Up Front

Neighborhood Stories
By Bette McDevitt

Amish Tax Case
New Wilmington, Pa.

On November 3, 1981, Francis Caiazza was elected judge in the Common Pleas Court in Lawrence County. But it is the day before the election that he remembers very well.

On November 2, he argued his last case as a lawyer, before the Supreme Court of the United States. He defended Edwin Lee, an Amish farmer from the New Wilmington area who refused to pay Social Security taxes on his employees and himself. Lee, a member of the Old Order Amish, believed that it was the collective responsibility of his community to take care of its own and not an obligation of the government.

The Amish in the New Wilmington area maintain a medical expense fund, with money raised at an annual June benefit auction (open to the public and selling homemade ice cream, donuts, and lemonade). They do not collect unemployment compensation, do not accept welfare, and do not have insurance. “If,” said Caiazza, “you have employed an Amish contractor to build you a deck, and if an Amish house burns down, your workers won’t be there the next day. They will be rebuilding the neighbor’s house.”

Caiazza, now a retired Federal Magistrate District Court Judge, learned of Lee’s predicament through his friend Bob Gardner, who was Lee’s accountant. “I think I have a case you’ll be interested in, and I think it’s going to court,” said Gardner.

The IRS claimed that Lee owed them $27,000, in Social Security taxes, for the 30 men who had worked on Lee’s farm and in his carpentry shop for eight years. Lee wanted to
go to court to defend his beliefs and pledged his farm as security if he lost the case. Judge Caiazza did not accept any fees from Lee for his work on the case.

In Federal District Court in Pittsburgh, the farmer and the lawyer won the case, with the argument of free exercise of religion. “We were asking,” said Caiazza, “for an extension of the exemption already in existence, whereby self-employed Amishmen did not have to participate in Social Security payments, and the presiding judge, Hubert Teitelbaum, decided in our favor.”

The Internal Revenue Service appealed the decision, as expected, and Francis Caiazza and his family went to Washington to argue the case before the Supreme Court. His wife, Roselee, had served as a courier during preparation of the case, carrying messages to Lee, who had no telephone, and driving him to various appointments. Lee and his family also went to Washington, by Greyhound Bus. All that was missing was Jimmy Stewart.

“It was nothing like I expected,” said Judge Caiazza. “It was mass confusion in the court, with students coming in to hear the case, and law clerks running all around. We had one half hour, as the respondent, to present our case and the IRS, the appellate, had one half hour. I remember that Thurgood Marshall was hard on me, asking many questions, and that Sandra Day O’Connor was most gentle, in a maternal way.”

The Supreme Court, ruling on the case six months later, upheld the IRS. “A comprehensive national Social Security system providing for voluntary participation would be almost a contradiction in terms and difficult, if not impossible, to administer,” wrote Chief Justice Warren Burger in the unanimous decision.

Speaking now, Judge Caiazza said, “That’s hogwash. We’re talking about a miniscule portion of the population, maybe 200,000 people, which would have so little impact.”

Lee, now deceased, said at the time that the battle brought him closer to his “English” neighbors. “They are truly brothers,” he said of Bob Gardner and Francis Caiazza. “I can’t say enough of what’s in my heart about them.” Mr. Lee said that he loved his country and would not betray her.

It turns out he did not lose his farm, as he feared, and in 1988, the Technical and Miscellaneous Revenue Act, in effect, overturned the Supreme Court decision. Both employers and employees of a qualifying religious sect—and Old Order Amish is given as an example—can be exempt from paying Social Security taxes by submitting an application (Form 4029) to the IRS for a waiver.

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Francis and Roselee Caiazza. Photo by Bette McDevitt.