

Bartels Vs. Iowa

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Court : US Supreme Court

Decided On : Jun-04-1923

Appeal No. : 262 U.S. 404

Appellant : Bartels

Respondent : Iowa

Judgement :

Bartels v. Iowa - 262 U.S. 404 (1923)

U.S. Supreme Court Bartels v. Iowa, 262 U.S. 404 (1923)

Bartels v. Iowa

Nos. 134, 181, 182, 440

Argued October 10, November 28, 1922, and February 23, 1923

Decided June 4, 1923.

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ERROR TO THE SUPREME COURT

OF THE STATE OF OHIO

SYLLABUS

Decided upon the authority of *Meyer v. Nebraska*, ante, [262 U. S. 390](#) .

191 Ia. 1060; 102 Oh.St. 474; 187 N.W. 927, reversed.

Error (1) to a judgment of the Supreme Court of Iowa sustaining a conviction of a teacher for teaching German to pupils in a parochial school, below the eighth grade; (2) to like judgments of the Supreme Court of Ohio; (3) to a judgment of the Supreme Court of Nebraska reversing a decision of a trial court, and refusing an injunction, in a suit brought against state officials to prevent enforcement of a statute penalizing the teaching of foreign languages to young children in schools.

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MR. JUSTICE Mc REYNOLDS delivered the opinion of the Court.

The several judgments entered in these causes by the Supreme Courts of Iowa, Ohio, and Nebraska, respectively, must be reversed upon authority of *Meyer v. Nebraska*, decided today, ante, [262 U. S. 390](#) .

No. 134. Plaintiff in error was convicted of teaching pupils in a parochial school below the eighth grade to read German, contrary to "An act requiring the use of the English language as the medium of instruction in all secular subjects in all schools within the State of Iowa," approved April 10, 1919 (Acts 1919, c.198).{1} He used English for teaching the common school branches, but taught young pupils to read German. The supreme court of the state held:

"The manifest design of this language statute is to supplement the compulsory education law by requiring that the branches enumerated to be taught shall be taught in the English language, and in no other. The evident purpose is that no other language shall be taught in any school, public or private, during the tender years of youth, that is, below the eighth grade."

191 Iowa 1060.

Numbers 181 and 182. Bohning and Pohl, of St. Johns Evangelical Congregational School, Garfield Heights, Cuyahoga county, Ohio, were severally convicted (102

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Ohio St. 474) of violating

"An act to supplement 7762 of the General Code . . . and to repeal 7729, concerning elementary, private and parochial schools and providing that instruction shall be in the English language"

(108 Ohio Laws, 614), approved June 5, 1919,{2} which prohibits the teaching of German to pupils below the eighth grade.

Number 440. An injunction is sought against the Governor and Attorney General of the state and the attorney for Platte County to prevent enforcement of

"An act to declare the English language the official language of this state, and to require all official proceedings, records, and publications to be in such language and all school branches to be taught in said language in public, private, denominational, and parochial schools,"

etc., approved April 14,

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1921.{3} This statute is subject to the same objections as those offered to the Act of 1919 and sustained in *Meyer v. Nebraska, supra*. The purpose of the later enactment as stated by counsel for the state, is

"to place beyond the possibility for legal evasion a prohibition against the teaching in schools of foreign languages to children who have not passed the eighth grade."

The Supreme Court considered the merits of the cause, upheld the statute, and refused an injunction. 187 N.W. 927.

McKelvie and Davis, formerly Governor and Attorney General, no longer occupy those offices. The cause is dismissed as to them. Otto F. Walter is now the county attorney and the judgment below as to him must be reversed.

Reversed.

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"Section 1. That the medium of instruction in all secular subjects taught in all of the schools, public and private, within the state of Iowa shall be the English language, and the use of any language other than English in secular subjects in said schools is hereby prohibited, provided, however, that nothing herein shall prohibit the teaching and studying of foreign languages as such as a part of the regular school course in any such school, in all courses above the eighth grade."

"Sec. 2. That any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00)."

"Section 7762-1. That all subjects and branches taught in the elementary schools of the State of Ohio below the eighth grade shall be taught in the English language only. The board of education, trustees, directors and such other officers as may be in control shall cause to be taught in the elementary schools all the branches named in section 7648 of the General Code. Provided, that the German language shall not be taught below the eighth grade in any of the elementary schools of this state."

"Section 7762-2. All private and parochial schools and all schools maintained in connection with benevolent and correctional institutions within this state which instruct pupils who have not completed a course of study equivalent to that prescribed for the first seven grades of the elementary schools of this state shall be taught in the English language only, and the person or persons, trustees or officers in control shall cause to be taught in them such branches of learning as prescribed in section 7648 of the General Code or such as the advancement of

pupils may require, and the persons or officers in control direct; provided that the German language shall not be taught below the eighth grade in any such schools within this state."

"Section 7762-3. Any person or persons violating the provisions of this act shall be guilty of a misdemeanor and shall be fined in any sum not less than twenty-five dollars nor more than one hundred dollars, and each separate day in which such act shall be violated shall constitute a separate offense."

"Section 1. The English language is hereby declared to be the official language of this state, and all official proceedings, records and publications shall be in such language, and the common school branches shall be taught in said language in public, private, denominational and parochial schools."

"Sec. 2. No person, individually or as a teacher, shall, in any private, denominational, or parochial or public school, teach any subject to any person in any language other than the English language."

"Sec. 3. Languages other than the English language may be taught as languages only after a pupil shall have attained and successfully passed the eighth grade as evidenced by a certificate of graduation issued by the county superintendent of the county or the city superintendent of the city in which the child resides: Provided, that the provisions of this act shall not apply to schools held on Sunday or on some other day of the week which those having the care and custody of the pupils attending same conscientiously observe as the Sabbath, where the object and purpose of such schools is the giving of religious instruction, but shall apply to all other schools and to schools held at all other times: Provided that nothing in this act shall prohibit any person from teaching his own children in his own home any foreign language."

" * * * *"

"Sec. 7. Chapter 249, of the Session Laws of Nebraska for 1919, entitled, 'An act relating to the teaching of foreign languages in the state of Nebraska,' is hereby repealed."

MR. JUSTICE HOLMES, dissenting.

We all agree, I take it, that it is desirable that all the citizens of the United States should speak a common tongue, and therefore that the end aimed at by the statute is a lawful and proper one. The only question is whether the means adopted deprive teachers of the liberty secured to them by the Fourteenth Amendment. It is with hesitation and unwillingness that I differ from my brethren with regard to a law like this, but I cannot bring my mind to believe that, in some circumstances, and circumstances existing, it is said, in Nebraska, the statute might not be regarded as a reasonable or even necessary method of reaching the desired result. The part of the act with which we are concerned deals with the teaching of young children. Youth is the time when familiarity with a language is established and if there are sections in the state where a child would hear only Polish or French or German spoken at home, I am not prepared to say that it is unreasonable to provide that, in his early years, he shall hear and speak only English at school. But, if it is reasonable, it is not an undue restriction of the liberty either of teacher or scholar. No one would doubt that a teacher might be forbidden to teach many things, and the only criterion of his liberty under the Constitution that I can think of is "whether, considering the end in view, the statute passes the bounds of reason and assumes the character of a merely arbitrary fiat." *Purity Extract & Tonic Co. v. Lynch*, [226 U. S. 192](#) , [226 U. S. 204](#) ; *Hebe Co. v. Shaw*, [248 U. S. 297](#) , [248 U. S. 303](#) ; *Jacob Ruppert v. Caffey*, [251 U. S. 264](#) . I think I appreciate the objection to the law, but it appears to me to present a question upon which men reasonably might differ, and therefore I am unable to say that the Constitution of the United States prevents the experiment's being tried.

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I agree with the Court as to the special proviso against the German language contained in the statute dealt with in *Bohning v. Ohio*.

MR. JUSTICE SUTHERLAND concurs in this opinion.

