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Supreme Court Takes
Appeal On School Aid

974

742

By W. Barry Garrett

WASHINGTON (BP)--The nation may be a step closer to a solution of the impasse of "judicial review" of the constitutionality of much federal legislation on the grounds that it violates the "establishment" and "free exercise" clauses of the First Amendment.

The U.S. Supreme Court has agreed to review a New York case challenging the constitutionality of certain provisions of the Elementary and Secondary Education Act of 1965.

The single point at issue in the appeal to the Supreme Court, according to both sides, is whether or not citizens and taxpayers have a right in federal courts to challenge laws on the ground that they violate the First Amendment.

A group of citizens in New York brought a suit in the U.S. District Court for the Southern District of New York challenging the use of federal funds for programs and services in religiously operated schools.

At issue are guidance services and instruction in reading, writing, and other subjects. Included are the purchase by federal funds of textbooks and other instructional materials for use in such schools.

In June of this year the three-judge District Court ruled (2-1) that the New Yorkers had no legal standing to bring such a case. The decision was based on a 1923 case (Frothingham V. Mellon) that said individual taxpayers have such a small amount of financial interest in a federal tax case that they cannot challenge such expenditures.

The appeal to the Supreme Court seeks to make the point that this is not a taxpayers case but that it is one involving the free exercise and establishment of religion. Therefore, the New Yorkers contend, the Frothingham case is not applicable in this situation.

If the Supreme Court rules in favor of the New Yorkers, the case then probably will be returned to the District Court for trial. If it rules in favor of the administration, the problem will remain as to how to test such issues in the courts.

A by-product of the Supreme Court agreement to review this case may be a further delay in "judicial review" legislation now pending in the House of Representatives. The House Judiciary Committee will not likely take action on judicial review while such a case is pending in the Supreme Court.

The Senate twice has passed a bill providing for judicial review of several federal programs on the grounds that they violate the First Amendment. The bill has been unable to get through the bottleneck in the House of Representatives.

The case now before the Supreme Court is known as Flast V. Gardner. It is against John W. Gardner, secretary of the Department of Health, Education, and Welfare, and Harold Howe 2nd, U.S. Commissioner of Education.

Among the seven appellants are members of the American Jewish Congress, the United Parents Association, the United Federation of Teachers, the New York Civil Liberties Union and the New York City unit of the National Conference of Parents and Teachers.

The National Council of Churches filed a friend of the court brief asking for a favorable ruling for judicial review. Although the National Council supported the Elementary and Secondary Education Act of 1965, it feels that it may have been administered in unconstitutional ways.

The national Council of Churches reports that it was assured at the time the bill was passed that judicial review of the bill was possible. It quoted Rep. Emanuel Celler (D., N.Y.) as saying that "There is no aspect of this bill which raises issues of any significance in the field of church and state that will not be subject to judicial review."

974

Leo Pfeffer, noted constitutional lawyer, represents the New Yorkers in their appeal to the Supreme Court. He argued that the Supreme Court has never applied the doctrine of Frothingham to cases involving the First Amendment. But, he said, only the court can decide the answers in this case.

Education Commissioner Harold Howe 2nd is quoted as having said that "the courts would have to clarify what federally financed services could be given to students of church-related schools."

Howe also said that "without court rulings, federal and state agencies will continue to have problems."

The government is arguing that the suit should be dismissed because the appellants have no standing to sue and that their case is too general and not addressed to specific violations of the Constitution.

Pfeffer replied to the government argument that (1) the issue was deliberately narrowed by mutual consent in order to get a case before the court, and (2) it is understood that the way the education act is applied in New York City is the point in the case.

It is anticipated that the case will be argued before the Supreme Court after Christmas and that a decision will be made sometime in the spring of 1968.

-30-

48 Baptist Schools Receive
\$56 Million From Government

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10/17/67

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WASHINGTON (BP)--Forty-eight Southern Baptist colleges and universities have received \$55,892,000 from the federal government during the four-year period 1963-66, according to a study prepared by the National Science Foundation.

In 1966 these schools received \$18,480,000.

Baylor University, a Texas Baptist school in Waco, was listed in the top 100 schools in the nation in the amount received from the government. The 1966 allocations to Baylor amounted to \$11,298,000, the report said.

In 1965 Baylor ranked 66th in the nation in the amount of federal funds received. It dropped to 73rd place in 1966.

Although not in the top 100, Wake Forest College, Winston-Salem, N.C., was second among Southern Baptist schools receiving federal support. It got \$3,554,000 in 1966.

Third place among Southern Baptist schools was Stetson University, DeLand, Fla., with \$1,367,000 in 1966.

The report did not state for what purposes the federal funds were used, but indicated the funds fell into four categories, and did not include loans or grants for housing.

Most of the funds to Baptist schools were believed to be for contracts for services rendered and for research programs.

The president of Baylor University, for example, said that all of the funds received by Baylor were on a contract basis for specific services rendered. "Ninety per cent of the funds were on contract for medical research for the medical school," said Baylor President Abner V. McCall.

"Total federal obligations to universities and colleges for the support of academic science and other educational activities amounted to \$3.0 billion in 1966, or more than double the \$1.4 billion obligated in 1963," the report stated. This is an increase of 114 per cent.

During the same period public funds to Southern Baptist schools increased 71 per cent. If the two top schools (Baylor and Wake Forest) are not counted, the increase to Southern Baptist schools was 756 per cent.

The National Science Foundation made its report in a volume, "Federal Support to Universities and Colleges, Fiscal Years 1963-66," published by the U.S. Government Printing Office.

The federal obligations reported in this study were accounted for by eight agencies that provide 95 per cent of all federal funds to universities and colleges.

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The figures include federal funds in four categories: (1) research and development, (2) research and development plant or facilities, (3) other scientific activities, and (4) non-science activities.

College housing projects were not included in the report. Neither were programs included from the Office of Economic Opportunity.

It did not break down the amounts received by the schools into specific kinds of aid. Hence, it is not possible by this report to determine the specific projects paid for by the government in each school.

The report included all colleges and universities in the United States receiving federal funds in the four-year period.

Data in the report were received from the Department of Agriculture, Atomic Energy Commission, Department of Commerce, Department of Defense, Department of Health, Education, and Welfare, Department of Interior, National Aeronautics and Space Administration and National Science Foundation.

The Southern Baptist schools and the amount of federal obligations committed to them in 1966 are as follows:

Alabama: Howard College (Samford University)-\$1,000
Judson College-\$1,000

Arizona: Grand Canyon College-\$1,000

Arkansas: Ouachita Baptist University-\$482,000
Southern Baptist College-\$208,000

California: California Baptist College-\$1,000

Florida: Stetson University-\$1,367,000

Georgia: Brewton-Parker College-\$8,000
Mercer University-\$103,000
Norman College-\$20,000
Shorter College-\$6,000
Tift College-\$13,000

Kentucky: Campbellsville College-\$62,000
Cumberland College-\$124,000
Georgetown College-\$53,000
Kentucky Southern College-\$5,000

Louisiana: Louisiana College-\$1,000

Mississippi: Blue Mountain College-\$1,000
Clark Memorial College-\$1,000
Mississippi College-\$2,000
William Carey College-\$89,000

Missouri: Hannibal-LaGrange College-\$16,000
Southwest Baptist College-\$25,000
William Jewell College-\$40,000

North Carolina: Campbell College-\$123,000
Chowan College-\$7,000
Gardner-Webb Junior College-\$1,000
Mars Hill College-\$12,000
Meredith College-\$21,000
Wake Forest College-\$3,554,000
Wingate College-\$3,000

Oklahoma: Oklahoma Baptist University-\$34,000

South Carolina: Anderson College-\$1,000
Furman University-\$265,000
North Greenville Junior College-\$7,000

Tennessee: Belmont College-\$7,000
Carson Newman College-\$23,000
Union University-\$10,000

Texas: Baylor University-\$11,298,000
 Dallas Baptist College-\$60,000
 East Texas Baptist College-\$60,000
 Hardin-Simmons University-\$126,000
 Houston Baptist College-\$38,000
 Howard Payne College-\$38,000
 Mary Hardin-Baylor College-\$56,000
 University of Corpus Christi-\$38,000
 Wayland Baptist College-\$64,000

Virginia: University of Richmond-\$3,000

-30-

Sunday School Board Joins
 Equal Employment Group

976

10/17/67

278

NASHVILLE (BP)--The Sunday School Board of the Southern Baptist Convention has helped organize a group of Nashville businesses and industries to make equal employment opportunity a reality in the city.

The board was one of eight organizations that met here recently to lay the groundwork for the Nashville Employers' Merit Employment Council.

James L. Sullivan, executive secretary-treasurer of the board, said that joining the council is in line with the board's present employment practices.

"Since 1953," Sullivan said, "the board has made no distinction in its salary structure between men and women, Caucasian and non-Caucasian. Fringe benefits and other such matters have been the same. Employees are paid by job description regardless of sex or ethnic background."

Sullivan said the Caucasian to non-Caucasian population ratio in Nashville is about 80-20, and that this would be a desirable ratio of employees for the board. But, he added, the board definitely would not lower standards of qualification in order to achieve it.

The board's chief executive added that the board definitely preferred Southern Baptist employees.

"We sincerely believe that a Baptist can work better toward the spiritual purposes of an institution like this," Sullivan said.

He said certain positions should be filled only by Southern Baptists because of the nature of the work, and that the board proposes to maintain "an equitable level of non-Caucasian employees from the memberships of Southern Baptist churches over the nation."

Sullivan said that an analysis conducted by the board's office of personnel revealed 349 of the 415 professional-supervisory-executive positions should be filled by Southern Baptists. The same analysis showed only 20 of the 510 office-clerical-manual jobs need Southern Baptist personnel.

Six criteria were given for jobs that should be filled by Southern Baptists.

Southern Baptists should be used, Sullivan said, in positions dealing with management of the board; recruiting, screening and placement services; editing materials for Baptist use; working with confidential materials; working with Baptist agencies or representing the board to churches.

Sullivan met with local Negro Baptist leaders, asking their help and cooperation in locating qualified persons to work at the board.

"Our studies reveal that in the professional-supervisory-executive classification we can and definitely intend to offer positions to qualified Baptist non-Caucasian persons as positions open and as qualified individuals become available," he told them.

-30-

976

October 17, 1967

5

Baptist Press

Baptists, Others To Study
Theology Of Southwest

978

154

PALESTINE, Tex. (BP)--Ten Southern Baptist professors will join representatives from seminaries of seven other denominations to discuss the theological perspective of the Southwest in a conference at Lakeview Methodist Assembly here Nov. 13-15.

The meeting will be sponsored by the Conference of Schools and Theological Seminaries (COSTS) with the theme, "What Is Happening in the Southwest."

Purpose of the meeting will be to discuss value structures in the Southwest and problems peculiar to people of the area.

Ten professors will represent Southwestern Baptist Theological Seminary in Fort Worth.

Other seminaries participating are Perkins Theological School, Dallas; Brite Divinity School, Fort Worth; Episcopal School of the Southwest, Austin, Tex.; Austin Presbyterial School in the same city; Phillips University Graduate Seminary in Enid, Okla.; St. Mary's Seminary, Assumption Seminary and the Institute of Religion.

-30-

Texas Baptists Name
Carden Education Aide

979

10/17/67

148

HOUSTON (BP)--William R. Carden Jr., formerly director of special services at Stetson University, DeLand, Fla., has been named interim coordinator of institutional programs for the Christian Education Commission, Baptist General Convention of Texas.

E. N. Jones, secretary of the Christian Education Commission which met on the Houston Baptist College campus here for its quarterly meeting, said Carden's appointment will be effective through Aug. 31, 1968.

Carden has plans to begin a two-year period of post doctoral study in the Harvard Graduate School of Business Administration in September, 1968.

Christian Education Commission members gave their official approval to Carden's temporary appointment.

Carden served as director of special services at Stetson during the 1966-67 school year as well as acting dean. He joined the Stetson faculty in 1965 as assistant professor of history.

-30-

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