DEFENDING THE GOOD NEWS

OTHER BOOKS OF INTEREST FROM MARQUETTE BOOKS

John W. Cones, *Introduction to the Motion Picture Industry: A Guide for Students, Filmmakers and Scholars* (forthcoming).
ISBN: 978-0-922993-90-1 (paperback)

John Schulz, *Please Don't Do That! The Pocket Guide to Good Writing* (2008). ISBN: 978-0-922993-87-1 (booklet)

Global Communication Association and the Global Fusion Consortium, *Global Media Journal: Volumes 1-3 and 3-5* (2008). ISBNs: 978-0-922993-69-7 and 978-0-922993-70-3 (paper)

Héctor Luis Díaz, Johnny Ramírez-Johnson, Randall Basham and Vijayan K. Pillai, *Strengthening Democracy Through Community Capacity Building* (2008). ISBN: 978-0-922993-95-6 (paper)

John W. Cones, *Dictionary of Film Finance and Distribution: A Guide for Independent Filmmakers* (2008). ISBN: 978-0-922993-93-2 (cloth); 978-0-922993-94-9 (paper)

Hazel Dicken-Garcia and Giovanna Dell'Orto, *Hated Ideas and the American Civil War Press* (2008). ISBN: 978-0-922993-88-8 (paper); 978-0-922993-89-5 (cloth)

Mitchell Land and Bill W. Hornaday, *Contemporary Media Ethics: A Practical Guide for Students, Scholars and Professionals* (2006). ISBN: 0-922993-41-6 (cloth); 0-922993-42-4 (paperback)

Stephen D. Cooper, *Watching the Watchdog: Bloggers as the Fifth Estate* (2006). ISBN: 0-922993-46-7 (cloth); 0-922993-47-5 (paperback)

Joey Reagan, *Applied Research Methods for Mass Communicators* (2006). ISBN: 0-922993-45-9 (paperback)

David Demers, *Dictionary of Mass Communication: A Guide for Students, Scholars and Professionals* (2005). ISBN: 0-922993-35-1 (cloth); 0-922993-25-4 (paperback)

Defending the Good News

The Jehovah's Witnesses' Plan to Expand the First Amendment

Jennifer Jacobs Henderson

Marqutte Books LLC
Spokane, Washington

Copyright © 2010 by Marquette Books LLC

All rights reserved. No part of this publication may be reproduced,
stored in a retrieval system, or transmitted in any form or by any
means, electronic, mechanical, photocopying, microfilming, recording, or otherwise,
without permission of the author.

Printed in the United States of America

Library of Congress Cataloging Number
2010920177

ISBN for this edition:
978-0-922993-84-0

Background cover photo used with permission.
Copyright Steelman. Obtained from Wikipedia.org
http://creativecommons.org/licenses/by-sa/2.5/

Marquette Books LLC
3107 East 62nd Avenue
Spokane, Washington 99223
509-443-7057 (voice) / 509-448-2191 (fax)
books@marquettebooks.org / www.MarquetteBooks.org

This book is dedicated to Blossom, Barbara and Maddie, who taught me that education, hope, laughter, and cookie dough are the secret ingredients of a successful life.

Contents

9 Acknowledgments

11 Foreword by Don Pember

15 Introduction

29 Chapter 1 — The Jehovah's Witnesses

49 Chapter 2 — Hayden Cooper Covington

61 Chapter 3 — The Plan

89 Chapter 4 — The Cases

129 Chapter 5 — Contributions

145 Bibliography

165 Index

172 About the Author

Acknowledgments

I am truly indebted to hundreds of people for their help with making this book a reality. There is no way to properly acknowledge them all - from the librarians who saved me from ignorance to my students who have endured my tales. I do want to offer a special thanks, though, to my undergraduate mentors at Drake University in Des Moines, Iowa, Donald V. Adams and Michael R. Cheney, as well as the graduate faculty who supported my intellectual development at the University of Washington, particularly Richard Kielbowicz and Richard S. Kirkendall who encouraged rather than mocked my first efforts at understanding and writing history; Jerry Baldasty, who stoked my interest in minority rights, was the first to treat me as a colleague and collaborator rather than a graduate assistant, and taught me to be a teacher; and most especially, Don R. Pember, who introduced me to the compelling stories of First Amendment litigants, nurtured my passion for free expression, spent countless hours discussing the intricacies of Supreme Court jurisprudence, and still today mentors my intellectual life. It is also essential to specifically acknowledge my colleagues in the Department of Communication at Trinity University in San Antonio, Texas, who have supported my work unconditionally, offered friendship freely, and created the kind of academic environment only dreamed about in many institutions.

At its heart, this book is a history of lives lived for a cause. It could not have been written without the cooperation and compassion of those who participated in that story - Dorothy Covington, Lynn Elfers, and Jerry Bergman. Without your insights and inspiration, this book would be a dry recitation of events rather than a compelling human narrative. Thank you, also, to the Watchtower Bible and Tract Society who had no hand in the

research or writing of this work but who compelled its very existence through its struggle to expand First Amendment freedoms for its members.

And, of course, thank you to my family — my husband Aaron Delwiche, my partner in life and work, who challenges my every assumption and supports my every whim; my mother, Barbara Jacobs, who still thinks I could be President; my father, William Jacobs, who first nurtured my intellectual curiosity; my brother Bruce Jacobs, who taught me early on that everything worth having takes time, effort and practice; and my brilliant, beautiful daughter Maddie, who inspires me daily.

FOREWORD

Decisions by courts in the United States — local, state, and federal — are among the most unreported activities of government in America. Even rulings by the Supreme Court of the United States are generally ignored by the mainstream mass media and the public in general, even though today they are readily accessible online. Stories about decisions that are reported are generally reactive accounts, e.g., "Pharmaceutical Companies Say Ruling Will Raise Drug Prices," " Police Assert Ruling Will Handcuff Them in War on Drugs," "Ruling a Victory for Sea Lions, Environmentalists Say." So usually Americans get the news about the courts third hand: from judicial rulings, to groups or individuals who are affected by the rulings, to reporters. But this isn't new; it has been this way throughout the nation's history. One of the refreshing aspects of Professor Jennifer Henderson's account of litigation by the Jehovah's Witnesses to protect both their religious freedom and their freedom of speech is the demonstration of how the press — the primary channel of news about the courts for the people — can miss important rulings that later become a mainstay of our constitutional freedoms.

Mrs. Alma Lovell was arrested and later convicted in 1936 in Recorders Court in Griffin, Georgia. She was sentenced to 50 days in jail for refusing to pay a $50 fine, for distributing Jehovah's Witnesses publications without first getting permission from the City Manager, as required by a city ordinance. Outside of the members of the religious sect, and a few officials in the Georgia town, it is doubtful that anyone else really cared what happened to Mrs. Lovell. Two years later the Supreme Court of the United States in an 8 to 0 ruling overturned the conviction, ruling that the ordinance requiring prior permission before literature could

be distributed was a violation of the First Amendment's guarantee of freedom of speech that was applicable to the states through the Fourteenth Amendment. While the decision was duly and briefly reported in some publications, the mainstream press largely ignored it. The petitioner was, after all, a member of a rather obscure (and some thought), confrontational and disagreeable religious sect. Yet today, in virtually every case in which a newspaper or magazine challenges an ordinance which limits the right to distribute a publication on a street corner, in a news rack, at an airport, etc., the ruling in *Lovell v. Griffin* is cited as one of the leading precedents against the constitutionality of such a regulation. The press has warmly adopted it. There is no question that the term "landmark decision" is grossly overused in modern America; but *Lovell v. Griffin* is truly a landmark ruling, one that affects the lives of tens of millions American beyond the austere ranks of the Witnesses and other door-to-door religious vagabonds. It just took the Fourth Estate several years to figure that out.

The Witnesses litigated 19 cases involving distribution of literature before the Supreme Court of the United States between 1938 and 1953. At first glance it would appear that these cases were the quixotic efforts of a pugnacious religious sect, tilting at legal windmills. But as the author explains, this was a well-planned, well-financed, and extremely well executed assault on regulations that limited the Witnesses from undertaking some of the basic tenets of their faith, such as proselytizing uninitiated members of the community. And without the efforts of attorney Hayden Cooper Covington, the focus of this book, it is doubtful that the litigation would have been so successful.

Covington never aspired to or attained the fame of Walter Pollak or other lawyers who litigated important First Amendment cases before the Supreme Court in the first half of the 20th Century. He served as chief legal counsel for the Watchtower Bible and Tract Society (the Witnesses) for 24 years from 1939 to1963 and argued all but two of the literature distribution and permit cases before the high court. The constitutional issue closest to his heart was surely religious freedom for members of this small sect. But he built his legal arguments around constitutional guarantees of freedom of expression because the high court had yet to

firmly rule that freedom of religion was protected from state action under the First Amendment by the due process clause of the 14th Amendment. (This would not occur until the 1940s.) Working with a legal team, Covington constructed his case around four legal points, including the argument that distribution must be protected for freedom of expression to be a meaningful right, and that the power of local government officials with vast discretionary power to control distribution must be curbed.

Prof. Henderson's book demonstrates several other key points about the growth and importance of constitutional law. In our system of justice, courts play a passive role until an issue is brought before them. It is not necessarily the importance of the issue, or even the obvious need for resolution of the issue that brings it to the court's attention. It is whether someone or some organization is willing to take the time and spend the money to get the matter before the court. And success in this litigation usually depends upon how well the litigants are prepared, and how well the case is argued, not some theoretical notion of what outcome might be right or wrong. Without a Hayden Covington, and a tenacious religious sect like the Witnesses, a basic First Amendment value we now take for granted (the right to freely distribute materials without first gaining government permission) might never have accrued to the press (and the people) when it did. Prof. Henderson's account of this legal struggle is both lucid and eye opening.

Don R. Pember
Professor Emeritus of Mass Communication Law
Seattle, Washington

INTRODUCTION

The minorities whose civil rights are threatened are always small and, to many, obnoxious. They may or may not be unworthy. Yet their treatment is the test, and will always be the test, of the sincerity with which we cling to the Bill of Rights.

— *The New York Times* Editorial Board [1]

On Palm Sunday, 1938, Newton Cantwell and his two sons Jesse and Russell were going from door-to-door preaching the gospel as was their mission. The Cantwells were members of the Watchtower Bible and Tract Society, more commonly known as the Jehovah's Witnesses. Each carried a bag that contained books, pamphlets, a phonograph and records. Each record provided a description of a book that could be obtained for a small contribution to the Watchtower. At each house, the Cantwells asked the homeowner if they were willing to listen to the records. If given permission, the phonograph was assembled, the record was played, and the homeowner was asked if he or she wished to purchase the accompanying book. Homeowners who were not interested in buying the book were then asked if they would like to purchase less expensive pamphlets or a subscription to one of the Watchtower's many magazines. If the homeowner appeared uninterested in providing a contribution for the books, pamphlets or magazines, the Cantwells could choose to leave one

---

[1] "A Test of Freedom," *The New York Times*, 10 June 1942: 20.

or more of the publications at no cost, or move on to continue their work at the next house.

Neither Newton Cantwell nor his sons applied for a permit to carry out their work in New Haven, Connecticut, this Sunday although a state statute made it unlawful for anyone to "solicit money, services, subscriptions or any valuable thing for any alleged religious, charitable or philanthropic cause."[2] The Cantwells had been told by zone servants, members appointed by the Watchtower to oversee a geographical region, never to apply for a permit because it would be "an insult to the Almighty" and an "act of disobedience to God."[3]

On this Palm Sunday, the Cantwells were proselytizing on Cassius Street in New Haven, a neighborhood that was 90 percent Catholic. On one street corner Jesse, the 16-year-old son of Newton Cantwell, played a record to two pedestrians who had given him permission. The record described the book, Enemies, written by the president of the Watchtower Bible and Tract Society, "Judge" Joseph Rutherford, and included an attack on the Roman Catholic Church. The two men, both Catholics, then suggested Newton Cantwell and his sons leave town "if they wanted to keep their skins intact."[4] Mr. Cantwell and his sons promptly packed up their materials and left the street corner to avoid any possible violence.

For this run-in, the Cantwells were arrested for violating state solicitation and breach of peace ordinances. The Cantwells were not afraid of their legal situation, however, although none of them had been arrested prior to this time. Each was sure that the Watchtower Bible and Tract Society legal department had thought of everything they would need. They had already been issued identification cards to carry while canvassing, which each showed to the arresting officer along with their slightly tattered copies of a document titled, "Liberty to Preach" that outlined their right to proselytize door-to-door. They had been given the names of local

---

[2] *Cantwell v. Connecticut*, 310 U.S. 296 (1940): 301-302.

[3] *Largent v. Texas*, 318 U.S. 418 (1943): 11.

[4] Stanley High, "Armageddon, Inc.," *The Saturday Evening Post* 14 September 1940: 58.

attorneys sympathetic to the Witnesses' cause and instructed in trial and appeal procedures. They were prepared to test the laws of New Haven, ready to "legally defend and establish the good news."[5]

The story of the Cantwells was played out over and over again, in cities and towns and farming communities by hundreds of Witnesses prepared to challenge local ordinances that hindered the door-to-door distribution of literature and the use of public spaces to spread the Word of God. Their stories are the outcome of a comprehensive legal plan developed by the Watchtower Bible and Tract Society in the late 1930s. This plan, used to combat ordinances they found to be unconstitutional infringements of free speech, press, assembly and exercise of religion, led to 19 Supreme Court cases between 1938 and 1953. Of these 19 First Amendment cases, the Jehovah's Witnesses secured victories in 14.

When the Witnesses' legal plan was initially conceived in the mid-1930s, the country was moving from the Great Depression to an economic and social revolution brought about by the New Deal. The federal government was intervening in economic stabilization, agricultural support, and social welfare policy to a much greater extent than it had in the past. For the first time, the federal government was now employer and insurer of many in the nation. Old institutions had been discredited, and new ones not yet embraced. Historian Arthur Schlesinger Jr. wrote of the state of mind of American citizens at the midpoint of the 1930s: "[T]he combination of the two shocks — the swift passage from black discouragement [The Great Depression] to exaggerated optimism [The New Deal], left many people excited and vulnerable."[6]

Enter Jehovah's Witnesses, a small religious sect that aggravated most citizens. Witnesses fervently and loudly criticized organized religions,

---

[5] Hayden Covington coined this phrase early in the Watchtower legal campaign, and it later became the title of a booklet outlining details of the Witnesses' legal plan and summaries of Supreme Court decisions on the literature distribution and permit cases.

[6] Arthur M. Schlesinger Jr., *Age of Roosevelt: The Politics of Upheaval* (Boston: Houghton Mifflin Co., 1960) 15.

calling them "a racket and a snare."[7] At a time when "organized religion played a distinguishable and significant part in the everyday lives of most Americans,"[8] an attack on organized religion was an attack on the masses, not the minority. This criticism was leveled most often at the Roman Catholic Church, with Judge Joseph F. Rutherford, president of the Watchtower Bible and Tract Society, saying it "carries on a racket in the name of Christ, and is the great enemy of God and of the people."[9]

Witnesses took their beliefs to houses and street corners all over the country, morning, noon and night. They were frequent visitors to the community, and always persistent. While the Witnesses were annoying, especially when they interrupted Sunday dinner with their message of eternal destruction, most citizens in the 1930s regarded the Jehovah's Witnesses as annoying but harmless. Until they refused to salute the flag. Then Jehovah's Witnesses were labeled "communists," "fascists," and "fifth columnists," secret underground Nazi spies.[10] "To say that they are subversive and a most pernicious menace to the American way of life is a magnificent understatement," wrote H.C. McGinnis in the Catholic-backed America magazine in 1941.[11]

By the time the Watchtower legal plan was in full swing in the early 1940s, Americans were facing the dual threat of fascism from Europe and

---

[7] The phrase "religion is a racket and a snare" first appeared at a Watchtower Bible and Tract Society convention in London in 1938 when it was printed on banners for that gathering. Judge Rutherford, the Watchtower leader, explained three years later that "banners containing the slogan were widely displayed throughout England to the great dismay of the religionists, and which slogan maddened the religionists." Joseph F. Rutherford, "Drama of Vengeance," *The Watchtower* 1 January 1941: 8.

[8] Harvey Green, *The Uncertainty of Everyday Life 1915-1945* (New York: Harper Collins Publishers, 1992).

[9] McGinnis, 512.

[10] These labels were commonly used to disparage those outside of the mainstream during the years of World War II. For example, see: John Haynes Holmes, "The Case of Jehovah's Witnesses," *The Christian Century* 17 July 1940: 896. They had little applicability to the Witnesses, however, as the Germans sent more than 6,000 to concentration camps between 1938 and 1945. For a more comprehensive discussion of Witnesses in German prison camps, see: James A. Beckford, *The Trumpet of Prophecy: A Sociological Book of the Jehovah's Witnesses* (New York: Wiley and Sons, 1975).

[11] H.C. McGinnis, "Russell, Then Rutherford, Spawn Jehovah's Witnesses," *America* 8 February 1941: 481.

military intervention from Japan. When Jehovah's Witnesses also refused to participate in any war overseen by secular governments during a time when everyone was sending sons and brothers to war, the country was outraged. "For conscientious cussedness on the grand scale," wrote journalist Stanley High in The Saturday Evening Post, "no other aggregation of Americans is a match for Jehovah's Witnesses. Defiance of what others cherish and revere is their daily meat. They hate all religions — and say so from the housetops. They hate all government with an enthusiasm that is equally unconcealed."[12] Newspaper and magazine accounts of the early 1940s portrayed Witnesses as "freakish,"[13] "Bible-dizzy,"[14] "a particularly odious and fanatical sect,"[15] and "pretty trying zealots."[16]

The Jehovah's Witnesses' unending door-to-door campaign of literature distribution, coupled with their refusal to salute the American flag or participate in wartime activities, led to hundreds of acts of vigilante violence directed against sect members. In June of 1941, the American Civil Liberties Union reported that "by far the most numerous attacks on civil liberties of any single minority were directed at Jehovah's Witnesses."[17] For example, in Kennebunk, Maine, the Kingdom Hall, a Jehovah's Witnesses' "church" was burned to the ground; in Litchfield, Illinois, 60 Witnesses were driven from their canvassing by the whole of the town's population; in West Virginia, Witnesses were forced to drink castor oil and were paraded through the town tied together; and in Nebraska, a Witness was taken from his home and castrated.[18] Between May and October of 1940, the ACLU documented 1,488 cases of violence

---

[12] High, 18.

[13] "Ominous Decision," *Time* 22 June 1942: 55.

[14] "Witnesses in Trouble," *Time* 24 June 1940: 54.

[15] "Civil Liberty Endangered," *The Christian Century* 24 June 1942: 798.

[16] Raymond Moley, "The Boot Is on the Other Leg," *Newsweek* 29 June 1942: 68.

[17] American Civil Liberties Union, *Liberty's National Emergency: The Story of Civil Liberty in the Crisis Year 1940-1941* (New York: American Civil Liberties Union, June 1941) 27.

[18] Barbara Grizzuti Harrison, *Visions of Glory: A History and a Memory of Jehovah's Witnesses* (New York: Simon and Schuster, 1978) 190.

against Jehovah's Witnesses. This staggering amount of violence led the ACLU to conclude: "Jehovah's Witnesses have been subjected to a religious persecution unmatched in our history as a nation save for the violence years ago against the Mormons."[19]

Amid this fervor, the federal government stepped in to calm tensions. On June 16, 1940, the Justice Department dedicated its monthly radio address to the escalating anti-Witness violence. "Jehovah's Witnesses have been repeatedly set upon and beaten," reported a Justice Department spokesman. "The Attorney General has ordered an immediate investigation of these charges. The people must be alert and watchful, and above all cool and sane."[20] President Franklin D. Roosevelt reiterated this concern for free expression and religion in a September 1941 question and answer session where he articulated what he believed to be "the four freedoms." Roosevelt explained that the "freedom of information" was important so "inhabitants of a country can get news of what is going on in every part of the world," and "freedom of religion" was also important. "Freedom of religion," Roosevelt concluded, "has always — not always but almost all the time been fairly well maintained" in democracies, and this must continue.[21] While the call for calm by government officials quieted some citizens, violence against the Witnesses continued unabated until the bombing of Pearl Harbor, Hawaii, in December of 1941 when suddenly Jehovah's Witnesses were no longer the primary target of Americans' fear and aggression.

In 1942, even more protection was granted to Jehovah's Witnesses when the Supreme Court of the United States concluded they had been wrong in voting for a forced flag salute in public schools two years

---

[19] American Civil Liberties Union, *Jehovah's Witnesses and the War* (New York: American Civil Liberties Union, January 1943) 2.

[20] Francis Biddle, *In Brief Authority* (Garden City, NY: Doubleday & Co., Inc., 1962) 115.

[21] Franklin D. Roosevelt and Winston Churchill, "The Atlantic Charter. Official Statement on Meeting Between the President and Prime Minister Churchill. August 14, 1941," *The Public Papers and Addresses of Franklin D. Roosevelt*, 1941 Volume (New York: Harper Brothers, 1950) 314-315.

earlier.[22] By 1943, the ACLU could report that "the public attitude has…become more tolerant" toward Jehovah's Witnesses. "It is remarkable," the ACLU staff concluded, "that a quarter of a million zealous propagandists, scattered all over the country should have been accorded in wartime even greater rights than in time of peace."[23]

The Witnesses' legal plan survived the campaign of hate against them. It was, in fact, strengthened by these acts of vigilante violence. As Jehovah's Witnesses believed they would be tested on earth to earn life everlasting, violence against them was seen as a confirmation of their beliefs rather than a condemnation of them. This caused Witnesses to be ever more vigilant in their work, which in turn, produced ever more arrests, trials and appeals. In the end, the years of World War II were a boom time for the Jehovah's Witnesses. Not only did violence against them abate, but they also piled success upon success in the United States Supreme Court.

By the time Witnesses had secured their final victories in literature distribution and permit cases in 1953, the country had all but forgotten about this sect they found so offensive and threatening just 15 years before. Communists were now the target of political hate and Witnesses faced little more than slamming doors in retaliation for their efforts.

While legal scholars have uniformly noted the constitutional importance of the Witnesses' decisions in the distribution and permit cases, they have also uniformly ignored the Witnesses' systematic plan to reach the Supreme Court with these cases. In most research, scholars have dismissed the Witnesses' cases as mere unintended consequences of fanatical preaching. Lawyer Louis B. Boudin explained in 1944 that the "civil liberties cases are usually the outgrowth of temporary excitement."[24] Witnesses, he would have us believe, simply got caught up in the

---

[22] See the dissenting opinion of Justices Hugo L. Black, William O. Douglas and Frank Murphy in *Jones v. City of Opelika*, 316 U.S. 584: (1942).

[23] American Civil Liberties Union, *Freedom in Wartime* (New York: American Civil Liberties Union, 1943) 43-44.

[24] Louis B. Boudin, "Freedom of Thought and Religious Liberty Under the Constitution," *Lawyers Guild Review* June 1944: 9.

excitement of the moment. Professor Frank J. Sorauf extended this argument to all religious groups, noting that none have implemented a comprehensive strategy for advancing legal questions. Cases involving issues of church and state arise merely to solve a dispute at hand, he argued, not to advance a more extensive plan or philosophy. There has been "no great master plan for litigating church-state issues," he wrote. "The increment in strategic effectiveness that groups have brought to the litigation of church-state issues has the flavor of the ad hoc. Theirs is often short-range or short-term strategy, frequently a strategy that sees no further than the case at hand."[25] Law professor William Shepard McAninch echoed this sentiment 10 years later when he wrote, "It bears repeating that there is nothing to indicate that the Witnesses have ever been interested in law reform per se.... They have simply lived their lives according to the dictates of their own religious beliefs, but in doing so have found themselves at odds with the rest of society."[26]

While these scholars all espoused a common view of the Jehovah's Witnesses and civil liberties litigants more generally, they were in the main, wrong. These scholars, like others before and since, have perpetuated a continuing myth in the study of First Amendment law — that of the unwitting litigant.

The Watchtower Bible and Tract Society legal plan developed in an atmosphere of increasing litigation among groups and organizations. As early as the 1910s, organizations such as the National Consumers' League developed a legal plan to support protective labor legislation.[27] The American Civil Liberties Union (ACLU) picked up this strategy during the 1920s, when it attempted to generate test cases on various civil liberties issues. What it found lacking was control of the litigants, many who did

---

[25] Frank J. Sorauf, *The Wall of Separation: The Constitutional Politics of Church and State* (Princeton, NJ: Princeton University Press, 1976) 91.

[26] William Shepard McAninch, "A Catalyst for the Evolution of Constitutional Law: Jehovah's Witnesses in the Supreme Court," *University of Cincinnati Law Review* (1987) 1076.

[27] Clement Vose, "Litigation as a Form of Pressure Group Activity," *The Annals of the American Academy* September 1958: 25.

not want to follow the ACLU lead from arrest to appeal.[28] Instead of instigating trouble, the ACLU instead developed a strategy of coming to the assistance of those already in trouble. The ACLU litigation guide explained, "The ACLU cannot take every case where there is a civil liberties question being raised. Rather, it should direct its efforts to cases which have some reasonable promise of having a broad impact on other cases."[29]

In 1934, the National Lawyer's Committee of the American Liberty League, a group of conservative businessmen opposed to economic reforms, joined together to challenge New Deal legislation in court. A year later, the National Association for the Advancement of Colored People (NAACP) began a plan to "secure decisions, rulings and public opinion on the broad principle" of accepting African-Americans in the mainstream of society.[30] By 1938, the NAACP created the Legal Defense and Education Fund to incorporate litigation into its mission, and hired Thurgood Marshall, later a Supreme Court Justice, to lead its staff.[31] The NAACP's first nationwide legal plan began in earnest in 1945 when attorneys met to devise a strategy to combat unfair housing laws. While the NAACP lawyers did not mention the Jehovah's Witnesses in this strategy session, it is clear the Witnesses' very successful challenge to local ordinances was a blueprint for their own organizational litigation.[32]

Like these other active civil liberties organizations, the Jehovah's Witnesses do not fit neatly into the historical myth of unwitting litigant. In fact, the Jehovah's Witnesses planned and implemented the most far-reaching plan for civil liberties litigation in the history of the First Amendment. To accomplish their plan, Witnesses employed a legal tactic

---

[28] David R. Manwaring, *Render Unto Caesar: The Flag Salute Controversy*, (Chicago: University of Chicago Press, 1962) 34.

[29] American Civil Liberties Union, *Guide for ACLU Litigation*, mimeographed paper (New York: American Civil Liberties Union, March 1970) in Sorauf 93.

[30] Vose, "Litigation as a Form of Pressure Group Activity" 23.

[31] Vose, "Litigation as a Form of Pressure Group Activity" 23.

[32] Vose, *Caucasians Only* 25.

now termed "vigilant," "disciplined" or "planned" litigation.[33] They neither stumbled nor fell into these cases. The cases were not chosen on an ad hoc basis, nor were they appealed to higher courts through accident, whim or chance. The Watchtower Bible and Tract Society had a comprehensive plan that outlined each step in the process of litigation, from preparation, proselytizing and arrest to trial and appeal.

The primary creator and executor of this plan was Hayden Cooper Covington, a brilliant Texas lawyer who joined the Watchtower staff in 1939. Covington, with the full support of Watchtower President Judge Joseph Rutherford, masterminded a plan to eliminate local ordinances that kept Witnesses from participating in their daily house-to-house canvassing and Sunday information meetings in local parks. Under Covington's guidance, thousands of Witnesses were arrested for violating these local ordinances and more than 190 of their cases were appealed to higher courts.[34] Never before and never since has one single organization, under the guidance of one man, brought forth a nationwide First Amendment litigation strategy that ended in such success in the Supreme Court of the United States. Never before has one organization so shaped the interpretation of the First Amendment.

While many people assume First Amendment Supreme Court cases have always been brought by well-funded businesses, the history of the First Amendment is really the story of the "little guy." First Amendment litigation in the first half of the 20th Century was overwhelming instigated by "outsiders" — odd, arrogant, or overzealous groups or citizens who came to challenge the laws of free speech and press. First Amendment cases involving religious organizations arose from small sects on the

---

[33] "Disciplined" and "vigilant" litigation describes the systematic planning and implementation of a long term legal strategy to bring forth cases that rectify or clarify an issue or cause. The term was introduced in 1999 by political scientists Pauline Côté and James T. Richardson. For additional information, see: Pauline Côté and James T. Richardson, "Disciplined Litigation, Vigilant Litigation, and Deformation: Dramatic Organization Change in Jehovah's Witnesses," *Journal for the Scientific Book of Religion* 40:1 (1999): 11-25.

[34] Marley Cole, *Jehovah's Witnesses: The New World Society* (New York: Vantage Press, 1955) 113.

fringes of society rather those in the mainstream. Legal historian Leo Pfeffer explained, "It is often the less conventional faiths, those with few or even a single adherent, which clash with Caesar and appeal to the Supreme Court for the vindication of their rights."[35] While in recent years, the courts have been swamped with mainstream corporations protecting and expanding their rights, the foundation of the First Amendment was built by insignificant players who took significant risks to challenge the boundaries of free expression. At its heart, this book examines how a small religious sect orchestrated a concerted effort to broaden First Amendment protections. Their efforts led to unprecedented success in the area of First Amendment litigation and a reshaping of mass media law.

This book is patterned after historian Clement Vose's 1959 work, Caucasians Only.[36] In his book, Vose detailed the legal plan implemented by the National Association for the Advancement of Colored People (NAACP) to fight restrictive covenant ordinances that kept Blacks from living in what were then solely White neighborhoods. Clement Vose was the first scholar to thoroughly examine an organization involved in Supreme Court litigation as well as the first scholar to analyze a deliberate plan to change the law. His book provides an important outline for the discussion of the Jehovah's Witnesses' plan to change the protections of the First Amendment.

This book focuses only on the legal plan to overturn local ordinances that hindered the free speech and free distribution of literature by Jehovah's Witnesses. It does not address other important Jehovah's Witnesses' legal battles such as the flag salute cases, those involving conscientious objection from military service, or blood transfusions. The literature distribution and permit cases that stem from the Witnesses' legal plan were chosen for examination because they are the First Amendment cases that most directly impacted broader legal considerations in organizational litigation and media law. These 19 cases, at their core, were about free speech and press.

---

[35] Leo Pfeffer, *God, Caesar and the Constitution* (Boston: Beacon Press, 1975) 13.
[36] Vose, *Caucasians Only.*

This book is about the advancement of speech and press protections by a religious organization. It is not about religion, per se. Therefore, the history of church-state relations in the United States is left to other scholars, as is the Witnesses' place in this history.[37] While the Jehovah's Witnesses clearly came into conflict with local governments over ordinances that restricted what they considered to be religious rites, the door-to-door distribution of literature and the convening of Bible study meetings in public parks, their conflict was not about government restrictions of their beliefs, but rather, government restrictions of their expression. Religion was not the focus of the literature distribution and permit cases, and therefore, is not the focus of this book.[38]

This research is limited to an examination of the 19 literature distribution and permit cases that reached the Supreme Court for decision between 1938 and 1953. The Supreme Court cases were chosen for study because decisions in these cases established the precedents on which many other important First Amendment cases rest. The time period was chosen simply because all of the literature distribution and permit cases fall within this window.[39]

This book does not attempt to explain in detail the litigants or decisions of the 19 literature distribution and permit cases. Instead, its focus is on how and why a plan to bring about these cases was devised, implemented and ultimately successful. This is primarily a story about process, a process that changed modern day interpretations of the First Amendment.

---

[37] Excellent research has been conducted in the area of church-state relations. Of this collection, Anson Phelps Stokes' three-volume *Church and State in the United States* (New York: Harper & Brothers, 1950) is the most comprehensive account of the history of church-state relations from the founding of the nation until the mid-1940s.

[38] It is important to note that this book and its author have no connection to the Watchtower Bible and Tract Society. Any support for the organization arises from a respect for their lengthy battle to secure First Amendment protection, not the religious principles which led to those battles.

[39] The exception is *Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton*, 122 S. Ct. 392 (2002), the first 21st Century case to revisit issues of literature distribution.

The book is arranged into five chapters. Chapter 1 contains a detailed history of the Jehovah's Witnesses, offering a foundation upon which the other four chapters are built. Examining the Jehovah's Witnesses beliefs and practices is essential in understanding why the Witnesses repeatedly came into conflict with local literature distribution and permit ordinances as well as local law enforcement and citizens' groups. Uncovering the personalities behind the leadership at the Watchtower Bible and Tract Society reveals why the law was used as a weapon to advance the Witnesses' religious cause. Finally, a history of the Watchtower Bible and Tract Society's organizational structure sheds light on how and why this litigation strategy succeeded for the Witnesses.

Chapter 2 provides an overview of the life of the chief architect of the Watchtower legal plan — Hayden Cooper Covington. Covington served as the chief legal counsel for the Watchtower Bible and Tract Society for 24 years, from 1939 to 1963. He argued all but two of the literature distribution and permit cases before the Supreme Court of the United States. A review of Covington's life before joining the Watchtower offers insight into how his plan to confront authority developed. An examination of Covington's life during his tenure at Watchtower headquarters provides a better understanding of the organization, coordination and time spent on developing a comprehensive legal plan to challenge First Amendment violations.

Chapter 3 outlines Covington's plan to "defend and legally establish the good news."[40] Hayden Covington and the Watchtower legal staff systematically devised and implemented a plan to challenge local ordinances that infringed on the Witnesses' proselytizing activities. The Watchtower Bible and Tract Society's legal plan included the distribution of identification cards to all Witnesses ordaining them as ministers of Jehovah God and making "official" religious acts of their door-to-door visits. Members were issued instructions on how to prepare for violence, arrest, trial, appeal and jail time. The plan detailed where Witnesses could

---

[40] Hayden Covington, *Defending and Legally Establishing the Good News* (New York: Watchtower Bible and Tract Society, 1950).

seek sympathetic attorneys for defense and suggestions for obtaining bail. Witnesses were supplied letters of intent to distribute literature as well as summaries of Supreme Court decisions to present to local law enforcement in hopes of decreasing vigilante violence against the sect. In all, this chapter details the most sweeping and successful legal plan in the history of First Amendment litigation.

Chapter 4 addresses the 19 literature distribution and permit cases that arose out of the Watchtower legal plan to reach the Supreme Court between 1938 and 1953. This chapter serves two functions. First, it details the four basic legal arguments set forth by the Watchtower legal team. Second, it discusses the specifics of each of the 19 cases, describing how those arguments were used in pursuit of victories in the Supreme Court, as well as how the Supreme Court ruled in each case. The goal of the chapter is to describe the outcome of the Watchtower legal plan.

Finally, Chapter 5 explains how Covington's plan was unique, detailed, comprehensive and widespread — the only coordinated campaign of its kind in First Amendment litigation. Chapter 5 also details how these 19 literature distribution and permit cases influenced contemporary mass media law, the whole of First Amendment law, and minority group litigation in the Supreme Court.

In the end, this book seeks to leave the reader with a new understanding of First Amendment litigants and the litigation process. The myth of the hapless litigant, so long preserved by legal scholars, will finally be laid to rest. In its place will be a more accurate representation of some of the First Amendment litigants — creative, patient, organized, successful, and planning, always planning, for the next test case.

Chapter 1

THE JEHOVAH'S WITNESSES

Jehovah's Witnesses have a religion, and they take it seriously. Now, there is nothing more inconvenient, irritating, outrageous than to have in the community a group of people who actually believe their religion, and propose that other people shall believe it as well.

— John Haynes Holmes [1]4

In 1872 Charles Taze Russell founded an apocalyptic Christian sect in Philadelphia, Pennsylvania. Known originally as "the Russellites," those who followed Pastor Russell's teaching would later be known as the Jehovah's Witnesses. From the time of the organization's inception until his death in 1916, Pastor Russell was viewed as a master at spreading the word of Christ's return to earth. Sociologist Royston Pike noted that, "his followers hailed Russell as the greatest and most successful preacher of the Gospel in his generation."[42]

Using dates set forth in the Bible, Russell predicted the Second Coming would occur in 1874 and the Kingdom on earth would follow in 1914. When 1914 came and went with no sign of Christ on earth, membership in the Society decreased dramatically. Russell explained the Scriptures could not be inaccurate, so the Second Coming must have

---

[41] John Haynes Holmes, "The Case of Jehovah's Witnesses, *The Christian Century*, 17 July 1940, 897.

[42] Royston Pike, *Jehovah's Witnesses: Who They Are, What They Teach, What They Do* (New York: Philosophical Library, 1954) 14.

occurred without notice, an invisible Advent. Armageddon would still take place, he predicted, only now it would happen "during the lifetime of the youngest generation alive in 1914."[43] Pastor Russell died unexpectedly in 1916 during a whistle-stop tour of Texas and subsequently never saw his prophesized Armageddon.

Following Russell's untimely death, "Judge" Joseph Franklin Rutherford, Russell's former legal counsel, stepped in to fill the void. An outspoken lawyer from Missouri, Rutherford projected his personality onto the sect, promoting a more aggressive ministry. Rutherford encouraged his flock to "advertise, advertise, advertise" the Kingdom,[44] informing the masses that "millions now living will never die."[45] As part of his advertising campaign, which included billboards and radio broadcasts,[46] Rutherford renamed members of the Society, "Jehovah's Witnesses," to better reflect their mission. Members of the Society were not merely Bible Students, as they had been previously called, they were now witnesses to the truth — Jehovah's Witnesses.

His push for increased neighborhood solicitation and radio broadcasts led to an increased awareness of and reaction to the sect's practices. Under Rutherford's new policy of all-out in-your-face preaching, Witnesses faced violent mob attacks, charges of trespassing, invasion of privacy, sedition and disloyalty. They also dramatically increased their visibility as an organization. While it is fair to say few knew of the Witnesses when Rutherford took over in 1916, by the time of Rutherford's death in 1942, Jehovah's Witnesses were a household name, although not always positively spoken.

In addition to Rutherford's plan to increase awareness of the Witnesses and their practices, he also moved to centralize power in the

---

[43] Richard Harris, "I'd Like to Talk to You for a Minute," *The New Yorker* 16 June 1956: 84.

[44] Harris, 84.

[45] Harrison, *Visions of Glory,* 190.

[46] Jerry Bergman, "Introduction: The Challenge to Religious Freedom Introduction to Rutherford's Works," in *Jehovah's Witnesses I: The Early Writings of J.F. Rutherford*, Melton Ed. (New York: Garland Publishing, 1990).

organization. While Pastor Russell began the movement away from congregational control and toward centralized authority, it was under Rutherford's reign that this transformation was completed. All decisions regarding the Witnesses would be made from Bethel House, the Watchtower headquarters in Brooklyn, New York. In a June 15, 1938 issue of The Watchtower, Rutherford formally admonished congregations to relinquish their power to the Society.[47] For the first time, the leadership required "publishing," door-to-door proselytizing and literature distribution, as a "condition of membership in the sect."[48] Under Rutherford's control, Jehovah's Witnesses members were required to "'report' to the Watch Tower Society the number of hours spent in preaching and the amount of literature distributed."[49]

Rutherford was the most charismatic and controversial of all the Watchtower leaders. He wore expensive clothes, traveled in luxury, and resided in plush accommodations. Rutherford admonished his directors, "when you travel, travel first class" because, as Covington remembered him saying, "the laborer is worthy of his hire."[50] One reporter commented that Rutherford wore "stand-up collars of the Champ Clark era, black string blow ties, and a long black ribbon for his glasses." "In fact," he noted, Rutherford looked "more like a senator than most senators."[51]

Rutherford was also known for his short temper and predilection for alcohol. Olin R. Moyle, the Witnesses' legal counsel prior to Hayden Covington, accused Rutherford of "frequent scolding and upbraidings of the workers at Bethel House," the Watchtower headquarters in Brooklyn, New York.[52] Rutherford's successor, Nathan Homer Knorr, also

---

[47] Timothy White, *A People For His Name: The Jehovah's Witnesses and an Evaluation* (New York: Vantage Press, 1967) 301.

[48] Melvin D. Curry, *Jehovah's Witnesses: The Millenarian World of the Watch Tower* (New York: Garland Publishing, Inc., 1992) 57.

[49] Curry, 57.

[50] Jerry Murray, *Interview with Watchtower Lawyer Hayden Covington*, Tape recording, 19 November 1978

[51] High, 52.

[52] Herbert Hewitt Stroup, *The Jehovah's Witnesses*, (New York: Columbia University Press, 1945).

complained of being "trimmed" and "given a public tongue" by the Watchtower leader.[53] Jehovah's Witnesses scholar Jerry Bergman wrote that Rutherford "had a violent temper and could be exceedingly vengeful toward those who did not obey his whims. He saw himself as God's messenger, having authority without fear."[54] Even Covington, who was "very, very close" to the "Judge", said Rutherford could "fly off the handle," but concluded this was a human weakness rather than a character flaw.[55]

Hayden Covington, Fred Franz and Nathan Knorr were Rutherford's three most trusted advisers among the Bethel House staff. Covington was his legal counsel, Franz his biblical scholar, and Knorr his business manager. Two of these men, Knorr and Franz, would later become presidents of the Watchtower, and Covington would go on to win 36 cases in the United States Supreme Court in the name of Jehovah.

The three men traveled from Brooklyn to San Diego upon Rutherford's request in 1942. He was dying of colon cancer and wanted their counsel one last time. At their last meeting, Rutherford asked the three to "stick together." Covington replied, "We'll fight them together till hell freezes over."[56]

Upon "Judge" Rutherford's death, the position of president of the Watchtower Bible and Tract Society fell to Nathan Knorr. Previously the general manger and director of the Watchtower's Brooklyn printing plant, Knorr became vice president two years before his succession to the presidency of the organization.[57] Knorr was more business-oriented, less charismatic and much less eloquent than either of his predecessors. He was, therefore, committed to advancing "loyalty to the organization" over

---

[53] M. James Penton, *Apocalypse Delayed: The Story of the Jehovah's Witnesses*, 2nd Ed. (Toronto: University of Toronto Press, 1997) 89.

[54] Jerry Bergman, *A Comprehensive and Selectively Annotated Bibliography* (Westport, CT: Greenwood Press, 1999) 9.

[55] Murray, *Interview with Covington.*

[56] Murray, *Interview with Covington*.

[57] Bergman, *Annotated Bibliography* 21.

that of "any personality."[58] Above all else, Knorr wanted to restore a sense of respectability to the Watchtower Bible and Tract Society, one he thought had been lost in large part to Rutherford's aggressive tactics.[59]

As Knorr had "little if any ability as a writer,"[60] he turned over the writing functions to other staff members, primarily Franz. Simultaneously, Knorr also removed all trace of personal authorship from Watchtower Publications to cover up his lack of skill with the written word. From then on, the Watchtower Bible and Tract Society would be sole author of all materials published in its printing houses.

During the Knorr presidency, the Watchtower Bible and Tract Society reflected his skill and interest in business matters. For example, during his tenure "profit margins on publications" rose "as high as 500 percent."[61] Although Knorr was clearly more interested in business matters than intellectual ones, he "stressed theocratic education" during his time as president. As part of the educational mission of the Society, Knorr established the first official training school for Witnesses in 1943. The Gilead School, still in existence today, was developed primarily as a "training place for elders."[62]

Under Knorr's leadership, Watchtower membership also increased dramatically at a rate of about "400 percent a decade." In 1942, Witnesses numbered about 115,000 worldwide; by 1953 that number had risen to more than 500,000.[63] To build a larger membership base as well as reinvigorate practicing Witnesses, Knorr began semi-annual circuit conventions in 1946 and in 1948 added annual district conventions to supplement the very popular national conventions.[64]

---

[58] Merlin Owen Newton, *Armed with the Constitution: Jehovah's Witnesses in Alabama and the U.S. Supreme Court, 1939-1946* (Tuscaloosa: University of Alabama Press, 1995) 81.

[59] Jerry Bergman, interview with author, 18 May 2002, tape recording, Montpelier, Ohio.

[60] Penton, 78.

[61] Randall Watters, *Thus Saith Jehovah's Witnesses*, (Manhattan Beach, CA: Free Minds, Inc., 2002).

[62] Bergman, *Annotated Bibliography* 22.

[63] Cole, 212.

[64] Penton, 83.

Hayden Covington, Rutherford's chief legal counsel, became Knorr's vice-president in 1942. The two men, although promising Rutherford on his deathbed they would "stick together," did not get along. Covington believed the presidency should have been his as "99 percent of the votes for president" were cast in his favor.[65] Jehovah's Witnesses scholar M. James Penton wrote that Covington and Knorr "frequently clashed over various issues and developed a deep sense of resentment towards one another." Their disagreements were "public knowledge among Jehovah's Witnesses who knew both at the Brooklyn Bethel, although there is, of course, no public documentation of it."[66]

Upon Knorr's death in 1977, Frederick Franz, the Society's most well known biblical scholar and Knorr's close friend, took control of the Watchtower operations as its president. For more than 50 years, Franz had been the "driving intellectual force behind the Society."[67] Franz was described as a "first-class scholar" with a "photographic memory," and "fluent in six languages."[68]

Franz was, by far, the least controversial of the Witnesses' presidents. Never married, Franz led a life of scholarship, reflection and study. Unlike his predecessors, Franz's personality and work habits did not alienate the directors or members of the Society. Franz was said to be "respected by both friend and foe." He died a respected elder in the Watchtower in 1992 at the age of 99. [69]

The fifth and current president of the Watchtower Bible and Tract Society is Milton G. Henschel. Henschel is a third-generation Witness who began preaching door-to-door at the age of 14. Under Henschel's watch, power has been distributed between all members of The Governing Body, allowing for fewer dictatorial decisions and more moderate stances. Currently, college education, holidays and school sports are tolerated where in the past these kinds of activities had been forbidden.

---

[65] Bergman, *Annotated Bibliography* 9.
[66] Penton, 78.
[67] Bergman, *Annotated Bibliography*22.
[68] Bergman, *Annotated Bibliography*22.
[69] Bergman, *Annotated Bibliography*23.

Major Beliefs and Practices of the Jehovah's Witnesses

Literalists. The Jehovah's Witnesses' beliefs are founded on a literal interpretation of the Bible. The Watchtower Bible and Tract Society teaches that "all 66 books of the Bible are the 'inspired word of God' and are historically accurate."[70] Witnesses "read the New Testament as an infallible Scripture, and believe what they read."[71] Their belief in the power and purpose of witnessing comes from this literal translation, trusting that Jesus spoke directly to them when saying: "Go ye into all the world, and preach the gospel to every creature."[72]

"Religion is a Racket! Religion is a Snare!" One of the most controversial of the Jehovah's Witness beliefs is that all organized religions, especially the Roman Catholic Church, are a "racket" as they take members' money in return for the promise of salvation. Under Rutherford's reign, the Jehovah's Witnesses became highly vocal about their dislike for traditional Christian religions. In a common evangelical attack, "Judge" Rutherford announced to his weekly broadcast audience, "Organized Christianity is hypocritical and selfish in the extreme."[73] Of the Roman Catholic Church, he remarked, it is a "great racket."[74] In his 1938 book, Enemies, Rutherford lambasted Protestants and Jews along with Catholics, accusing them of being "foolish simpletons," who "aid the Hierarchy [Catholic Church] to carry on her commercial, religious traffic and increase her revenue…The Hierarchy takes the lead, and the

---

[70] Murray, *Interview with Covington.*

[71] Holmes, 897.

[72] Mark 16:15 as quoted in Hayden C. Covington, Grover C. Powell, D.R. Coley, Jr., and Roy A. Swayze, "Jurisdictional Statement," *Marsh v. Alabama*, 326 U.S. 501 (1946) 7.

[73] Wilbur M. Smith, "Jehovah's Witnesses," *Christianity Today*, 19 December 1960: 18.

[74] Henry S. Drinker, *Some Observations on the Four Freedoms of the First Amendment: Freedom of Speech, Freedom of the Press, Freedom of Assembly and Petition, Freedom of Religion* (Boston: Boston University Press, 1957) 46.

simpletons follow."[75] In Detroit in 1939, Witnesses blared through a loudspeaker in a public park, "Religion is a racket! Religion is a snare!" As could be expected, the preaching of this belief often turned potential converts into enemies and brought about violent responses from otherwise peaceful people.

The Chosen Few. Among the Jehovah's Witnesses, there are two kinds of believers prepared for the Second Coming: the "heavenly class," commonly called the "little flock," and the "earthly class," also referred to as the "other sheep." The heavenly class, limited to 144,000 chosen ones,[76] will live with Christ in heaven and rule over earth following Armageddon. In 1956, approximately 16,000 chosen spaces were left in heaven; today only 9,000 remain. The earthly class is comprised of all other Witnesses. According to Witness teachings, they will be reborn following Armageddon to live on earth and create a new flock of believers.

This doctrine underlies the Witness approach to ministry. In order to become one of the earthly class, "one must accept the message preached by the Witnesses, and, for someone to accept this message it must be preached."[77] Explained Watchtower President Knorr in 1943:

> A responsibility falls upon everyone of Jehovah's Witnesses now to see that, God willing, these peoples of the world are given the opportunity to hear. If they hear, they will be blessed. If they do not have an ear to hear, they will go on into destruction along with the Devil's organization at Armageddon.[78]

---

[75] Joseph Franklin Rutherford, *Enemies* (Brooklyn, NY: Watchtower Bible and Tract Society, 1938) 282-283.

[76] Taken from the book of Revelation 7:4.

[77] Bergman, *Annotated Bibliography*17.

[78] Joesph F. Rutherford, "Watchtower Bible College Opens," *The Watchtower* 15 February 1943: 62.

If a Jehovah's Witness fails to convert someone, they too may miss out on everlasting life because of their failure. Their "primary purpose," explained H. Rutledge Southworth, "is not to convert the listener, though that is desired, but to carry out their conception of God's commandments and thereby insure themselves a place in the kingdom of Jehovah God."[79] This doctrine, called "blood guilt," is a strong motivation for spreading the word of the new Kingdom of heaven on earth.

No Hell Doctrine. Witnesses do not believe in Hell. Under Russell, this belief became known as the "no-Hell doctrine" or "turning the hose on Hell." Russell often put forth the following scenario to prove there was no Hell: "Would you hold a puppy dog's tail in the fire three minutes? Of course not, unless you were subhuman. Yet we are taught that God himself consigns creatures to everlasting torture in fire hotter than any we can imagine."[80] Eternity will be comprised of two heavens, then, one on earth and one above; one for the heavenly class and one for the earthly class. Because the Devil resides on earth, when earth is destroyed during Armageddon, so too, will the devil.

The Flag Salute. Jehovah's Witnesses believe saluting the flag or any other earthy object is forbidden by the Bible. They read Exodus 20: 3-5, "You shall have no gods before me. You shall not make for yourself a graven image, or any likeness of anything that is in heaven above, or that is in the earth beneath, or that is in the water under the earth; you shall not bow down to them or serve them," as a commandment not to prostrate oneself before any object, including a flag. The Watchtower Society taught "that saluting the flag is a violation of His law."[81] The pronouncement of this sin was outlined in a pamphlet distributed by the Watchtower Bible

---

[79] H. Rutledge Southworth, "Jehovah's 50,000 Witnesses," *The Nation* 10 August 1940: 110.

[80] Harris, 81.

[81] *Consolation*, 29 May 1940: 10 as quoted in Jerry Bergman, "The Modern Religious Objection to Mandatory Flag Salute in America," *Journal of Church and State* 39:2 (1997): 227.

and Tract Society titled Loyalty that enumerated the reasons why the Witnesses should not embrace the flag. "Judge" Rutherford declared in a 1935 radio address that "The law of the nation or government that compels the child of God to salute the national flag compels that person to salute the Devil as the invisible god of the nation."[82]

The Law of the Land, The Law of God. Under Pastor Russell, Witnesses were taught to believe secular governments were "under the rule of Satan" as were all people on earth who had not yet embraced the Witnesses' literal interpretation of the Bible. These governments were "bound to be destroyed during Armageddon" because they had not accepted the truth of the Second Coming. Consequently, adherence to laws established by states were often ignored or rebuked. Pastor Russell specifically told Witnesses they should "avoid voting, holding public office, or enlisting in military service."[83]

During Rutherford's reign, the position on state authority hardened even further. Now, governments were seen as having "no divine authority" whatsoever. Rutherford admonished Witnesses to "pay taxes for the services they received," but not to follow any other "human law unless it was in harmony with God's."[84] With this decree in hand, Witnesses "uniformly refused combat service" during World War I.[85] In 1917, Rutherford and seven directors of the Watchtower Bible and Tract Society were imprisoned for this belief, publicly condemning those who participated in World War I. Charged with sedition, Rutherford was kept in an Atlanta jail for almost two years until his conviction was reversed in 1919.[86]

During World War II, about 8,000 Witnesses applied for ministerial status to be exempted from the draft. Approximately one-half of these

---

[82] Pfeffer 142.
[83] Penton, 138.
[84] Penton, 139.
[85] Penton, 139.
[86] Newton, 28-29.

requests[87] by Witnesses in full-time service to Jehovah were granted by the Selective Service, who categorized them as a "peace group."[88] The other half, mostly part-time ministers in the Watchtower organization, chose imprisonment over fighting. In all, about 4,000 Jehovah's Witnesses men went to court in the 1940s for their refusal to participate in a war not of God. Of those, an estimated 2,500 actually served time.[89]

Although Rutherford and many other Witnesses were imprisoned for speaking out about and refusing to fight in wars, they were not pacifists. Witnesses did not refuse to fight, they simply refused to fight in a war for a secular state. They would, without hesitation, fight in a war for Jehovah, but "that is all they would fight for."[90] In addition, Witnesses found fighting a secular war a waste of time when the second coming was fast approaching. There was no need to fight evil in the world as "the forces of godliness will defeat those of worldly evil at the Battle of Armageddon."[91]

Persecution. Between 1940 and 1944, there were 2,500 cases of violence against Witnesses in 44 states. Most of these persecutions arose from the Witnesses refusal to salute the American flag and to participate in military service during World War II. The violence was often extreme and relentless. For example, when one Witness was arrested in Winnsboro, Texas, he was "promised protection if he would salute the flag. When he refused, he was turned over to a mob," and "beaten to unconsciousness, revived with water, beaten again, dragged by a rope around his neck to the city hall and hanged to a post."[92] In Klamath Falls, Oregon, members of the American Legion "attacked the Witnesses and besieged their hall, breaking windows, tossing in stink bombs, ammonia, and burning kerosene rags."[93] Covington explained that following the flag salute

---

[87] Cole, 111.

[88] Edward F. Waite, "The Debt of Constitutional Law to Jehovah's Witnesses," *Minnesota Law Review*, 28 (March 1944): 213.

[89] Murray, *Interview with Covington.*

[90] High 54.

[91] Sorauf, 336.

[92] White, 330.

[93] White, 330.

decision by the United States Supreme Court, Witnesses "were beaten, kidnapped, tarred and feathered, throttled on castor oil, tied together and chased through the streets, castrated, maimed, hanged, shot and otherwise consigned to mayhem."[94]

The Jehovah's Witnesses believe their persecution is both a fight against Satan and a mark of the Second Coming. A Watchtower magazine from 1935 states, "The more opposition and persecution from Satan's organization we endure, the nearer we know we are to his final destruction and to the vindication of Jehovah's name." Almost 20 later, the Witnesses held fast to this position in a pamphlet titled "Make Sure of All Things," reiterating that "persecution to break Jehovah's Witnesses [is] Satan's main effort."[95]

As part of the weekly service meetings, Witnesses would tell stories of their persecution encountered during their door-to-door ministry. Similar stories would also appear in Witnesses' publications. In a 1959 book titled "Jehovah's Witnesses in The Divine Purpose," several incidents of violence against Witnesses were related to potential converts. Along with the scenarios was a running commentary between John, a Witness, and Lois, who was considering life in the Witnesses' faith. In one exchange, John told Lois why they face persecution week after week. Lois said, "If I were confronted with experiences like those you related I don't know whether I could hold on or not." John replied, "We don't want to give credit to individuals even for manifesting an abiding faith…Jehovah has raised up a people in our day especially to be his witnesses for his own purpose. Jesus said to his disciples, 'You will be hated by all people on account of my name.'"[96] Because the Witnesses see persecution as a badge of honor, they never fail to return to their calling day after day, no matter what violence the previous day has brought. Witnesses are determined to

---

[94] Cole, 111.

[95] WBTS, *Make Sure of All Things* (Brooklyn, NY: Watchtower Bible and Tract Society, 1953).

[96] WBTS, *Jehovah's Witnesses in the Divine Purpose* (Brooklyn, NY: Watchtower Bible and Tract Society, 1959) 175.