter or semester of the school year in which he becomes 16 years of age."

\*\* U.S. Constitution, First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . ."

The Court then looked at whether the state's interest was compelling in this case. The state argued that some Amish children may choose to leave their community upon reaching adulthood; therefore, public school education would better prepare them for their futures. But forcing a "worldly" education on all Amish children, the Court determined, in order to benefit the few children who might later leave, did not constitute a compelling state interest.

Furthermore, while an individual is free to choose a religion as an adult, the Court ruled that parents have the right to choose which religion they will raise their children. The state, the Court declared, should not infringe on this right by enforcing educational requirements.

In closing, the Court articulated its belief in the importance of the guarantees of the First Amendment, including: free speech, freedom of the press and freedom of religion. Hallows wrote: "the right to worship your God or to practice your religious beliefs are as important as the right to speak or print freely and may, to the individual involved, be more important."

In Justice Heffernan's dissent, he asserted that the majority had misinterpreted the facts of the case. He wrote that the state did demonstrate a compelling interest and he pointed out that the appellants had alternatives to sending their children to public school. Other states had dealt with this issue and the Amish in those states established their own private schools to satisfy compulsory education requirements. Heffernan was particularly concerned about the rights of Amish children. He argued that under the majority opinion the state was not preparing Amish youth for "modern American life." He wrote:

On the basis of the religious beliefs of their parents, the Amish children are without a hearing consigned to a life of ignorance—blissful as it may seem to the author of the principal opinion, who apparently views the Amish as 'the noble savage,' uncorrupted by the world . . . No part of our law requires a student to go to a school not of his own religious choice. It merely requires that he go to a school.

The case was appealed to the U.S. Supreme Court. The U.S. Court affirmed the state Supreme Court, declaring that the state's interest in education is not exempt from a "balancing process" when dealing with fundamental rights. The U.S. Court agreed that the Amish demonstrated that continuing their children's education beyond the 8th grade would hinder the exercise of their religious beliefs.