



# BAPTIST PRESS

News Service of the Southern Baptist Convention

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## Court Approves State Aid To Certain Church Colleges

By Stan L. Haste

*Wash.*

WASHINGTON (BP)--The U.S. Supreme Court ruled here in a 5-4 decision that states may provide funds for certain private, church-related colleges without violating the First Amendment to the Constitution.

The decision, which will unquestionably affect similar plans in other states, upholds an earlier ruling by a federal district court that Maryland's program of direct aid to sectarian colleges is permissible.

Maryland's plan, in effect since 1971, stipulates that the funds must be used for "secular", but not "sectarian" purposes. That, however, is the only restriction on the aid.

Four individual taxpayers brought suit against the state of Maryland and its board of public works, the agency which administers the program. Four schools, all Roman Catholic, have received funds since the program began. A fifth, Methodist-affiliated western Maryland College, withdrew from the case earlier, declaring that it had become a private non-sectarian institution.

The high court's majority, which included Chief Justice Warren E. Burger and associate justices Harry A. Blackmun, Lewis F. Powell, Byron R. White, and William H. Rehnquist, held that the Maryland program meets constitutional requirements spelled out in previous actions, particularly in *Lemon v. Kurtzman*, a 1971 decision setting up a three-part test for such aid programs.

Blackmun, who wrote the court's opinion, argued that a "hermetic separation" of church and state is impossible. He went on to point out that in previous decisions, the court has held that providing transportation and textbooks for students attending parochial schools are constitutional.

Blackmun held that the Maryland law does not have the "primary effect" of advancing religion and that "excessive government entanglement with religion" has not been proven in its administration by state officials.

Regarding the "primary effect" question, Blackmun said that none of the four colleges receives funds from nor reports to the Roman Catholic Church, that religious indoctrination is not a primary purpose, that courses in religion and theology comprise only a small part of the curriculum, and that faculty hiring and student recruitment programs are not based on religious tests.

Blackmun also held while there is "no exact science in gauging" the "excessive entanglement" question, the Maryland program contains the necessary safeguards to insure against it.

He also pointed to the "essentially secular educational functions" of the four schools in contrast to the religious character of parochial elementary and secondary schools.

Blackmun said further that the fact that the state appropriation is an annual one "does not necessarily" mean that excessive entanglement results.

Referring to yet another test applied in previous decisions, Blackmun stated that "political divisiveness" over the question of state aid to sectarian institutions is less in the case of a college than in that of an elementary or secondary school.

While agreeing with Blackmun's position upholding the Maryland plan, Justices White and Rehnquist stated in a separate opinion that the court need not bother with the "excessive entanglement" question. White, who has repeatedly objected to that portion of the *Lemon* test, wrote that all the court needs to establish is the secular nature of the program at stake and to ascertain that its primary effect is not to advance religion.

On the other side, three dissenting opinions were filed. Speaking for himself and Justice Thurgood Marshall, William J. Brennan Jr. objected to the "payment of general subsidies to religious institutions from public funds." Citing an earlier opinion he wrote in 1963, Brennan said that such subsidies "tend to promote that type of interdependence between religion and state which the First Amendment was designed to prevent."

Brennan, the court's senior member, stated further that "the discreet interests of government and religion are mutually best served when each avoids too close a proximity to the other."

Justice Potter Stewart, in a separate dissent, objected to the fact that all four sectarian colleges receiving the aid require compulsory religion courses which may or may not include efforts to proselytize. He insisted that such courses ought to be taught as an "academic discipline."

The high court's newest member, John Paul Stevens, also dissented, saying that state subsidies carry with them the "pernicious tendency...to tempt religious schools to compromise their religious mission."

Only twice before has the Supreme Court dealt with aid to high education. In 1971 it held that federal construction grants for church-related colleges are permissible if they are used for purely secular purposes (Tilton V. Richardson).

And in 1973, in a case involving Baptist College of Charleston, S.C., the court held that state revenue bonds may be issued for construction of secular facilities on church-related college campuses, even though sectarian colleges benefit in repaying the money because of their tax-exempt status.

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Vietnamese Refugee--Suicide  
Was An 'Honorable Solution' ?

By Tim Nicholas

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*HMB*

ATLANTA (BP)--In some cultures suicide is an honorable solution to seemingly insoluble problems.

And so it was for Vo Van Thu, 38, former South Vietnamese Army Major, turned refugee, turned offset press operator.

His life ended June 14, when he hanged himself by his shirt in the Fulton County Jail here, while awaiting arraignment for murder in the beating death of his three-year-old son, Thanh.

Police had been called in after Thu had rushed his son to an Atlanta hospital after the child suffered injuries which hospital authorities believed indicated child abuse.

"But what Thu's part may have been, no one will ever know," said Lewis Myers, former Southern Baptist Missionary to Vietnam and a friend of the family.

"A partial deterioration of the family through the death of his child may have been intolerable for him," said Myer.

"He keenly felt responsibility, not necessarily in terms of personal guilt, but in view of the fact that the child was gone," said Myers who has been aiding the Southern Baptist Home Mission Board (HMB) in Atlanta with Vietnamese refugee ministries. Thu was employed by the HMB in its offset print shop.

"Not that people didn't try to explain, but Thu didn't understand it all, the process of arrest and of being in jail," Myers said. "He told his wife, his mother and me that he would keep praying and that it was all going to work out.

"It points out the immense struggle people from other cultures are having, trying to translate their cultural values into a different cultural pattern," Myers added.

"For instance, there was an intense frustration on the part of the family, having someone else prepare the body for burial. Body preparation is a part of Vietnamese culture and a part of the grief process," Myers said.

During the funeral, only red and yellow flowers were displayed. "White flowers would be in bad taste because they represent death", said Myers.

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A church starter and field evangelist in Vietnam 12 years, Myers was on furlough in the U.S. when Thu and thousands of other families from the Southeast Asian country fled during the 1975 invasion from the North.

A former Buddhist, Thu had attended Bible studies and became a Christian while living at the refugee camp at Ft. Chaffee, Ark. He was later sponsored by Logwood Hills Baptist Church in East Point, Ga.

His and his son's funerals were Christian. Myers spoke to the congregation in Vietnamese and the church's pastor J. Estill Jones, spoke in English. "Thu's love for his family comes through loud and clear," said Jones at the funeral. "Part of his frustration in jail was that he could not carry out his plans for his children's future. He said earlier that perhaps one would be a doctor, another an engineer."

The church assured the family that it would continue to stand with them for whatever their needs. "But somewhere down the road," said Myers, "the kids will need to go to college."

Thu's mother, Be Thi Troung, who survives along with his wife, Nguyen Thi Lai, and four children, ages 2, 4, 5, 7, told Myers that people of the church had been so good that they would not lack for food and clothes. "But she was worried about the cohesiveness of the family," said Myers.

The basic unit in Vietnamese culture is the family, according to Myers. "Any change in structure throws a lot of stress on the family group," he said.

During Thu's funeral arrangements, his seven year old son stepped forward assuming the role of the eldest male. "He corrected his younger brother's behavior," said Myers, "And the boy obeyed. More often than not, he had been sitting with the adults rather than playing outside with the other children.

"No one ever told him to do these things," explained Myers, "he just knew."

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Justices Bar Civil Court  
Decisions in Church Cases

By Stan L. Haste

*Wash.*

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WASHINGTON (BP)--In a major church-state action, the U.S. Supreme Court announced here that civil courts have no right to decide internal ecclesiastical disputes in hierarchical churches.

In a 7-2 decision the high court overturned an earlier ruling by the Illinois Supreme Court in the case of a bishop of the Serbian Eastern Orthodox Church who was defrocked in 1963. In the lengthy legal battle since then, Bishop Dionisije Milivojevich, former head of the church's American-Canadian diocese, had sought to have civil courts reinstate him.

Justice William J. Brennan, Jr., writing for the majority of the court, cited several earlier decisions dating to 1871 in which the tribunal has declined to intervene in internal church disputes.

The new decision announced here states that "where resolution of the (church) disputes cannot be made without extensive inquiry by civil courts into religious law and polity," such courts "shall not disturb the decisions of the highest ecclesiastical tribunal within a church of hierarchical polity."

In addition to the issue of Bishop Milivojevich's defrockment, the court was also faced with the question of who owned church property formerly under the bishop's control. On this dispute, the high court also ruled that the church's authorities must settle ownership questions, not the civil courts.

Two justices, William H. Rehnquist and John Paul Stevens, disagreed, maintaining that some civil jurisdiction over church disputes is inevitable. Rehnquist, who wrote a strongly-worded dissent for himself and Stevens, said that civil courts "must of necessity make some factual inquiry" into such disputes unless they "are to be resolved by brute force."

He elaborated, "If the civil courts are to be bound by any sheet of parchment bearing the ecclesiastical seal and purporting to be a decree of a church court, they can easily be converted into handmaidens of arbitrary lawlessness."

The other seven justices argued, however, that when church courts have been created to settle such disputes, "The constitution requires that civil courts accept their decisions as binding upon them."

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The Serbian Eastern Orthodox Church is a hierarchical church whose seat is the Patriarchate in Belgrade, Yugoslavia. It dates to the schism of 1054 within Catholicism which resulted in the formation of 14 new bodies.

The church's highest legislative, judicial, and administrative authority rests in its Holy Assembly of Bishops which made the 1963 decision to defrock Bishop Milivojevic.

The bishop first brought suit against his church in an Illinois trial court which ruled against him. The Illinois Supreme Court reversed the lower court, however, setting the stage for an appeal to the U.S. Supreme Court.

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Bicentennial Feature

Baptist Ministers Win Right  
To Perform Va. Marriages

*Home of*

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RICHMOND, Va. (BP)--Baptists and other dissenters gained a major victory in their fight against the state church of Virginia with enactment of a law that recognized the validity of marriages performed outside the state church.

Prior to its passage, marriages were not recognized as legal unless they were performed "according to the rites and ceremonies of the Church of England," which was the Virginia state church. Most marriage licenses were worded to that effect.

The new law stated, "that it shall and may be lawful for any minister of any society or congregation of Christians...to celebrate the rites of matrimony...and such marriages, as well as those heretofore celebrated by dissenting ministers, shall be...good and valid in law."

Patrick Henry, a friend of Baptists, had earlier advised Baptist ministers to go ahead with marriage ceremonies. His opinion was that the best way to have the unjust law repealed was to disregard it. The action of the General Assembly proved the astute lawyer correct, observers noted, although some did not approve of this strategy of "doing evil that good might come."

Baptists also led in the fight which earlier gained the abolition of punishment for opposing the established church as well as exemption from taxes to support it.

The General Assembly of Virginia in October, 1776, ruled invalid every act of Parliament "which renders criminal the maintaining any opinions in matters of religion...or which prescribes punishments for the same."

At the same time, because "it is contrary to the principles of reason and justice that any should be compelled to contribute to the maintenance of a church with which their conscience will not permit them to join, and from which they can therefore receive no benefit," the Assembly further ruled "that all dissenters of whatever denomination...shall...be totally free and exempt from all levies, taxes and impositions whatever towards supporting and maintaining the said Church as it now is...established, and its ministers."

The established church held stubbornly to its prerogatives, however, and even in the case of performing marriages, Baptists and other dissenters did not yet hold equality. The law limited the right of pronouncing vows to only four ministers of each sect within a county, and these ministers could not perform a marriage outside their county.

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