

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice” Hamilton v. Regents of University of California, 293 U.S. 245 (1934)



The "privileges and immunities" protected by the Fourteenth Amendment are those that belong to the citizens of the United States, as distinguished from citizens of the states -- those that arise from the Constitution and laws of the United States, as contrasted with those that spring from other sources. P. 293 U. S. 261.

These minors are members of the Methodist Episcopal Church and of the Epworth League and connected religious societies and organizations. For many years, their fathers have been ordained ministers of that church. The Southern California Conference at its 1931 session adopted a resolution:

"With full appreciation of the heroic sacrifices of all those who have conscientiously and unselfishly served their country in times of war, **but with the belief that the time has come in the unfolding light of the new day for the settlement of human conflicts by pacific means, and because we as Christians owe our first and supreme allegiance to Jesus Christ.** Because the Methodist Episcopal Church, in her General Conference of 1928, has declared: 'We renounce war as an instrument of national policy.' Because our nation led the nations of the world in signing the Paris Peace Pact, and the **Constitution of the United States, Article 6, Section 2, provides that:"**

"This Constitution and the laws of the United States which shall be made in pursuance thereof and all treaties made under authority of the United States shall be the Supreme Law of the Land,"

"thus making the Paris Pact the supreme law of the land, which declares: 'The high contracting parties agree that the settlement of all disputes or conflict shall never be sought except by pacific means.' "

Page 293 U. S. 252

Thoughts, Words and Actions for Plaintiff's Quintessential Rights of the First Amendment:
Truths that manifest Life, Liberty & Pursuit of Happiness pursuant to the Free Exercise Clause

"Therefore we, the Southern California Conference, memorialize the General Conference which convenes in Atlantic City in May, 1932, to petition the United States government to grant exemption from military service to such citizens who are members of the Methodist Episcopal Church as conscientiously believe that participation in war is a denial of their supreme allegiance to Jesus Christ."

There needs be no attempt to enumerate or comprehensively to define what is included in the "liberty" protected by the due process clause. Undoubtedly it does include the right to entertain the beliefs, to adhere to the principles, and to teach the doctrines on which these students base their objections to the order prescribing military training. *Meyer v. Nebraska*, 262 U. S. 390, 262 U. S. 399; *Pierce v. Society of Sisters*, 268 U. S. 510; *Stromberg v. California*, 283 U. S. 359, 283 U. S. 368-369; *Near v. Minnesota*, 283 U. S. 697, 283 U. S. 707.

In *United States v. Macintosh*, 283 U. S. 605, a later naturalization case, the applicant was unwilling, because of conscientious objections, to take unqualifiedly the statutory oath of allegiance which contains this statement:

"That he will support and defend the Constitution and laws of the United States against all enemies, foreign and domestic, and bear true faith and allegiance to the same."

8 U.S.C. § 381. His petition stated that he was willing, if necessary, to take up arms in defense of this country, "but I should want to be free to judge of the necessity." In amplification, he said:

"I do not undertake to support 'my country, right or wrong' in any dispute which may arise, and I am not willing to promise beforehand, and without knowing the cause for which my country may go to war, either that I will or that I will not 'take up arms in defense of this country,' however 'necessary' the war may seem to be to the government of the day."

The opinion of this Court quotes from petitioner's brief a statement to the effect that it is a

"fixed principle of our Constitution, zealously guarded by our laws, that a citizen cannot be forced and need not bear arms in a war if he has conscientious religious scruples against doing so."