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November 9, 1972

**Court Studies Unlawful
Money for Private Schools**

WASHINGTON (BP)--A by-product of the Pennsylvania Nonpublic Elementary and Secondary Education Act that was declared unconstitutional last year has been argued before the U.S. Supreme Court here.

The unconstitutional Pennsylvania law authorized payment from public funds to private and parochial schools for the teaching of certain secular subjects, through the purchase of educational services from such schools.

The question now before the court in *Lemon v. Kurtzman* is whether the state of Pennsylvania is obliged under a law that has been declared unconstitutional to pay for services in parochial schools that were provided by those schools before the law was declared unconstitutional.

Alton J. Lemon and others brought suit in a Pennsylvania district court against David H. Kurtzman, superintendent of public instruction of the Commonwealth of Pennsylvania.

The suit sought a court action prohibiting Pennsylvania from paying approximately \$24 million to the private schools for secular services rendered before June 28, 1971 when the Supreme Court declared the Pennsylvania law unconstitutional.

A three-judge district court in Pennsylvania ruled that the state must pay the parochial schools their claims for 1970-71 even though the act was later declared unconstitutional. The decision was appealed to the U.S. Supreme Court which heard arguments in November.

The state superintendent of public instruction and a number of Roman Catholic and other private schools claim that the payments for 1970-71 should be made because of "contracts" and understandings that were in effect prior to the ruling on constitutionality.

William B. Ball, an attorney from Harrisburg, Pa., argued before the Supreme Court that these payments should be made because (1) the cause of justice will be served, and (2) there is no excessive entanglement between government and religion involved.

On the other hand, David P. Bruton, a Philadelphia lawyer, argued that no valid contracts existed between Pennsylvania and the private schools, that all parties knew that a challenge to the constitutionality of the law was in process, and that the payments were in reality "subsidies" to parochial schools rather than in fact payment for services rendered.

Bruton explained to the Supreme Court that he was not asking for a reimbursement to the state by the private schools for monies paid to them for the 1969-70 school year. However, since no payments have been made for 1970-71, he argued that these should not be made under a law that had been declared unconstitutional on its face by the Supreme Court.

If the Supreme Court sustains the district court ruling, the State of Pennsylvania will be obliged to pay an average of approximately \$20,000 each to 1,181 nonpublic schools.

Conflicting arguments were presented to the Supreme Court justices by Bruton and Ball. Bruton said that under the now defunct Pennsylvania law, there was no requirement that a parochial school add new teachers or programs or record-keeping. The only requirement, he said, was that the courses for which the schools were to be paid were to be secular in nature.

Thus, Bruton charged, the schools were being reimbursed for teaching what they were already doing if the subsidy had not been available.

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On the other hand, Ball told the court that the parochial schools had been out expenses incurred by the addition of new teachers, replacement of religiously oriented textbooks with secular books, revamping of teaching procedures, separate accounting systems for the four secular subjects and the alteration of administration procedures.

The Supreme Court now has the case under advisement and a decision will be announced sometime before the end of the spring term in June 1973.

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Foreign Board Appoints Seven,
Hears Administrative Reports

11/9/72

RICHMOND (BP)--The Southern Baptist Foreign Mission Board has added seven persons to its overseas force and heard its executive secretary urge new emphasis on "the call of God to worldwide Christian Witness."

The new missionaries are Mr. and Mrs. Jerrell R. Ballard of Amarillo, Tex., Mr. and Mrs. O.D. (Bill) Dyches of Great Falls, S.C., Mr. and Mrs. Jack D. Everhart of Oklahoma City, and Miss Mary Jo Stewart of Phoenix, Ariz.

Ballard, assigned to Colombia, will be the first Southern Baptist missionary prosthetist, a specialist in artificial limbs. He and Mrs. Ballard were employed by the board as missionary associates for a renewable four-year term.

Dyches, pastor of Trinity Baptist Church in Great Falls and the only ordained minister in the group, expects to do evangelistic work in Chile.

The Everharts will go to India where he will be a Baptist school administrator. He is currently a teacher and coach.

Miss Stewart, executive secretary of the Arizona Woman's Missionary Union for the past 3 1/2 years, will do women's work in Ecuador.

Executive Secretary Baker J. Cauthen told board members, "While we are most grateful for approximately 170 appointees during 1972 we are aware that this number needs to be greatly increased as we face the coming year."

The board's mission (organizations of missionaries) overseas have called for 800 new missionaries in a wide range of categories.

Cauthen called Southern Baptists' number of missionary appointments in recent years "phenomenal," but said that this "cannot be taken for granted."

He added "the fact that we are appointing fewer in 1972 than in recent years brings to our attention the necessity of examining every procedure utilized in laying the concern for missions upon the hearts of people".

Cauthen went on to say that the response of people to the call of God to worldwide Christian witness creates the necessity of larger resources.

"In order to make their going a possibility, we earnestly pray that the Lottie Moon Christmas Offering may be greatly blessed and that we shall find in this year Southern Baptists going beyond the goal of \$18 million.

"We also recognize that this is the time of year when the Cooperative Program is being stressed with major effectiveness," continued Cauthen. "It is our hope that churches everywhere may strengthen their gifts through the Cooperative Program so as to enable all mission efforts, both at home and throughout the world, to go forward effectively."

In his report, Cauthen told board members that an appointment service for missionaries will be held at First Baptist Church, Alexandria, Va., Dec. 12.

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The board approved recommendations inviting two couples to fill pastoral posts overseas in 1973.

Mr. and Mrs. David Bandy of Salinas, Calif., were invited to go to Calvary Baptist Church, Taipei, Taiwan. Bandy is pastor of First Southern Baptist Church, Salinas.

Mr. and Mrs. George D. McClelland of Marshall, Tex., were invited to give pastoral leadership to a congregation on Americans in Teheran, Iran. McClelland is a retired pastor.

Three missionary couples have been granted visas by the government of Malaysia after a long period of waiting and uncertainty, reported R. Keith Parks, the board's secretary for Southeast Asia.

Two of the couples were already assigned to Malaysia, and have been allowed to reenter following an absence from the country. The third couple are recent appointees.

Parks also said missionaries in the Philippines report they are encouraged by the changes taking place there under martial law and find that their work is enhanced by the new social stability in the Philippines.

A report of the board's department of promotion and furlough ministries said that 93 furnished houses are now available to missionary families on furlough. Fourteen of the houses are located on or near college campuses, giving the missionaries opportunities for teaching and student relationships.

According to Mrs. Eunice Smith, director of missionary housing for the department, 49 churches are considering the possibility of making houses available to furloughing missionaries.

Samuel A. Debord, departmental secretary, told board members, "Plans are being developed to enlarge the scope of opportunities for furloughing missionaries to speak to people through weekend penetrations for foreign missions in local churches, missionaries in residence in state offices, and speaking opportunities provided through the Woman's Missionary Union and the Brotherhood Commission."

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Indiana Board Discusses Possible Misuse of Funds

11/9/72

INDIANAPOLIS (BP)--In a called meeting here, the Executive Board of the State Convention of Baptists in Indiana voted to receive their 1971 audit of financial records, and discussed alleged undocumented disbursement of convention funds.

The board approved a resolution authorizing Executive Secretary E. Harmon Moore to file a "proof of loss" with the Fidelity Insurance carrier for recovery of funds, if and when any losses are verified, according to a report in the Indiana Baptist.

In discussing the audit, Moore told board members that the 1971 audit had been delayed because certain financial records in the bookkeeping office had not been maintained during 1971, or could not be located.

As a result, the convention's auditors reconstructed the accounting records from available information such as cancelled checks, duplicated check copies, bank statements, invoices, daily cash receipts, remittance advices, and other source documents.

Moore told the board that the bookkeeper was terminated on Sept. 29 because of "extremely poor performance related to 1971 records."

The auditing firm also had been authorized to reconstruct the necessary books and audit the financial records for the period Jan. 1, 1972 through Sept. 30, 1972.

In discussing the 1971 audit, Moore noted that \$1450 was listed as "undocumented disbursements."

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A representative of the auditing firm advised the board that additional auditing procedures are needed to document the nature and extent of these disbursements. Moore added that appropriate technical counselors are being used to document the disbursements.

In the event that the disbursements cannot be documented, a claim will be filed with the fidelity bond carrier. A bond of \$50,000 is carried on every convention employee.

During the meeting, the Executive Board was asked to stand by one board member as an expression of appreciation to Moore for his leadership in the face of the problems encountered, and for initiating and securing a proper audit of the convention's financial records.

The board was advised by legal counsel to limit disclosure of information of known facts, and that no further information be given until an investigation has been completed.

In an editorial in the same issue as the news report on the board meeting, the Indiana Baptist noted that the state paper was "telling the truth and trusting the people."

"Some denominations with different organizational structures would seek to keep any unpleasant news--no matter how important or insignificant--from its people...but Baptists have prided themselves on the right of the people to know," the editorial said.

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Pennsylvania-South Jersey
Baptists Oppose Tax Misuse

11/9/72

PHILADELPHIA (BP)--The Baptist Convention of Pennsylvania-South Jersey meeting here adopted a \$197,860 budget, elected a new president, appointed a committee to draft a long-range strategy, and adopted a resolution opposing use of tax funds for parochial schools.

The resolution urged Baptists in Pennsylvania and the southern part of New Jersey to write to the President, to members of Congress, and to the House Ways and Means Committee Chairman Wilbur Mills and express opposition of the use of tax funds for private and parochial schools.

On the recommendation of the convention's Executive Board, the convention voted to appoint a long-range strategy planning committee to draft a five-year program at the convention next year.

In another action, the convention established a Waltz memorial mission fund, with an initial corpus of \$6,000 in special contributions to the convention, in memory of the first executive secretary of the convention, Joseph L. Waltz, who died in office last year. Interest earned on the trust corpus is to be used to establish and support new churches and missions in the convention.

The new budget approved by the convention represents an increase of about \$35,500 over the current budget. The new budget allocates 22 per cent to Southern Baptist Convention world mission causes through the Cooperative Program unified budget, an increase of one per cent over the former 21 per cent allocation.

Elected new president of the convention was Kenneth A. Estep, pastor of Emmanuel Baptist Church, Elizabethtown, Pa., a native of Pennsylvania who has been pastor of churches in the state longer than any other Southern Baptist.

Another resolution adopted by the convention expressed appreciation for the work of C. E. Price, Baptist layman from Pittsburg who has been president of the convention for the past two years, and who served as interim executive secretary of the convention following the death of Waltz and before G. W. Bullard of Philadelphia took office as the new executive secretary.

There are 92 churches and chapels in the Pennsylvania-South Jersey convention, with a total membership of 10,231.

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CORRECTION: On BP story mailed 11-7-72, headlined Volunteers in Renewal Pledge Two-Year Effort, please change figures in graph 9 to read "The 100 associates..." and (line 2) "...a small group of 13..." Thanks.



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