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**High Court Hears Attack
On Church Tax Exemptions**

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by W. Barry Garrett

WASHINGTON (BP)-- A New York City taxpayer charged before the U.S. Supreme Court here that tax exemption on property owned by churches and used exclusively for religious purposes violates the First and Fourteenth Amendments to the U.S. Constitution.

He also claimed that the increase in taxes because of church tax exemption constitutes an involuntary contribution on his part to religious organizations.

The court was then asked to rule that governments cannot constitutionally allow such church tax exemptions.

Frederick Walz, "a religious person not a member of any religious organization," carried his case through the New York courts to the U.S. Supreme Court. All of the New York courts had ruled against him and declared that the New York State Constitution and the Real Property Tax Law of New York relating to church property tax exemption do not violate the U.S. Constitution.

Walz, a lawyer, represented himself before the New York courts. However, his case was argued before the U.S. Supreme Court by Edward J. Ennis, a New York attorney.

Justice Potter Stewart asked about Walz's absence from the court. Ennis explained that he was suffering from high blood pressure and that he did not feel emotionally capable of presenting his case personally.

The defense of tax exemption for church owned property used exclusively for religious purposes was made by J. Lee Rankin, corporation counsel for the City of New York.

Church property tax exemptions are primarily at stake in the case. However, by implication, income tax deductions for church contributions and a number of other tax advantages enjoyed by church related agencies could be affected by cases which might follow.

The case, known as Walz v. Tax Commission, has attracted national attention, both by church and anti-church interests. A total of 11 separate amicus curiae (friend of the court) briefs were filed in addition to the briefs by Walz and by the Tax Commission of the City of New York.

Only one of the briefs supported Walz's position. Madalyn Murray O'Hair, the nationally-known atheist, and the Society of Separationists, Inc., filed an 82-page brief asking that the churches be taxed.

Earlier Mrs. O'Hair had requested the court to allow her to participate in the oral arguments along with Walz, because of the formidable array of groups on the other side. This request was denied by the court.

Americans United for the Separation of Church and State (POAU) in its brief agreed with Mrs. O'Hair's position that the First Amendment does not require tax exemption of churches as a religious liberty right.

Americans United argued: "A state's power to tax or to exempt from tax church property used exclusively for religious purposes is not one that is subject to the limitations of the religious clauses of the First Amendment to the Federal Constitution...."

"The 'no establishment' clause of the First Amendment, made applicable to the states by the fourteenth, does not impose on the states a mandate to tax houses of worship. Nor does the 'free exercise' clause of the First Amendment, made applicable to the states by the Fourteenth Amendment, make mandatory the exemption of houses of worship from tax."

Nevertheless, Americans United concluded that such tax exemption does not constitute an "establishment of religion" and therefore asked the Supreme Court to rule against Walz.

The brief of the Baptist Joint Committee on Public Affairs argued that constitutionally guaranteed religious liberty "requires, by right, the freedom from taxation of property used for religious purposes."

The Baptist brief further argued against federal or state taxation of churches by saying, "if such governmental agencies attempt to turn churches into a source of revenue for state purposes those attempts constitute restraints on the free exercise of religion."

Other briefs against Walz were filed by Parish Hall School, Inc., Washington, D.C., the National Council of Churches, the attorneys general in 37 states, the Baptist General Convention of Texas, the Synagogue Council of America, the National Jewish Commission on Law and Public Affairs, the United States Catholic Conference, and the Episcopal Diocese of New York and the Church of the Holy Apostles.

The next step in the case will be the announcement of a decision by the Supreme Court. This could be done anytime between now and the end of the current session of the court in June.

The case involves only tax exemption for church property used exclusively for religious purposes. Tax exemptions for benevolent, charitable, educational and welfare services by churches and their agencies are not under attack in this case.

By implication, however, other policies relating to tax privileges enjoyed by churches and their agencies could be affected by other cases which might follow. Income tax deduction for contributions to religious causes is a specific example.

From the viewpoint of a churchman the case for tax exemption for property used exclusively for religious purposes was not well presented to the Supreme Court in the oral arguments. The historical, political and traditional reasons for tax exemption were emphasized to the neglect of the philosophical and religious liberty aspects of the question.

It is hoped that the Supreme Court justices will pay as much attention to the amicus curiae (friend of the court) briefs submitted by the various church-related groups as to the oral arguments by the City of New York.

Regardless of the decision of the Supreme Court, many problems relating to the churches and public tax policy will remain unsettled.

If Walz wins, and if the court decides that tax exemption of church property is unconstitutional, both the church and the government will be in trouble.

Many churches will be able to pay their taxes, but others will not be able to meet the bill. Government will face the problem of disposition of church property if the taxes are not paid.

Constitutions and laws in most of the states will have to be revised. Conflict and discrimination cases will arise from many sources if church property is subject to taxation.

If Walz loses, and if tax exemptions are upheld by the Supreme Court, there will remain many questions about the churches and American tax policies.

The churches of the nation have just begun their homework in studying the issues involved and in arriving at policy positions that are in harmony with religious liberty and proper church-state relations.

Alabama Baptists Support Nixon;
Blast Sears For Sunday Opening

BIRMINGHAM (BP)--Resolutions supporting President Richard M. Nixon's policies in Vietnam and opposing reported plans by Sears Roebuck and Co., to open their stores on Sunday, were adopted by the Alabama Baptist State Convention here.

The convention also adopted a record \$6.8 million budget and heard their president blast ultra-liberalism, ecumenism and lack of faith.

The resolution on Vietnam voiced "prayerful support for the President of the United States and all officials at all levels of government for their efforts to effect peace with justice and honor in the tradition of our Baptist heritage."

Another resolution, submitted by the resolutions committee, opposed "misuse of the Lord's Day for the sole purpose of financial gain," but was amended from the floor to condemn the reported plans by Sears Roebuck and Co., to open on Sunday throughout Alabama, and specifically in Birmingham.

The \$6,860,000 budget goal for 1970 includes \$5.2 million for the state Cooperative Program goal, with \$1.8 million, or 35 percent, going to the Southern Baptist Convention Cooperative Program.

Contributions during 1969 were \$76,000 short of the goal, and the shortage was prorated against the capital funds part of the budget, convention officials reported. The 1970 budget was adopted with the stipulation that SBC causes would continue to get a net of 35 percent of the gifts should the budget not be met in future years.

Some of the hottest debate of the three-day meeting came when George Zbinden, pastor of Thirty-fifth Street Baptist Church here, made a motion asking that salaries of convention employees be published in the convention's annual.

The convention later adopted a substitute motion asking that salaries of all employees of Baptist institutions and agencies be published, but the following day voted to reconsider the action, excluding faculty members, secretaries, janitors and part-time employees from the published list.

On first reading, the convention approved a constitutional change which would reduce the size of the convention's Executive Board from 170 members to 125 members, on the basis of Baptist population. The constitution change must also be approved next year on second reading.

A \$1 million federal loan to Samford University here from the Housing and Urban Development (HUD) for a second unit for its student union building was approved by the convention. A spokesman for the convention said that Samford has previously received other loans from HUD, and that this is "nothing new."

The convention also approved a \$70,000 loan from private sources for Mobile College, Mobile, Ala., and a \$300,000 loan for a new modern hotel at Shocco Springs Baptist Assembly, near Talladega, Ala.

In a major address, Harry Philpott, president of Auburn University, Auburn, predicted that in the next decade, some form of support from the government will be required for the continuous existence of Baptist educational institutions.

Philpott, a Baptist, said: "Our task will be to devise programs which will safeguard, so far as possible, the administration of our schools in private hands and which will draw a clear line of distinction between activities which are religious in character and those which are common to the education experience of all students."

Convention President John Bob Riddle of Birmingham, said in an address that efforts to get Baptists to join the ecumenical movement should be viewed as "man's attempt to build a religious tower of Babel."

Riddle lashed out at liberals, but also warned that sometimes "we are more afraid of being called 'liberal' than we are in pleasing Christ."

Riddle was later re-elected president of the convention, and Lambert Mims, mayor of Mobile, was re-elected vice president.

Theme for the convention was, "Seventy In...A Giant Step for Baptists." Next year the convention will meet at Dauphin Way Baptist Church, Mobile, Ala., Nov. 17-19.



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