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News Service of the Southern Baptist Convention

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February 23, 1973

S.C. Baptist College Case
Argued Before Supreme Court

WASHINGTON (BP)--A South Carolina taxpayer claimed before the U.S. Supreme Court her that a financial arrangement between the Baptist College of Charleston and the state of South Carolina is a violation of the First Amendment to the Constitution.

Richard W. Hunt, identified as "a taxpayer of the state of South Carolina and a resident of Charleston County," began his long fight against a state law that would aid both public and private colleges on March 20, 1970. The highest court in the nation finally heard the case on Feb. 21, 1973. A decision may be reached by June or July.

At issue is the South Carolina Educational Facilities Authority Act which provides for state authorized tax-free revenue bonds for the benefit of institutions of higher education. Hunt charged that the arrangement would require "impermissible state involvement in the affairs of the Baptist College at Charleston."

The case arose originally when the Baptist College of Charleston applied for an issue of bonds not to exceed $3.5 million. If the plan had been completed, the Baptist College of Charleston would have deeded a portion of its campus to the state, which in turn would have leased it back to the school. The rental charge would have been adequate to pay off the bonds. After the bond issue had been retired, the state would in turn convey the campus back to the college.

The case has been in the courts for such a long time that Baptist college made other arrangements for a large portion of its financial needs.

According to Hunt's brief before the Supreme Court, Baptist College paid off a $2.5 million debt by a loan that was arranged otherwise than through the state bond issue.

The college then reduced its request to the state from $3.5 million to $1,250,000. This reduced amount would: (1) repay the college's current fund for a loan of $250,000 to its plant fund, (2) refund $800,000 in short term loans, and (3) complete a dining hall at a cost of approximately $200,000.

None of these alleged facts were disputed by either side during the oral arguments before the Supreme Court.

Robert McCormick Figg Jr., an attorney from Columbia, S.C., represented Hunt before the Supreme Court. The state of South Carolina was represented by Huger Sinkler of Charleston, S.C. The case is known as Hunt v. McNair.

Both the circuit court and the Supreme Court of South Carolina had earlier ruled that the S.C. Educational Facilities Act and the arrangement with Baptist College of Charleston do not violate either the South Carolina or the U.S. Constitutions.

Hunt then appealed his case to the U.S. Supreme Court, which on June 28, 1971 sent it back to the South Carolina Supreme Court to be argued again in the light of its recent decisions in Lemon v. Kurtzman, Tilton v. Richardson, Earley v. Dicenso, and Robinson v. Dicenso.

The South Carolina Supreme Court again upheld the act and its arrangement with Baptist College of Charleston. Now both the state and the Baptist College await the decision of the U.S. Supreme Court.

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In his argument before the Supreme Court, Sinkler for the state of South Carolina denied that the state would be involved in close supervision of the financial affairs of Baptist College thus resulting in "excessive entanglement" between church and state. He also denied that the state was providing state aid to a sectarian institution, since no tax funds were involved in bond issues for private schools.

Sinkler conceded after a question by Justice W.J. Brennan, Jr., that the tax free bonds made possible a two per cent advantage to Baptist College in financing its indebtedness. Such aid, he continued, does not violate the separation of church and state. The reason for this, he pointed out, is that a "state may expend its funds in a manner which benefits sectarian institutions as an incident to the benefit conferred on society generally."

Attorney Figg argued on the other hand that the South Carolina law requires that the state sees to it that the Baptist college charge students fees that are sufficient to meet the bond payments. For this reason, he contended, the state authority would have to be closely involved in the financial operations and conditions at the college, and that, if it became necessary, would require the college to adjust its student fees and charges.

"The necessary result," he concluded, "is in excessive degree of involvement and entanglement of the state in the activities of the college in contravention of the religion clauses of the First Amendment."

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Nixon Plans Tax Credit
Aid to Private Schools

2/23/73

WASHINGTON (BP)--President Nixon said in his State of the Union message on the economy that he will ask Congress soon for tax credit legislation to benefit parents of children in parochial and private elementary and secondary schools.

"Tax credit for nonpublic schools" was one of seven items which the President listed among those included in his 1973 economic package. The list, minus details, was in the third installment of President Nixon's State of the Union message, traditionally given at the beginning of each year.

Earlier when the 1974 budget went to Congress, the President included proposals to provide a tax credit of up to $200 a year per pupil for parents of children in nonpublic schools.

"These institutions are a valuable national resource, relieving the public school system of enrollment pressures, injecting a welcome variety into our educational process, and expanding the options of millions of parents," Nixon said in his State of the Ecnomony message.

The President's views on finding some way to aid parochial schools are well known. This issue was prominent in his campaign last fall and he has said repeatedly that the government must help the ailing parochial school system.

The ultimate outcome of such legislation is subject to much debate in Washington. On one hand, the powerful chairman of the House Ways and Means Committee, Wilbur D. Mills (D., Ark.), supports the idea as a part of a larger tax package. He believes the plan is constitutional and will pass the House of Representatives.

"I back this type of aid, which goes to the parent and not to the school, because of the unsound financial condition the private schools are in. It is fair to give tax support to all schools, not just public schools," Mills said.

On the Senate Side of Congress the outlook for tax credit legislation is unsure. Sen. Sam J. Ervin (D., N.D.), the Senate's foremost constitutional lawyer, is strongly opposed to the idea.

Ervin said recently that such aid to parents in essence gives government money raised from all the people to benefit certain churches. Ervin accused President Nixon of lacking "devotion to the First Amendment" in his dedication to give public funds to parochial schools.

The Supreme Court, of course, will have the last word. The court has before it cases from Pennsylvania and New York that involve tax credits and tuition reimbursements for parents of private school children. Also it is expected that an Ohio case, where a three-judge federal court ruled the tax credit law unconstitutional, will be appealed to the Supreme Court.

Cong. Mills has said that he himself would still back the tax credit plan, regardless of the Supreme Court ruling. However, a court ruling against such tax credits would weaken chances of passage in Congress.

A White House spokesman said, when asked what the situation would be if the court ruled against the current state tax credit laws, that "obviously, it makes a difference."

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