

### Religious exploitation of a child in missionary work

In 1944, in the Prince versus Massachusetts case, the matter examined was the criminal conviction of a Jehovah's Witness mother who took her 9 year old daughter with her on missionary efforts on the street. "Parents may be free to become martyrs themselves. But it does not follow they are free, in identical circumstances, to make martyrs of their children before they have reached the age of full and legal discretion when they can make that choice for themselves."

Justice Murphy dissented saying that it was an attempt "to prohibit a child from exercising her constitutional right to practice her religion on the public streets... Religious freedom is too sacred a right to be restricted or prohibited in any degree without convincing proof that a legitimate interest of the state is in grave danger."

Justice Jackson (with Justices Roberts and Frankfurter) dissented. "The novel feature of this decision is this: the Court holds that a state may apply child labor laws to restrict or prohibit an activity of which, as recently as last term, it held: "This form of religious activity occupies the same high estate under the First Amendment as do worship in the churches and preaching from the pulpits. ..." citing to *Murdock v. Pennsylvania* (a.k.a. *Jones v. Opelika*), 319 U.S. 105 (May 3, 1943). "If the *Murdock* doctrine stands along with today's decision, a foundation is laid for any state intervention in the indoctrination and participation of children in religion, provided it is done in the name of their health or welfare." ... "This case brings to the surface the real basis of disagreement among members of this Court in previous Jehovah's Witness cases. [Citations.] Our basic difference seems to be as to the method of establishing limitations which of necessity bound religious freedom." ... "My own view may be shortly put: I think the limits begin to operate whenever activities begin to affect or collide with liberties of others or of the public. Religious activities which concern only members of the faith are and ought to be free-as nearly absolutely free as anything can be. But beyond these, many religious denominations or sects engage in collateral and secular activities intended to obtain means from unbelievers to sustain the worshippers and their leaders. They raise money, not merely by passing the plate to those who voluntarily attend services or by contributions by their own people, but by solicitations and drives addressed to the public of sales and Bingo games and lotteries. All such money-raising activities on a public scale are, I think, Caesar's affairs and may be regulated by the state so long as it does not discriminate against one because he is doing them for a religious purpose, and the regulation is not arbitrary and capricious in violation of other provisions of the Constitution."

"To prohibit a child from exercising her constitutional right to practice her religion on the public streets cannot, in my opinion, be sustained." ... "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 limit in its ability to forge weapons of oppression for use against rights of those who dare to express or practice unorthodox religious beliefs. And the Jehovah's Witnesses are living proof of the fact that 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." ... "We should therefore hesitate before approving the application of a statute that might be used as another instrument of oppression. Religious freedom is too sacred a right to be restricted or prohibited in any degree without convincing proof that a legitimate interest of the state is in grave danger."

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