Education for All:
Understanding Wisconsin’s Arguments for the Education of Wisconsin’s Amish

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Abstract

Jonas Yoder was one of three parents fined for the sum of 5 dollars for violating the Compulsory School Attendance Law within Wisconsin. Yoder appealed to the Wisconsin Supreme Court, arguing that the law violated the parents’ right to educate their children and their religious freedoms. Wisconsin lost the Wisconsin Supreme Court battle, and appealed to the US Supreme Court. The Supreme Court ruled in favor of Yoder, stating that Wisconsin’s law violates the Free Exercise Clause of the First Amendment. This paper dives into the reasons behind the appeal by Wisconsin, the validity of Wisconsin’s claims and religious liberties within schools.
Introduction

This is Jonas Yoder, whose life was drastically changed by a five dollar fine. He was a member of the Old Order Amish from the area of New Glarus, Wisconsin. He was a family man with a daughter named Frieda Yoder, age fifteen.¹ The years of 1968 and 1969 were ones in which his name would forever be changed. Jonas Yoder, as well as friends Wallace Miller and Adin Yutzy, all refused to enroll their children at the New Glarus High school in New Glarus, Wisconsin for the academic year of 1968-1969.² “Frieda Yoder (fifteen), Barbara Miller


² Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile” Capital Times (Madison, WI), December 2, 1970.
(fifteen), and Vernon Yutzy (fourteen) had all graduated from the public grade school within their Amish community”. The reason behind this enrollment refusal was based upon the Amish religion; due to being a part of the Old Order Amish, it was against their religion to be formally educated past the eighth grade. Thus, Yoder, Miller, and Yutzy were each issued a five dollar fine by Green County of Wisconsin in 1969. This fine was issued because they violated the Wisconsin Compulsory School Attendance Law, which mandated that all children attend school until age sixteen. While five dollars was a nominal fine, it would spark a national conversation and legal debate surrounding religious liberties within the educational world of the United States. This legal debate ended in a United States Supreme Court decision in the court case Wisconsin v. Yoder.

Being a part of the Old Order Amish, Yoder and the others were prohibited by their religion from being a part of the Judicial System of the United States because they do not believe in a legal system outside of the one within the Amish religion. Although this seemed to be a problem, a grouping of conservative churches created the National Committee for Amish Religious Freedom. This committee was responsible for going to court to defend the rights of the Amish against the State of Wisconsin. Led by Attorney William Ball of Harrisburg, Pennsylvania, he led Yoder and the others through the appeals process from the Green County

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3 “Supreme Court Cases,” Prentice Hall.


6 Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile”.
Court, to the Wisconsin Supreme Court. Following their victory in the Wisconsin Supreme Court, he defended the previous victory in the US Supreme Court. The final decision by the US Supreme Court established Yoder as “a shining symbol of religious tolerance”. Additionally, it would set a precedent against, not only the Wisconsin Compulsory School Attendance Law, but also for Compulsory Educational Laws throughout the entire nation.

When analyzing the process of arriving to this US Supreme Court Case, one can understand that the State of Wisconsin appealed the case in order to enforce their Compulsory School Attendance Law. However, diving into their arguments for appeals and within the case, it demonstrates that this process was not thoroughly thought out, as well as highlighting that some of the arguments made were not well suited for this court battle. Along these same lines, one can also see that Wisconsin’s case was full of ulterior motives. These ulterior motives were not solely done for the benefit of the children involved in the case, but for the State of Wisconsin. This lack of solid arguments is the reason for the loss, not only in the Wisconsin Supreme Court, but also in the US Supreme Court. Overall, this US Supreme Court case has had an enormous impact on the educational field, not only for this time frame, but also in today’s world.

**Historiography**

When trying to understand the *Wisconsin v. Yoder* case outcomes, there has been a tremendous amount of scholarship done on the overall impacts of the case. On the contrary, there has not been a significant amount of research done on the court case and the appeal process, from

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7 Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile”.

the Green County Court to the Wisconsin Supreme Court and finally to the US Supreme Court. There have been a multitude of scholarly journals, newspaper articles, and books written about how this US Supreme Court decision impacted the overall educational system of the United States. Although there is not one specific historian who is considered to be the expert on this particular historical issue, there have been many different scholars who have provided insight into the impacts of this decision. These scholars not only provided research and insight on the educational system, but also on the Amish Community and the religious liberties movement within education. There are various main arguments made within the research done on the impacts of this court case. They are the impact that this court case has had on religious liberties, impacts on Compulsory Education Laws, constitutional rights, and the academic impacts for the Amish children, as well as understanding the impacts for other US students. All of these impacts relate back to the educational field.

An example for the religious liberties impacts from the court case comes from The Catholic Journal of America. This journal analyzes the ways in which the decision has changed how certain religious sects view education. “The Catholic Journal of America hinted that members of other faiths might benefit from the Court’s opinion in Yoder”. This is one of the journals that discusses in detail the ways that the Wisconsin v. Jonas Yoder has an overall impact on the ways in which Catholics, as well as other religions, are able to educate their children because they are hoping to use the same arguments as the Amish did, in order to create differing laws surrounding the education of their own children. For example, these different religious sects

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might have the ability to create different exemptions for their religion, and have more freedom in school establishment.

In addition to the impacts of religious liberties in education, one can encounter more impacts of the case when diving into the topic of compulsory education laws within the United States. Phi Delta Kappa, a leading educational foundation during the 1970s, wrote about the changes in compulsory education laws following Wisconsin v. Yoder. These writings provide insight into how secondary education was viewed by the public in respect to compelling the youth to attend until a certain age. The Phi Delta Kappa Educational Foundation argues that, due to the US Supreme Court decision to allow an exemption of the Amish youth, it validated the public opinion on how insignificant secondary education is to the youth of the nation.\(^\text{10}\) By discussing this impact, it helps to better demonstrate why certain educational policies, such as the Wisconsin Compulsory School Attendance Law, have evolved due to this belief. Additionally, a connection can be made between this impact and the impacts within religious liberties because the idea of compulsory education and religious liberty go hand and hand.

In addition to the ways others have studied the case in respect to religious liberties, scholars have also conducted research on the ways in which this decision has possibly affected the legal policies of the United States government. Many legal scholars, prior to and following the US Supreme Court case, were concerned with the constitutional rights of the Amish in the case. Thus, many scholars have studied the overall impacts that this case has had on constitutional law. Stephan Arons, a Legal Professor from the University of Massachusetts, describes the reasons behind why the case had significant influence on the constitutional rights of

\(^\text{10}\) Michael S. Katz, “A History of Compulsory Education Laws”. 
the Amish. “He [Stephan Arons] believes that the state’s establishment of values, like the establishment of religion, is a threat to individual liberties”. 11 This claim made by Arons is supported by the idea that due, to the Amish’s First Amendment Right to free exercise of religion, the state cannot impose a policy, such as compulsory education, without violating the constitutional rights of the individual. The analysis of the court case has helped others nationally to argue against different educational laws and practices that can be viewed as possibly unconstitutional. This concept connects back to the overall impacts that this court case has had on compulsory education laws.

The achievement of the Amish and other religious groups within schools following the ruling in the US Supreme Court is another impact that has been investigated by educational scholars. Scholar William A. Fischel did extensive research about how the Amish schoolhouse operates and student learning within the twenty-first century, in comparison to that of the average US school. Again, this research was all based around the outcome of the court case. The research has demonstrated interesting findings in respect to the functioning of the Amish schoolhouse. For example, the Amish schoolhouse operates within a small population, as well as having very small class sizes due to the number of students enrolled. The research also demonstrates that in comparison to the average US school, the Amish view that education past the eighth-grade is the most dangerous item to their way of life because it exposes the Amish children to ideas that run counter to their religion. 12 Additionally, it shows the ways in which the Amish children are taught, such as in an environment with mixed grades. Also, the scholar


12 William A. Fischel, “Do Amish One-Room Schools Make the Grade?” , 110.
comments on the lack of curriculum regulation by a State Department of Education/Instruction. Their main curriculum focuses on three main categories (common within US schools during the nineteenth century) reading, writing, and arithmetic. Due to this, many Amish children learn only the content that is necessary to them, in order to be successful in their daily lives. This overall has an impact on the Amish children, especially if they decide to leave the Amish community because they lack the knowledge needed to succeed in the daily US society. This scholarship helps set forth the overall impacts that the US Supreme Court decision has had on the Amish schooling system.

While diving into the various impacts that this court case has had on the educational system, it is important to note that the previous scholarship has not looked specifically at the validity of the arguments made within the court case. Many scholars have solely focused on the impacts of the case within the educational field, but have failed to address the reasons for why this court case was won by Yoder and the Old Order Amish. Additionally, the scholarship lacks research of why the State of Wisconsin used certain arguments that had been previously invalidated within the Wisconsin Supreme Court and US Supreme Court. The purpose of this research is to better understand why the State of Wisconsin appealed the Wisconsin Supreme Court decision to the US Supreme Court. Second, it will investigate the possible reasons for why the state fought so hard in order to keep the Compulsory School Attendance Law in effect, instead of trying to seek a compromise or agreement with the Amish community. Lastly, it also will focus on an analyzation of the state arguments to understand their validity. By researching these specifics of the legal battle, it will better help to inform the educational community and

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13 William A. Fischel, “Do Amish One-Room Schools Make the Grade?”, 114-7.

14 Ibid., 125-26.
others on why the State of Wisconsin lost the case, and why *Wisconsin v. Yoder* is still such a significant legal decision to this day.

**Wisconsin’s Compulsory School Attendance Law**

In 1969, the State of Wisconsin passed Wisconsin Statute 118.15, which was the updated version of the Wisconsin Compulsory School Attendance Law. The law specifically requires the youth of the state to attend school until a certain age or specific achievement level is reached, unless there is a specific exemption for that child. The Amish of Wisconsin in the year 1969, did not have an exemption because their request was based on religious beliefs. At this time, religion was not a valid exemption at that time. The law reads as the following:

118.15 Compulsory school attendance

(1)(a) Unless the child has a legal excuse or has graduated from high school, any person having under his control a child who is 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 until the end of the school term, quarter or semester of the school year in which he becomes 16 years of age.

(2) This section does not apply to any child who is not in proper physical or mental condition to attend school, to any child exempted for good cause by the school board of the district in which the child resides or to any child who has completed the full 4-year high school course. The certificate of a reputable physician in general practice shall be sufficient proof that a child is unable to attend school.

(3) Instruction during the required period elsewhere than at school may be substituted for school attendance. Such instruction must be approved by the state superintendent as substantially equivalent to instruction given to children of like ages in the public or private schools where such children reside.

(4) Whoever violates this section . . . may be fined not less than $ 5 nor more than $ 50 or imprisoned not more than 3 months or both.
Section 118.15 (1)(b) requires attendance to age 18 in a school district containing a “vocational, technical and adult education school,” but this section is concededly inapplicable in this case, for there is no such school in the district involved. 15

This statute is where the case Wisconsin v. Yoder all stems from. However, this case did not automatically become a significant US Supreme Court case. There was a major process that took place in order for this to reach the US Supreme Court and gain national attention.

The first process of this case started due to Jonas Yoder, Wallace Miller, and Adin Yutzy violating subsection one (a) of the statute, for not enrolling their children in New Glarus High School for the academic year of 1969. This led the Green County Courts to issue a nominal fine of five dollars due to violating the law. 16 Under subsection four of the statute, it provides provisions for what to do in case of the violations. Subsection four states that “Whoever violates this section . . . may be fined not less than $5 nor more than $50 or imprisoned not more than 3 months or both”. 17 Following this ruling, the Amish accepted the help of Attorney William Ball and the National Committee for Amish Religious Freedom in order to fight the Green County Court decision. 18 This led to the appeal of the five dollar fine to the Wisconsin Supreme Court in 1970. With a verdict in favor of Yoder and the Amish on January 8th, 1971, the Wisconsin Department of Justice insisted on appealing the verdict to the US Supreme Court. 19

16 “Supreme Court Cases,” Prentice Hall.
18 Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile”.
There were many reasons behind insisting on the appeal of the case. The state attorney, John William Calhoun, states the following as the main reason for appealing the case: “However, because the decision stands absolutely alone in its holding and is specifically contra to at least three state decisions and two United States Supreme Court decision, it is of national importance”. Due to the lack of precedents prior to this case, the State of Wisconsin argues that it is necessary for the state to appeal the decision, so that the highest court in the nation can set an official precedent concerning compulsory attendance policies and laws. Thus, the case was accepted by the US Supreme Court and was argued in the month of December 1971, and finally on May 15th, 1972, an official ruling was achieved. The decision that was reached was in favor of Jonas Yoder and the Amish, stating that “Wisconsin’s compulsory school attendance law unduly burdened the Free Exercise of the First Amendment by forcing Amish parents to send their children to public school after the eighth grade, which violated core Amish religious beliefs requiring them to remain ‘aloof from the world’”. This ruling was reached unanimously by seven justices. Justices Lewis F. Powell Jr. and William H Rehnquist, were not a part of this case. Although the decision was a unanimous decision, there was one partial dissent filed by Justice William O. Douglas. His dissent was based upon the ideas on whether or not it was always in the best interest of the child’s education to give all power to the parents, and that this decision lacks to acknowledge the educational rights of the child. Additionally, he brings to light the ideas how this decision has allowed the US government to start to “classify different

20 Memorandum to Attorney General Warren & State Superintendent William Kahl


22 Ibid.
religious beliefs, exempting some and excluding others from certain laws”.\textsuperscript{23} This dissenting opinion listed within the court case, helps to give insight into some of the concerns shown by the Justices. However, due to the unanimous decision, it thus shows various details about how what the Justices thought about the case brought before them. From analyzing the concurrent opinion, it sheds light on the validity of the arguments brought forth by both the plaintiff and defendant. By analyzing the validity of the arguments, it helps to shine light on how many of the claims made by the State of Wisconsin were not fully functional. Also, it demonstrates that some of the claims might have been influenced by external reasons, and not always done to benefit the child. Overall, the claims made by both parties’ better help to show why the case turned out as a victory for the Amish, as well as why this case was so significant, even in today’s world.

\textbf{Arguments of Yoder}

Attorney William Ball of Harrisburg, Pennsylvania was the one to lead Jonas Yoder, Wallace Miller and Adin Yutzy into the court battle that dictated the educational policies in relation to religious liberties through to the present day. As stated earlier, the Amish, especially the Old Order Amish are prohibited by their religion from being a part of the Judicial System of the United States. With this in mind, William Ball volunteered his service to the National Committee for Amish Religious Freedom, which was the committee sponsoring the three plaintiffs in court.\textsuperscript{24}

\textsuperscript{23} Wisconsin v. Yoder, 406 US 205 (1972).

\textsuperscript{24} Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile”. 11
The National Committee for Amish Religious Freedom was founded in 1967 by Lutheran Minister William Lindholm, in order to help ensure equality and representation for the Amish nationwide through the use of the US legal system. Due to the Amish religion prohibiting the use of the judicial system and other legal systems, the committee took it upon themselves to protect and represent the Amish. Another reason the committee was so concerned with the advancement and equality of the Amish was due to the thought process that if the Amish received benefits, it thus could be applied equally to other Christian religious sects. The committee played a significant role throughout the court battles following the Green County Court fine. They helped to organize the defense for the Amish in the Wisconsin Supreme Court and US Supreme Court. Additionally, they analyzed previous precedents set by the US Supreme Court, and helped to find key witnesses to use in order to support their arguments. This organization overall helped to fund and provide support for the Amish to successfully win their case.

William Ball helped develop the arguments for the Yoder case in their appeal of the Green County Court fine. These arguments were used both within the Wisconsin Supreme Court, as well as again in the US Supreme Court. There were two main parts to their arguments. One was the unconstitutionality of the Wisconsin Compulsory School Attendance Law, with respect to the First Amendment of the US Constitution. The second was the endangerment of their way of life.


26 Ibid.

27 Ibid., 53.
To begin, the plaintiff, Jonas Yoder, Attorney William Ball and his counsel, set forth with the argument that the Wisconsin Compulsory School Attendance Law was unconstitutional. This claim was based around the First Amendment of the US Constitution, specifically the Free Exercise Clause. The Free Exercise Clause states “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof…”. William Ball based his arguments around the idea that the Amish have the right to determine the appropriate education for their children. They additionally have the right to not educate past a certain grade level because of the Free Exercise Clause. Ball cited the US Supreme Court case of Sherbert v. Verner, which was dealing with religious liberties, and how no matter what religious beliefs or practices, an individual cannot be denied their constitutional rights, due to practice their religion. Ball went on to equate the idea that if the state denies the rights of the Amish to educate their children in a way that they see fit, it thus goes against a precedent set by the US Supreme Court.

The other tenant of the plaintiffs’ argument relies on their way of life. Ball brought in Dr. John Hostetler, a leading Amish scholar, who gave expert testimony for over four hours on the Amish way of life and the necessity of preserving their way of life within the Wisconsin Supreme Court. Hostetler testified that the reasons the Amish viewed an education higher than the eighth-grade so detrimental to their way of life was because they viewed it “as a deterrent to

28 US Constitution, amend. 1.

29 Appeal from a Judgement of the Circuit Court for Green County: Arthur L. Luebke, Circuit Judge, January 8, 1971, box 10, folder state vs. Yoder (Amish Case), Wisconsin, Department of Justice, Administrative DOJ Files, Wisconsin Historical Society, (Madison, WI, 1944-1999).

30 Shawn Francis, Peters, The Yoder Case, 3.
a way of salvation, as an introduction to topics that are competing against the value system, against the religion in their own society”. Education on topics such as science could cause children to go against their parental and societal norms. By making this argument, Ball had provided a reason for which their First Amendment Rights, in respect to the Free Exercise Clause, were being violated by being mandated to send their children to receive an education that violated their religion.

These two main arguments made by the Yoder side were overall successful in proving to the Wisconsin Supreme Court that the Amish’s rights were being violated by Wisconsin’s Compulsory School Attendance Law. Additionally, these same arguments were used again within the US Supreme Court, which the Justices used to conclude and uphold the previous ruling in favor of Yoder and the Amish. While the arguments made by Yoder have very few ways in which they could be invalidated by the defendant, the State of Wisconsin, there were significant flaws in the arguments made by the state. There are many possible reasons for these flaws and the next section of this paper will analyze and try to better understand Wisconsin’s arguments, as well as the historical background to which these stem from.

Wisconsin’s Determination

Within Wisconsin v. Yoder, the State of Wisconsin was highly invested in the outcome of the case. Wisconsin’s hope was for the continuation of the Compulsory School Attendance Law, and requiring the Amish violators of the law to educate their children. There are many reasons behind why the State of Wisconsin desired this continuation. These desires were based on views within the Wisconsin society, as well as the personal desires of the State Attorney General as a

31 Shawn Francis, Peters, The Yoder Case, 91.
To begin, this case was viewed by the State of Wisconsin as one of the utmost importance, in order to continue to have a highly productive society. This idea became an underlying tone throughout the entire case due to the societal history, current events, and governmental opinions on the changing society of Wisconsin during the 1960s and 1970s. The late ‘60s and ‘70s, were times of drastic change, as well as a time when the War on Drugs started, and the State of Wisconsin took a major stance to change the thoughts and perspective on the states drug culture. The State Attorney General, Robert W. Warren, was one of the main prosecutors of the State of Wisconsin v. Yoder case. He took a major initiative to challenge the drug culture that was afoot in Wisconsin. Although this may not be seen as a major connection to the court case, it is significant in various ways. Warren stated in various speeches across the state that “only in Wisconsin…[was] a Drug Abuse Program initiated [within the education setting]”.

By stating how Wisconsin was using education as a way to prevent drug abuses, it helps to shed light on one of the reasons for which the education of the youth was highly valued. The use of education was to educate the youth on the harmful effects of drugs. During, this entire time period, Attorney General Warren, spoke at many different venues statewide, to appeal the necessity to curb drug use, and educate the youth on dangers of drugs. For example, in a speech to students about violence and drugs, he states “if they [the youth] are to be influenced at all, it

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will be through their education…”.”. This statement relates back to the major value that the Attorney General places on education. One can understand why he argues so aggressively for the Compulsory School Attendance Law because he believes that it will help resolve drug issues throughout the state, and better Wisconsin society.

By understanding the value placed on education by both the State of Wisconsin the society, one can see that they wanted to fight the War on Drugs through the use of education. Thus, it can be considered a major reason for why the state fought so hard within the Wisconsin Supreme Court and the US Supreme Court, to keep the Compulsory School Attendance Law in effect. Wisconsin had various arguments for why the Compulsory School Attendance Law should be kept in affect and used these arguments to defend the law within both the Wisconsin Supreme Court, and US Supreme Court.

When the National Committee for Amish Religious Freedom filed an appeal for the Yoder case from the Green County Court relating to the five dollar fine issued, the State of Wisconsin started the process of forming a defense of their reasoning behind why it is necessary to uphold the Compulsory School Attendance Law. The arguments are as follows, whether or not the state had a compelling interest over the parent in the education of the child and whether or not a child had certain educational rights, the validity of public versus private education, religious practices versus religious beliefs, and the finally ideas of state establishment of religion. These various arguments were made by the Attorney General Robert W. Warren, but also by the main state attorney of the case, John W. Calhoun. Throughout both trials, John W.

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Calhoun utilized these claims in order to defend the Wisconsin law. However, a few of these claims were not useful due to the fact that either the plaintiffs’ arguments invalidated these claims, or that the US Supreme Court had already set previous precedents against the arguments being made. With that being said, it is important to analyze these various claims by the State of Wisconsin in order to better understand whether or not these claims were even valid prior to the start of the Wisconsin Supreme Court case and then if their validity continued into the US Supreme Court. In addition to this validity, it is important to note the reasons for the appeal to the US Supreme Court as an additional point of inquiry into the arguments made by the State of Wisconsin.

The first argument was concerning the educational rights of the child versus the parents of the child. The State of Wisconsin was highly concerned with who had control over the child when trying to determine the best for that child. This idea was brought forth by state attorney Calhoun during the writing process of the appeal to the US Supreme Court. He states, “Does the State have a compelling interest in educating all of its children”. This is a central reason to why the state argued so passionately about this Compulsory School Attendance Law. One possible explanation is due to the concerns about the changing society, such as the prevalent drug problem within the state. The State of Wisconsin used the argument that education was a way to solve the drug crisis as support for why they should be able to compel all children attend school until age seventeen. In addition to this argument, Wisconsin Supreme Court Justice Nathan Heffernan states in his dissent of the ruling, “that only the rights of the Amish parents were at

35 Appeal from a Judgement of the Circuit Court for Green County: Arthur L. Luebke.

36 Memorandum to Attorney General Warren.

37 Ibid.
stake in the New Glarus case”. This statement helps to demonstrate that this case had more at stake for the parents, rather than the children. However useful the dissenting opinion of Justice Heffernan, the State of Wisconsin does not learn from their first case in the Wisconsin Supreme Court they would have been able to strengthen their claim surrounding educational rights of the state, if they also incorporated the Justices’ ideas about the child’s right to an education even though they are minors. This is an important factor when trying to understand Wisconsin’s claims about the importance in educating all of its children because they do not utilize this claim. Instead, the state does not revise their claim about how the state interest in the education of the youth. In retrospect, this claim may have been able to sway the US Supreme Court into a different decision, if the state attorneys would have pursued this type of argument.

The second argument, or lack thereof, was concerning the mentality of public versus private education. While in the US Supreme Court, Calhoun fails to address the overall concerns and misconceptions surrounding the State of Wisconsin’s Compulsory School Attendance Law in relation to public school attendance. In the dissenting opinion of Justice Heffernan, he argues that “the majority opinion rests in part upon the misconception that the defendants’ only alternative to criminality is public school attendance for their children”. By having this opinion of a Wisconsin Supreme Court Justice, it is important to take this perspective into consideration when designing their appeal in the US Supreme Court. Additionally, this misconception is

38 Shawn Francis, Peters, The Yoder Case, 126.

39 Ibid.

40 Dissenting Opinion of J. Heffernan submitted to Clerk of Supreme Court Madison, Wisconsin, January 8, 1971, box 10, folder state vs. Yoder (Amish Case), Wisconsin Department of Justice, Administrative DOJ Files, Wisconsin Historical Society, (Madison, WI, 1944-1999).
significant because it considers public education the only valid way to educate Wisconsin’s children, when in reality the law states that it may either be a public or private school. With this reasoning in mind, a case where the Amish are arguing that the Compulsory School Attendance Law is unconstitutional for various reasons, it would be seen as a necessity to show arguments where they have options for schooling. One of the possible ways Calhoun might have been able to invalidate this opinion would be through the thought process that the Amish can meet the educational aims of the state, but also remain voiced in their education through the establishment of separate Amish secondary education schools. These schools could have utilized the vocational aspects, such agriculture in order to achieve the aims of Amish society. This is one of the many ways in which the State of Wisconsin could have improved the validity of their case, as well as how the outcome of the case might have been changed.

The next argument that the State of Wisconsin used is concerning the idea of religious beliefs versus practices. This would become one of the most controversial arguments made due to the widely help notions of religious liberties within the United States. The State of Wisconsin was in a position to try and invalidate the claims made by the Amish defendants. One of the main tenants of the Amish arguments was that the Compulsory School Attendance Law placed an unimaginable burden on them because it conflicted with their religious practices and ideals. However, the way in which the state tries to undermine this claim was through the idea of separating religious beliefs versus practices. Circuit Judge Arthur L. Luebke of Green County Court, detailed in a response to the Wisconsin Supreme Court Ruling that “the state’s argument that the appellants’ refusal to obey the compulsory school law is no part of their worship but

41 Dissenting Opinion of J. Heffernan submitted to Clerk of Supreme Court Madison.
merely a practice or a way of life cannot be accepted”.\textsuperscript{42} This argument made by the state is controversial based on the fact that the United States has religious protections due to the First Amendment of the Constitution. Although this statement was made, the State of Wisconsin continued the use of this argument within the Wisconsin Supreme Court and the appeal to the US Supreme Court. This demonstrates again the lack of validity that was a part of Wisconsin’s arguments. Additionally, the use of this argument had already been set within the US Supreme Court, by the \textit{Sherbert v. Verner} case. This US Supreme Court Case, ruled that one cannot differentiate between practice and belief because it is not within the power of the United States to determine religious matters.\textsuperscript{43} Additionally, within their appeal process to the US Supreme Court, the state argues that a law should not “substantially burden the individual…through the use of the Free Exercise clause of the 1\textsuperscript{st} Amendment”.\textsuperscript{44} This argument is used as a basis to try and argue that the Compulsory School Attendance Law does not place a substantial burden on the individual. Due to the fact that this case had a set a precedent concerning the overall matter of religious practices versus beliefs, it would have been in the best interest of the State of Wisconsin to edit their original argument, and create another without using this idea. This again proves, the invalidity of this argument, as well as tying into the last and final argument for the state.

The last fallible argument that the state used within their court case was based around the establishment of a religion by a government within the United States. The State of Wisconsin

\textsuperscript{42} Appeal from a Judgement of the Circuit Court for Green County: Arthur L. Luebke.

\textsuperscript{43} Ibid.

\textsuperscript{44} Memorandum to Attorney General Warren.
argued that if they granted an exemption to “the Amish from school laws, it would in fact be establishing a religion, a violation of the First Amendment”. This idea of the establishment of a religion is not suitable for this type of argument because of the fact that it signifies that the state is decreeing an official religion. Calhoun pointed out that if an exemption was issued it would be a privilege for their religion. Additionally, this argument was furthered by the claim that the other religions within Wisconsin would be at a disadvantage in relation to the Amish. While this idea of equality among religions is a basis for governmental laws within the US, it should be pointed out that there are times when accommodations are made for religions in order for them to be able to succeed in living within the United States. The idea of a religious accommodation is not unheard of, and it can be connected to the court case, Sherbert v. Verner. The idea is to accommodate a religion due to their specific practices in order to allow the individuals to be prosperous. Additionally, Circuit Judge Arthur L. Luebke mentions this same idea of religious accommodations within a letter written following the Wisconsin Supreme Court Decision. He states, “The state misconceives the doctrines of neutrality and accommodation”. This statement is made prior to the US Supreme Court Case, which demonstrates the lack of consideration the State of Wisconsin took in reanalyzing their claims that were made within the Wisconsin Supreme Court. It also shows how others were already grasping the ideas about how the state needed to change its arguments in order to achieve a victory within the US Supreme Court. By not utilizing the opinions that were given to the Wisconsin’s Attorney John Calhoun, as well as Wisconsin Attorney General Robert Warren, it speaks to the belief that they were not open-

45 Mike Miller, “Court Told Amish Conviction Would Send Them Into Exile”.

46 Memorandum to Attorney General Warren.

47 Appeal from a Judgement of the Circuit Court for Green County: Arthur L. Luebke.
minded to change and amend their arguments. All of this again, sheds light on the lack of validity that these claims had during their use within the Wisconsin Supreme Court, but especially within the US Supreme Court.

If the State of Wisconsin reexamined, changed, and accepted the advice of experts, the outcome of the US Supreme Court case, and possibly the prior Wisconsin Supreme Court case might have been different. However, they did not do this and thus the courts’ ruled in favor of the Amish both times. The arguments that were used by the State of Wisconsin lacked valid reasons for why the Compulsory School Attendance Law did not hinder the Constitutional Rights of the Amish and instead benefit their overall wellbeing of the child. Due to the Courts’ rulings, there were various reactions and outcomes that would continue to impact the educational world for years to come.

**The Yoder Legacy**

On May 15th, 1972, the United States Supreme Court handed down the ruling within *Wisconsin v. Yoder* in favor of Jonas Yoder and the other Amish defendants. For over three years this court case had gone through three court systems within the United States, and finally Yoder received the news that his children would officially be exempted from the Wisconsin Compulsory School Attendance Law and be allowed to stop attending school after the eighth grade. While this decision helped to solidify the Amish way of life, there were also numerous impacts that were seen state and nation-wide in the first few years following the decision being handed down, such as a religious freedom movement within the public schooling system, a push for Supreme Court reform, and a rise in Amish schools.
Throughout the first years following the decision, nationwide individuals looked at the case as a way to challenge National Compulsory Education Laws. Other highly conservative, fundamentalist Christians used the *Yoder* decision as a way to challenge these laws, as well as to request that their children be excused from certain events, classes, and curriculum that they believed were against their religion. A main example of this can be seen with the exemptions of students from the evolution curriculum, due to religious conflicts with this theory.

Additionally, the *Yoder* decision was viewed as being a victory for religious liberties, such as seen within the *Eau Claire Leader-Telegram*, May 18th, 1972 issue, which stated “There is a reason to cheer high court recognition of freedom of worship at a point where it comes into conflict with the state’s interest…” However important the protection of religious liberties was the individual, there was significant concern about the future impacts of the court case regarding school attendance. Many viewed the court decision as positive, but not thoroughly thought out.

In the same article from the *Eau Claire Leader-Telegram*, they also wrote the opinion that “the decision is not meant to be an invitation for parents within other religious bodies to withdraw their children from public school, yet it will inevitably have that effect”. This idea of removal of children from schools and placement into private schools or the requesting of exemptions is still a major impact from this court case today. Today, *Wisconsin v. Yoder* is seen as the basis for the parental school choice movement in the respect to home schooling and religious schooling.

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49 Editorial, “Court Upholds Amish”, *Leader Telegram* (Eau Claire), May 18, 1972.

50 Ibid.

51 Shawn Francis Peters, *The Yoder Case*, 175.
The school choice movement is a direct impact from the *Yoder* decision because it demonstrated the fact that the parents have more interest, rights, and claims to the education of their child than a state or governmental interest. By allowing students to be home schooled or sent to religious schools, it allowed for parents to be an active player in the content that their children would be learning within an educational institution. It additionally showed the importance of religious freedom within the educational system.

Following the decision by the US Supreme Court on May 15th, 1972, the State of Wisconsin lost its rights to require compulsory education through age sixteen. This was seen as a major defeat for the state, and some began to question the validity of the US Supreme Court. The major proponent of this view was the Attorney General Robert Warren because he was looked down upon for losing a major case. Less than a week after the decision was handed down, he went on the defensive, attacking the US Supreme Court and the way in which they conducted their decision. He made a speech to the Milwaukee Eagles Luncheon on May 18th, 1972, which one can view as a major response to the decision to *Wisconsin v. Yoder*. He claimed that “the power of the Judicial Branch to Declare a Law Unconstitutional does not come from the Constitution”.\footnote{Remarks By Attorney General Robert W. Warren-Milwaukee Eagles Luncheon – Ray Markey Day, May 18, 1972, box 2, May-June, 1972, Speeches of Attorney General Robert W. Warren, Wisconsin Historical Society, Madison, WI, 1960-1995.} This idea, as well as how school laws should not be influenced by the Judiciary Branch, but instead the executive and legislative branches of government were two main attacks and impacts due to the decision made by the US Supreme Court.\footnote{Ibid.} Throughout the upcoming months, he would make various speeches across the state, encouraging individuals to influence
the legislature to modify the US Supreme Court and change the powers that it had. While eventually this movement died following a few months, this was seen at the time as a major impact of the *Yoder* decision.

One of the last direct impacts in the first years following the decision was the rise in the Amish schooling movement. Throughout the first half of the twentieth century, many Amish were enrolled within the public-school system within Wisconsin, due to the fact that the Compulsory School Attendance Law mandated the required age was fourteen. However, as the law changed and the age limit increased, it thus started to cause the controversy between the state officials, which led to the *Yoder* case in the first place. Following the decision of the US Supreme Court, the Amish began establishing more schools, in order to avoid any more controversial issues due to the integration with non-Amish students. The establishment of these schools additionally protected the Amish from the dangers of modernity and challenging their way of life because their school curriculum was designed to be taught only on the matters that were concerned essential for their way of life, such as reading, writing, and arithmetic. Lastly, it allowed for their graduation from schooling following the completion of the eighth grade without any questions. Overall, the immediate impact of the *Yoder* decision was the establishment of more Amish schools.

**Conclusion**

Jonas Yoder, Wallace Miller and Adin Yutzy did not have any intention of being made famous through their own fight for the religious freedom in their children’s education. However,

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54 William A. Fischel, “Do Amish One-Room Schools Make the Grade?”.

55 Ibid.
on May 15th, 1972, the Yoder name became synonymous with religious liberties within education, as well as the legality of Compulsory School Attendance Laws. While they gained their rights to remove their children following the eighth-grade due to their Amish religious beliefs, it left a major impact on the State of Wisconsin, not only immediately following the decision, but for years to come. Looking back at the overall course of the case, one can notice the fact that the State of Wisconsin did not properly defend itself within the court room, leading to their multiple losses. They used improper arguments, such as ones that were already invalidated by the US Supreme Court. Also, the mediation methods for which the state could have utilized in order to either come to a compromise or alternative arrangement for the Amish were pushed aside and not used. Thus, the US Supreme Court’s decision invalidated the Compulsory School Attendance Law, and created numerous changes to the State of Wisconsin and nationwide. While years have passed since this case decision was handed down, it is still significant impact on the educational community, especially in the sense of religious liberties and the rights of the individual within an educational system. In conclusion, if the State of Wisconsin would have properly defended itself, the educational system might be completely different with respect to religious liberties and parental rights’ in their children’s education.
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