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IN THE
Supreme Court of the United States

October Term, 1980

BOB JONES UNIVERSITY,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

On Petition for a Writ of Certiorari From the United
States Court of Appeals for the Fourth Circuit

BRIEF AMICUS CURIAE IN SUPPORT OF PETITION
FOR WRIT OF CERTIORARI ON BEHALF OF
CHURCH OF GOD IN CHRIST, MENNONITE

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INTEREST AND ARGUMENT OF THE AMICUS CURIAE

The *amicus curiae* has preferred to make its position known to this Honorable Court in its own words. Counsel, in filing this brief, therefore presents verbatim the following statement of the *amicus*, the Church of God in Christ, Mennonite. This describes the interest of the *amicus* and also its argument as friend of the Court. Since it states these more directly than counsel can, it is hoped, and respectfully submitted that, this should be deemed compliance with Supreme Court Rule 36:

"The Church of God in Christ, Mennonite, is a body of Christian believers, identified as a denomination of Mennonites with approximately seven thousand seven hundred members in the United States, who live in about 65 congregations in 21 states. Headquarters are in Moundridge, Kansas. Many of our present day members are descendants of Anabaptist people who in the past lived in various European countries. There is in our consciousness a strong sense of an often torturous history, in which our predecessors passed through periods of extreme hardship and suffering, a history that includes the records of many martyrs who suffered for those tenets that still constitute our confession of faith.¹ A notable feature of our church

1. During the 16th century, 2,500 Mennonites were sentenced to death in the courts of law for religious reasons in the Netherlands and Belgium, and executed, of whom about a third were women. About 5,000 brethren were put to death in Switzerland and surrounding territories from 1525-1535. We would relate in this also to earlier evangelical groups, such as the Waldenses, who especially after the inquisition was instituted, suffered martyrdom on a terrifying scale, as they in general confessed the same religious principles as the later Mennonites, and whom we consider forerunners of the same.

history is that of a church in a migratory status, migrating from one place, or nation, to another in search of religious consideration or toleration, a defenseless people looking for a place to be." This has left within us an extremely high regard for religious liberty. We consider the religious liberty that this nation concedes as possibly its greatest virtue. Any threat to this causes quick and deep concern with us.

"In the case of *Bob Jones University v. United States*, in the opinion of The United States Court of Appeals for the Fourth District, it appears that a tenet of religion has been considered unacceptable because of 'public policy', and tax exemption denied on that basis. This would indicate an erosion of religious liberty as a religious belief is being subordinated to 'public policy'. This is the cause for our concern.

"If a religious institution can be denied tax exemption on the basis indicated, because they believe interracial dating to be unscriptural, where would be the limits to such applications, or to what other conclusions can this be carried?

"In our religious practices we make no provision for dating whatsoever: we have many practices that are not according to popular concepts. What would keep IRS from deciding that that offends 'public policy' and withdraw tax exemption? The fact that the specific objections

2. Already in the 16th century migration emerges as a response among Anabaptist Mennonites because of religious persecution. Often the moves took place between different places in Switzerland, Germany and the Netherlands. The first emigration of Mennonites to the United States was in 1683. There was a large migration of Mennonites to Russia from Prussia and Danzig beginning in 1788, this time because of intolerance toward conscientious objection to bear arms. In 1873 another large migration of these Mennonites was effected when about 18,000 of them left Russia for the U.S. and Canada.

indicated in the *Bob Jones v. United States* case are not applicable does not quiet our concern regarding the possible results or conclusions of this decision. What implications are there in it for a church such as ours? For in our understanding we are ever in opposition to the 'world'. The very message and nature of the gospel of Christ predetermine this.³

"The question of tax exemption is important, but what would limit this decision to tax exemption, and keep it from being applied to questions more important, for certainly there are considerations much more vital to us than tax exemption. The tremendous stress that we have faced and face when we find ourselves in conflict between the will of secular government and what we understand as the will of God constitutes one of the most difficult aspects of our religious experience.⁴

"Our faith and understanding of scripture enjoin respect and obedience to the secular governments under which we live. We recognize them as institutions established by God for order in society. For that reason alone, without the added distress of punitive action for failure to do so, we always exercise ourselves to be completely law abiding. Our religious beliefs, however, are very deeply held. When these beliefs collide with the demands of society, our highest allegiance must be toward God.

3. 'But we speak the wisdom of God in a mystery, even the hidden wisdom, which God ordained before the world unto our glory, which none of the princes of this world knew, for had they known it, they would not have crucified the Lord of glory' (I Cor. 2:7 & 8).

4. Our most difficult experience in this in recent times was in World War I, when young men of non-resistant faith were conscripted and sent to army camps without provision for their conscientious objection. A number faced court martial and received prison sentences

and we must say with men of God of the past, 'We must obey God rather than men',⁵ and these are the crisis from which we would be spared.

"It is in that concern that we address ourselves to this great court. We believe that God has blessed in a very special way, the noble consideration toward sincere religious convictions that this nation has extended. We suggest that this is possibly the greatest factor in its prosperity. We believe its prosperity in the future will have much relation to the continuation of these traditional considerations, and urge that it may be so.

"Our intense desire, or continual prayer is that this nation may continue to enjoy the protection and blessing of Almighty God, that it may ever be a safe place where people such as we may have a place to life and search out the will of God for us in tranquility."

5. Acts 5:29.

CONCLUSION

For all of the foregoing reasons, the Church of God in Christ, Mennonite respectfully urges this Court to grant the Petition for Writ of Certiorari brought by Petitioner Bob Jones University.

DATED: JULY 30, 1981

Respectfully submitted,

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