bers of the municipal assembly, provided that the object or matter of taxation is not also the object or matter of any federal or insular tax." The Act of 1914 included in its Group C the business of sugar and molasses mills among those that municipalities were empowered to tax, and proceeded:

"The rates of taxation for Group C are made as follows: For each $1,000 or fraction thereof in excess of the first $500 of volume of business transacted, up to $1,000,000 inclusive $0.25 a year," and over that, $0.125.

As the Act of 1914 is taken up into that of 1920, it is difficult for us to believe that in one paragraph the latter Act gave power to tax up to a specified maximum and in another a general power limited only by the other principles of taxation. Therefore when in section 49 (f) the later act allows "any other impost, excise or tax" we think it must be taken to mean any tax on other objects of taxation not any other tax on those for which a limit already definitely is prescribed.

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*The petitioner argues that the Circuit Court of Appeals was mistaken in assuming that the maximum allowed by the Act of 1914 had been reached by a previous tax. The assumption is made however only for the purpose of admitting that an additional tax of the kind warranted by the Act of 1914 might be imposed within the limit of the maximum, and as it is not argued that this tax can be sustained as that which is authorized by the Act of 1914 it does not matter whether the limit under that Act had been reached or not. This is a different tax levied under an interpretation of the clause in the Act of 1920 authorizing other taxes, which in our opinion cannot be sustained. We think it unnecessary to add more to what has been said below.

Decree affirmed.

(268 U. S. 510)

PIERCE, Governor of Oregon, et al. v. SOCIETY OF THE SISTERS OF THE HOLY NAMES OF JESUS AND MARY.

SAME v. HILL MILITARY ACADEMY.

(Argued March 16 and 17, 1925. Decided June 1, 1925.)

Nos. 583, 584.

1. Constitutional law ⊂=255, 274, 278(1) — Schools and school districts ⊂=160—Oregon Compulsory Education Act, requiring attendance at public schools, held unconstitutional as violative of Const. U. S. Amend. 14.

Oregon Compulsory Education Act 1922, which practically construed requires all normal children between ages of 8 and 16 years to attend public schools, *held* violation of Const. U. S. Amend. 14, in that it deprives parents and children of their rights in matter of selection of schools and in a measure destroys profitable business of private schools and diminishes in value their property.

2. Constitutional law ⊂=82 — Constitutional rights may not be abridged by legislation which has no reasonable relation to some purpose within competency of state.

Constitutional rights may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the state.

3. Constitutional law ⊂=42—Corporations engaged in conducting private schools may complain of state's unwarranted interference with rights of parents and teachers.

Though corporations engaged in conducting private schools cannot claim for themselves the rights in the matter of selection of schools, guaranteed to parents and children by Const. U. S. Amend. 14, they can complain that their business and property is threatened with destruction through state's unwarranted interference with rights of parents and children.

4. Injunction ⊂=75—No person in any business may restrain exercise of proper power by state on ground that he will be deprived of patronage.

Generally, no person in any business has an interest in possible customers such as to enable him to restrain an exercise of proper power by the state on the ground that he will be deprived of patronage.

5. Injunction ⊂=112—Suits brought before effective date of unconstitutional act to enjoin its enforcement held not premature.

Suits brought to enjoin enforcement of unconstitutional Compulsory Education Act 1922, before effective date thereof, *held* not premature.

Appeals from the District Court of the United States for the District of Oregon.

Two suits, one by the Society of the Sisters of the Holy Names of Jesus and Mary, the other by the Hill Military Academy, both against Walter M. Pierce as Governor of Oregon, and others, to enjoin enforcement of Compulsory Education Act 1922. From decrees for plaintiffs, denying motions to dismiss and granting a preliminary injunction (296 F. 928), defendants appeal. Affirmed.

Messrs. George E. Chamberlain, of Portland, Or., and Albert H. Putney, of Washington, D. C., for appellant Pierce.

Mr. Willis S. Moore, of Salem, Or., for other appellants.

Messrs. Wm. D. Guthrie, of New York City, and J. P. Kavanaugh, of Portland, Or., for appellee Society of the Sisters of the Holy Names of Jesus and Mary.

Mr. John C. Veatch, of Portland, Or., for appellee Hill Military Academy.

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*Mr. Justice McREYNOLDS delivered the opinion of the Court.

These appeals are from decrees, based upon undenied allegations, which granted pre-

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liminary orders restraining *appellants from threatening or attempting to enforce the Compulsory Education Act[1] adopted November 7, 1922 (Laws Or. 1923, p. 9), under the initiative provision of her Constitution by the voters of Oregon. Judicial Code, § 266 (Comp. St. § 1243). They present the same points of law; there are no controverted questions of fact. Rights said to be guaranteed by the federal Constitution were specially set up, and appropriate prayers asked for their protection.

The challenged act, effective September 1, 1926, requires every parent, guardian, or other person having control or charge or custody of a child between 8 and 16 years to send him "to a public school for the period of time a public school shall be held during the current year" in the district where the child resides; and failure so to do is de-
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clared a misdemeanor. There are *exemptions—not specially important here—for children who are not normal, or who have completed the eighth grade, or whose parents or private teachers reside at considerable distances from any public school, or who hold special permits from the county superintendent. The manifest purpose is to compel general attendance at public schools by normal children, between 8 and 16, who have not completed the eighth grade. And without doubt enforcement of the statute would seriously impair, perhaps destroy, the profitable features of appellees' business and greatly diminish the value of their property.

Appellee the Society of Sisters is an Oregon corporation, organized in 1880, with power to care for orphans, educate and instruct the youth, establish and maintain academies or schools, and acquire necessary real and
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per*sonal property. It has long devoted its property and effort to the secular and religious education and care of children, and has acquired the valuable good will of many parents and guardians. It conducts interdependent primary and high schools and junior colleges, and maintains orphanages for the custody and control of children between 8 and 16. In its primary schools many children between those ages are taught the subjects usually pursued in Oregon public schools during the first eight years. Systematic religious instruction and moral training according to the tenets of the Roman Catholic Church are also regularly provided. All courses of study, both temporal and religious, contemplate continuity of training under appellee's charge; the primary schools are essential to the system and the most profitable. It owns valuable buildings, especially constructed and equipped for school purposes. The business is remunerative—the annual income from primary schools exceeds $30,000—and the successful conduct of this requires long time contracts with teachers and parents. The Compulsory Education Act of 1922 has already caused the withdrawal from its schools of children who would otherwise continue, and their income has steadily declined. The appellants, public officers, have proclaimed their purpose strictly to enforce the statute.

After setting out the above facts, the Society's bill alleges that the enactment conflicts with the right of parents to choose schools where their children will receive appropriate mental and religious training, the right of the child to influence the parents' choice of a school, the right of schools and teachers therein to engage in a useful busi-

[1] *Be it enacted by the people of the state of Oregon:*

Section 1. That section 5259, Oregon Laws, be and the same is hereby amended so as to read as follows:

Sec. 5259. *Children Between the Ages of Eight and Sixteen Years.*—Any parent, guardian or other person in the state of Oregon, having control or charge or custody of a child under the age of sixteen years and of the age of eight years or over at the commencement of a term of public school of the district in which said child resides, who shall fail or neglect or refuse to send such child to a public school for the period of time a public school shall be held during the current year in said district, shall be guilty of a misdemeanor and each day's failure to send such child to a public school shall constitute a separate offense; provided, that in the following cases, children shall not be required to attend public schools:

(a) *Children Physically Unable.*—Any child who is abnormal, subnormal or physically unable to attend school.

(b) *Children Who Have Completed the Eighth Grade.*—Any child who has completed the eighth grade, in accordance with the provisions of the state course of study.

(c) *Distance from School.*—Children between the ages of eight and ten years, inclusive, whose place of residence is more than one and one-half miles, and children over ten years of age whose place of residence is more than three miles, by the nearest traveled road, from a public school; provided, however, that if transportation to and from school is furnished by the school district, this exemption shall not apply.

(d) *Private Instruction.*—Any child who is being taught for a like period of time by the parent or private teacher such subjects as are usually taught in the first eight years in the public school; but before such child can be taught by a parent or a private teacher, such parent or private teacher must receive written permission from the county superintendent, and such permission shall not extend longer than the end of the current school year. Such child must report to the county school superintendent or some person designated by him at least once every three months and take an examination in the work covered. If, after such examination, the county superintendent shall determine that such child is not being properly taught, then the county superintendent shall order the parent, guardian or other person, to send such child to the public school the remainder of the school year.

If any parent, guardian or other person having control or charge or custody of any child between the ages of eight and sixteen years, shall fail to comply with any provision of this section, he shall be guilty of a misdemeanor, and shall, on conviction thereof, be subject to a fine of not less than $5, nor more than $100, or to imprisonment in the county jail not less than two nor more than thirty days, or by both such fine and imprisonment in the discretion of the court.

This act shall take effect and be and remain in force from and after the first day of September, 1926.

ness or profession, and is accordingly repugnant to the Constitution and void. And, further, that unless enforcement of the measure is enjoined the corporation's business and property will suffer irreparable injury.

Appellee Hill Military Academy is a private corporation organized in 1908 under the
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laws of Oregon, engaged *in owning, operating, and conducting for profit an elementary, college preparatory, and military training school for boys between the ages of 5 and 21 years. The average attendance is 100, and the annual fees received for each student amount to some $800. The elementary department is divided into eight grades, as in the public schools; the college preparatory department has four grades, similar to those of the public high schools; the courses of study conform to the requirements of the state board of education. Military instruction and training are also given, under the supervision of an army officer. It owns considerable real and personal property, some useful only for school purposes. The business and incident good will are very valuable. In order to conduct its affairs, long time contracts must be made for supplies, equipment, teachers, and pupils. Appellants, law officers of the state and county, have publicly announced that the Act of November 7, 1922, is valid and have declared their intention to enforce it. By reason of the statute and threat of enforcement appellee's business is being destroyed and its property depreciated; parents and guardians are refusing to make contracts for the future instruction of their sons, and some are being withdrawn.

The Academy's bill states the foregoing facts and then alleges that the challenged act contravenes the corporation's rights guaranteed by the Fourteenth Amendment and that unless appellants are restrained from proclaiming its validity and threatening to enforce it irreparable injury will result. The prayer is for an appropriate injunction.

No answer was interposed in either cause, and after proper notices they were heard by three judges (Judicial Code, § 266 [Comp. St. § 1243]) on motions for preliminary injunctions upon the specifically alleged facts. The court ruled that the Fourteenth Amendment
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guaranteed appellees against the *deprivation of their property without due process of law consequent upon the unlawful interference by appellants with the free choice of patrons, present and prospective. It declared the right to conduct schools was property and that parents and guardians, as a part of their liberty, might direct the education of children by selecting reputable teachers and places. Also, that appellees' schools were not unfit or harmful to the public, and that enforcement of the challenged statute would unlawfully deprive them of patronage and thereby destroy appellees' business and property. Finally, that the threats to enforce the act would continue to cause irreparable injury; and the suits were not premature.

No question is raised concerning the power of the state reasonably to regulate all schools, to inspect, supervise and examine them, their teachers and pupils; to require that all children of proper age attend some school, that teachers shall be of good moral character and patriotic disposition, that certain studies plainly essential to good citizenship must be taught, and that nothing be taught which is manifestly inimical to the public welfare.

The inevitable practical result of enforcing the act under consideration would be destruction of appellees' primary schools, and perhaps all other private primary schools for normal children within the state of Oregon. Appellees are engaged in a kind of undertaking not inherently harmful, but long regarded as useful and meritorious. Certainly there is nothing in the present records to indicate that they have failed to discharge their obligations to patrons, students, or the state. And there are no peculiar circumstances or present emergencies which demand extraordinary measures relative to primary education.

[1,2] Under the doctrine of Meyer v. Nebraska, 262 U. S. 390, 43 S. Ct. 625, 67 L. Ed. 1042, 29 A. L. R. 1146, we think it entirely plain that the Act of 1922 unreasonably interferes with the liberty of parents and guardians to direct the upbringing and education
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of chil*dren under their control. As often heretofore pointed out, rights guaranteed by the Constitution may not be abridged by legislation which has no reasonable relation to some purpose within the competency of the state. The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations.

[3] Appellees are corporations, and therefore, it is said, they cannot claim for themselves the liberty which the Fourteenth Amendment guarantees. Accepted in the proper sense, this is true. Northwestern Life Ins. Co. v. Riggs, 203 U. S. 243, 255, 27 S. Ct. 126, 51 L. Ed. 168, 7 Ann. Cas. 1104; Western Turf Association v. Greenberg, 204 U. S. 359, 363, 27 S. Ct. 384, 51 L. Ed. 520. But they have business and property for which they claim protection. These are threatened with destruction through the unwarranted compulsion which appellants are exercising over present and prospective patrons of their schools. And this court has gone very far to protect against loss threatened by such

action. Truax v. Raich, 239 U. S. 33, 36 S. Ct. 7, 60 L. Ed. 131, L. R. A. 1916D, 543, Ann. Cas. 1917B, 283; Truax v. Corrigan, 257 U. S. 312, 42 S. Ct. 124, 66 L. Ed. 254, 27 A. L. R. 375; Terrace v. Thompson, 263 U. S. 197, 44 S. Ct. 15, 68 L. Ed. 255.

The courts of the state have not construed the act, and we must determine its meaning for ourselves. Evidently it was expected to have general application and cannot be construed as though merely intended to amend the charters of certain private corporations, as in Berea College v. Kentucky, 211 U. S. 45, 29 S. Ct. 33, 53 L. Ed. 81. No argument in favor of such view has been advanced.

[4] Generally, it is entirely true, as urged by counsel, that no person in any business has such an interest in possible customers as to enable him to restrain exercise of proper power of the state upon the ground that he

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will be de*prived of patronage. But the injunctions here sought are not against the exercise of any proper power. Appellees asked protection against arbitrary, unreasonable, and unlawful interference with their patrons and the consequent destruction of their business and property. Their interest is clear and immediate, within the rule approved in Truax v. Raich, Truax v. Corrigan, and Terrace v. Thompson, supra, and many other cases where injunctions have issued to protect business enterprises against interference with the freedom of patrons or customers. Hitchman Coal & Coke Co. v. Mitchell, 245 U. S. 229, 38 S. Ct. 65, 62 L. Ed. 260, L. R. A. 1918C, 497, Ann. Cas. 1918B, 461; Duplex Printing Press Co. v. Deering, 254 U. S. 443, 41 S. Ct. 172, 65 L. Ed. 349, 16 A. L. R. 196; American Steel Foundries v. Tri-City Central Trades Council, 257 U. S. 184, 42 S. Ct. 72, 66 L. Ed. 189, 27 A. L. R. 360; Nebraska District, etc., v. McKelvie, 262 U. S. 404, 43 S. Ct. 628, 67 L. Ed. 1047; Truax v. Corrigan, supra, and cases there cited.

[5] The suits were not premature. The injury to appellees was present and very real, not a mere possibility in the remote future. If no relief had been possible prior to the effective date of the act, the injury would have become irreparable. Prevention of impending injury by unlawful action is a well-recognized function of courts of equity.

The decrees below are affirmed.

(268 U. S. 466)

SELZMAN v. UNITED STATES.

(Submitted April 27, 1925. Decided June 1, 1925.)

No. 998.

1. Intoxicating liquors ⟸13 — Eighteenth Amendment authorizes statutes reasonably adapted to prohibition of manufacture, sale, and transportation of intoxicating liquor.

Federal government's power, granted by Const. Amend. 18, to enforce the prohibition of the manufacture, sale, and transportation of intoxicating liquor, carries with it power to enact any legislative measures reasonably adapted to promote the purpose.

2. Intoxicating liquors ⟸13—Prohibition Act as to denatured alcohol held valid under Eighteenth Amendment.

National Prohibition Act, Oct. 28, 1919, tit. 2, § 4 (Comp. St. Ann. Supp. 1923, § 10138½b), forbidding sale of denatured alcohol for beverage purposes or under circumstances from which seller may reasonably infer purchaser's intention to so use it, and title 3, § 15 (section 10138¾n), making it a crime to knowingly offer for sale completely denatured alcohol in packages containing less than five wine gallons, with no label affixed thereto, *held* valid under Const. Amend. 18, being reasonably adapted to enforcement of prohibition of manufacture, sale, and transportation of intoxicating liquor for beverage purposes.

In Error to the District Court of the United States for the Northern District of Ohio.

Meyer Selzman was convicted of conspiring to violate the National Prohibition Act by offering denatured alcohol for sale without attachment of label to packages and of selling denatured alcohol for beverage purposes, and he brings error. Affirmed.

Messrs. Gerald J. Pilliod and J. C. Breitenstein, both of Cleveland, Ohio, for plaintiff in error.

Mr. James M. Beck, Sol. Gen., of Washington, D. C., for the United States.

Mr. Chief Justice TAFT delivered the opinion of the Court.

Meyer Selzman was tried and convicted on two indictments in the District Court. The first charged him, Martin Bracker, Harry Porter, and others with a violation of section 37 of the Criminal Code (Comp. St. §

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10201) in conspiring to violate *section 15, title 3, of the National Prohibition Act (enacted October 28, 1919, c. 85, 41 Stat. 305 [Comp. St. Ann. Supp. 1923, § 10138¾n]), and the regulations relating to the manufacture and distribution of industrial alcohol prescribed by the Commissioner of Internal Revenue, pursuant to the provisions of title 3 of the act (sections 10138¾–10138¾t), in that they knowingly offered for sale completely denatured alcohol in packages containing less than five wine gallons, without having affixed to the packages a label containing the words "Completely denatured alcohol," together with the word "Poison" and a statement of the danger from its use. United States v. Grimaud, 220 U. S. 506, 31 S. Ct. 480, 55 L. Ed. 563.

Selzman was also convicted under four counts of the second indictment of violating section 4 of title 2 of the act (section 10138½b) forbidding the sale of denatured alcohol for beverage purposes or under cir-