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October 11, 1972

**Supreme Court Upholds Ban
On Aid to Private Schools**

By W. Barry Garrett

WASHINGTON (BP)--The U.S. Supreme Court affirmed an Ohio district court ruling that a payment by a state to a parent for reimbursement for tuition paid for children in nonpublic schools is a violation of the Constitution.

The ruling of the Supreme Court came without the formality of oral arguments following an appeal for "probable jurisdiction" from officials of the state of Ohio. Apparently the issues were so clear-cut that the court by its 8-1 decision did not think it necessary to hear further arguments in the case.

James E. Wood Jr., executive director of the Baptist Joint Committee on Public Affairs here said, "For advocates of public aid to nonpublic schools, the decision must be viewed as a bitter disappointment.

"By implication it would now appear," the Baptist leader continued, "that the court has also repudiated the suggestion, as made by both major presidential candidates, President Richard M. Nixon and Senator George S. McGovern, that some form of public aid, at least in the form of a modest tuition reimbursement, may be provided parents of nonpublic pupils without violating the First Amendment."

The Ohio law provided, among other things, for a \$90 reimbursement grant to parents paying tuition in accredited non-public schools in the state. Of Ohio's nonpublic schools, 95 per cent are Roman Catholic schools.

The Ohio appropriation for the 1971-72 school year for the reimbursement program was \$30.5 million. In subsequent years, this amount was to be reviewed by the state Board of Education.

The Ohio district court recognized that the effort to get more and more money for the private schools would become a major divisive, political issue in the state.

The brief filed by the Ohio officials in support of its parental tuition reimbursement law complained that the district court "repeatedly referred to the Ohio legislation as if it provided money directly to a religious organization and concluded that there was no constitutional difference between aid to a denominational school and aid to a parent."

The Ohio brief also pointed out that the court treated reimbursement of tuition to parents "as if it were a tuition voucher providing tuition payments directly to the religious school."

The Ohio district court opinion that the state law violated the "establishment clause" of the First Amendment reviewed the makeup of the nonpublic schools of Ohio, discussed the constitutional principles of the "establishment clause", and applied these principles to the Ohio legislation.

The establishment clause of the First Amendment reads as follows: "Congress shall make no law respecting an establishment of religion." The Bill of Rights is made applicable to the states by the Fourteenth Amendment.

The Ohio district court concluded its lengthy review of the church-state issues involved in tuition reimbursement to parents by stating the following:

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"The basic purpose of denominational education is to foster and maintain the teachings of a denominational religion. The religious aspect of the curriculum must be the principal and dominant reason for the existence of such schools.

"We recognize and agree that the non-public schools are in the finest tradition of our respective heritages; that they are a strong moral force; that they provide firm cultural underpinnings to our community and supply outstanding leaders for the preservation of our institutions.

"However much we may approve, however much we may respect, however much we may admire the role of non-public education, we cannot substitute such approval, respect and admiration for the plain language of the First Amendment of the United States Constitution.

Neither any of these reasons nor all of them together alters the plain fact that Section 3317.062 O.R.C., as it permits reimbursements for tuition, will transfer public funds to religiously oriented private schools. These provisions do, therefore, violate the establishment clause of the First Amendment to the United States Constitution and should be permanently enjoined."

The lone dissenter in the Supreme Court was Justice Byron R. White. His position was that he would "note probable jurisdiction and set the case for argument." This does not indicate that he agrees or disagrees with the opinion of the Ohio district court.

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Pastor's Wife Awarded
Degree, Posthumously

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ABILENE, Tex. (BP)--The wife of a Texas Baptist pastor killed in an automobile accident on her way home from church has been awarded a bachelor of science degree posthumously by Hardin-Simmons University here.

Had Mrs. Charlotte Shuffield, 34 of Abilene lived, she would have received her degree from the Baptist school here in August commencement, with high honors.

Hardin-Simmons President Elwin L. Skiles presented the diploma to the family of Mrs. Shuffield at a Wednesday evening service of the Caps Baptist Church near here. Wayne Shuffield, pastor of the church, received the diploma in behalf of his four children.

Mrs. Shuffield died June 18 as a result of a collision between two vehicles following a Sunday morning worship service in front of the church, located just south of Abilene.

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