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October 11, 1967

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**Court Rejects Attack On  
 Parochial Pupil Busing**

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By W. Barry Garrett

WASHINGTON (BP)--The United States Supreme Court refused to reopen the question of the constitutionality of bus rides at public expense for pupils attending nonpublic, nonprofit schools, including schools that are church-related.

The justices denied appeals in two cases challenging a Pennsylvania law that requires free bus transportation for nonpublic school pupils under certain circumstances.

The two similar cases earlier were heard jointly by the Pennsylvania Supreme Court, which in a 5-2 decision upheld the constitutionality of the law in question.

In 1965 the Pennsylvania General Assembly enacted a law requiring public school boards to provide free rides for nonpublic school pupils when such rides are provided for public school pupils.

Such transportation as prescribed by the law is limited to "established public school routes." More specifically, the law reads, "Such pupils shall be transported to and from the point or points on such routes nearest or most convenient to the schools the pupils attend."

The legislative intent of the Pennsylvania General Assembly was set forth in the 1965 law. Its stated purpose is to provide "for health, welfare and safety of children."

Attorney for the Montgomery County, Pa. case (Rhoades V. School District of Abington Township) was Franklin C. Salisbury of Washington, D. C.

Attorneys for the Delaware County, Pa. case (Worrell V. Waters) were William P. Thorn, Philadelphia, Marvin Karpatkin of the New York Civil Liberties Union, and Leo Pfeffer, a New York constitutional lawyer.

The Delaware County case was denied by the Supreme Court without comment.

The Montgomery County case was dismissed "for want of a substantial federal question" in an 8-1 decision. Justice William O. Douglas said that he favored a hearing of the issue.

Salisbury posed six major questions before the Supreme Court. In summary, they asserted that free rides at public expense for parochial school pupils are in effect tax aid to the churches that operate the schools. Therefore, he charged, the Pennsylvania law violated the establishment of religion prohibition of the First Amendment of the Constitution.

The reply of the Pennsylvania Supreme Court said that the benefits were for children and not for the schools or churches involved. Therefore, it ruled, the law is not in violation of either the Pennsylvania or the U. S. Constitutions.

The Pennsylvania court pointed out that the intent of the legislature was not to be taken lightly, that the purpose of the free bus rides was for the benefit of the children. Then in eloquent language the court said:

"In view of the peril hovering over our streets and roads like a miasmic fog, those charged with concern for the safety of children are duty bound to devise methods and means for saving the little travelers from harm on their way to and from school.

"Obviously the manner in which to provide these youthful wayfarers with a fair measure of protection against highway mishap is to keep them pedally off the roads and to transport them in vehicles so formidably constructed that they may ward off and parry, to the maximum extent possible, aggression from other vehicles.

"The school bus with its large heavy wheels and steel fabricated body seems to be the answer to this worrisome problem."

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The court then said: "Despite the wondrous flexibility of the English language it is still difficult to see how one can conclude that placing children on a school bus establishes a religion."

The Pennsylvania court relied heavily on the 1947 Everson case in which the U.S. Supreme Court upheld the constitutionality of public reimbursement to parents for costs involved in getting their children to parochial schools.

Both the Everson and the Pennsylvania cases were premised on the "child benefit theory" which holds that public aid can be given to parochial school children without violating the principles of separation of church and state.

This is the basis of much federal legislation, as well as state laws, that provide such benefits as health services, food programs, free textbooks and other aids to pupils in nonpublic schools.

Possible effects of this most recent Supreme Court action in allowing the Pennsylvania decision to stand without contest, in the opinion of some observers, could be:

- 1. To stimulate efforts in other states and communities to provide free bus transportation for nonpublic school pupils;
- 2. To establish the child benefit theory more firmly in American law;
- 3. To help clarify the limits beyond which aids through the child benefit theory may not extend;
- 4. To relocate the busing controversy from the federal to the state and local levels; and
- 5. To make it more difficult to challenge in the courts many federal and state fringe benefits to pupils in parochial schools.

The 8-1 decision of the Supreme Court not to review the Pennsylvania case "for want of a substantial federal question" could be interpreted as an indication of the direction the court might go if a judicial review bill is enacted into law and if federal programs are challenged on the ground that the child benefit theory is unconstitutional.

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Themes For Convention  
Picked By Committee

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HOUSTON (BP)--Theme for the Southern Baptist Convention when it meets here June 4-7, 1968 will be "Good News For Today's World," a convention committee has decided.

The general theme for the convention, plus themes for each session, were selected by the Southern Baptist Convention committee on order of business headed by J. Norris Palmer, pastor of First Baptist Church, Baton Rouge, La.

Opening session of the convention, which features the annual sermon, will be "Good News Through Preaching."

Sessions on Wednesday, June 8, will feature the themes "Good News Through The Churches," "...Through Christian Morality," and "...For The Homeland."

Thursday sessions, June 9, themes will be "Good News For The Academic Community," and "...For the Nations," while Friday session themes will be "Good News of Christian Brotherhood," "Good News For the Secular Community," and "Good News Forever."

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Baptist Press

Baylor Youth Dies  
In Pledge Initiation

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WACO, Tex. (BP)--Administration officials at Baylor University here have warned social service clubs to exercise more caution in pledge activity after a student died and two others suffered injuries during separate initiations.

Dead is John Everet Clifton, a 19-year-old sophomore from Crosby, Tex. Local authorities ruled his death accidental this week. He was being initiated into the Baylor Chamber of Commerce, a service club, along with nine other pledges when he collapsed.

Earlier, Delta Delta Gama pledges Steve Kent, Shreveport, La., and Kerry Caughran, Scottsdale, Ariz., suffered minor injuries. Both youth allegedly reported their injuries were accidental and not the result of other members.

President Abner V. McCall immediately announced a ban on all physical initiations.

"We will observe at this time that for the past few years the university administration with the support of Student Congress has been trying to eliminate physical hazing from club initiations," said McCall.

"Some of the men's clubs have maintained some of the milder physical aspects of the initiations such as calisthenics and the drinking of distasteful concoctions. We shall continue our policy until we eliminate all such club initiations practices at Baylor," added McCall.

Justice of the Peace Joe Johnson said Clifton's death was caused by "aspirational asphyxiation."

"This means the victim drowned in his own juices," said Johnson. "He could have drowned either on vomit, or the juices from some of the stuff he had been given." He said Clifton had been given five different kinds of laxative, and garlic.

Clifton was running in place when he collapsed during the initiation about 2:30 a.m. at a farm 15 miles from Waco.

A spokesman for Delta Delta Gama said Kent and Caughran were injured during "a walk, not a pledge rally."

Wednesday, McCall promised an executive hearing into the death of the 19-year-old sophomore and at the same time indicated the university will bring an end to physical hazing by campus clubs.

McCall said, "Over and over we've told them to stop and not to do anything and not to take anything that might be harmful." McCall said he had considered requiring all clubs to have their initiations on campus and to stop going out to farms away from the city.

Referring to Clifton's death McCall added, "We will take a look and examine. There will be an executive hearing such as disciplinary hearings usually are."

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CUTLINES

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BAPTIST PRESS PHOTO

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**VICE PRESIDENT SPEAKS TO BAPTISTS:** Vice President Hubert H. Humphrey (lower left) is introduced to about 200 Baptists attending the annual Religious Liberty Conference in Washington by C. Emanuel Carlson, executive director of the Baptist Joint Committee on Public Affairs which sponsored the conference. (BP) Photo

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