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January 11, 1979 79-05

Court Avoids New Debate
Over Religion in Schools By Stan Hastey

WASHINGTON (BP)--By a 7-2 vote, the Supreme Court refused to re-open the fierce debate over the role of religion in public schools.

Over the dissents of justices William J. Brennan Jr., and Thurgood Marshall, the high court declined to hear a case challenging Florida's law requiring school teachers "to inculcate...the practice of every Christian virtue." Also at issue in the case was a challenge to the distribution of Bibles on school premises by the Gideons.

The controversy began in August 1970, when the Orange County (Orlando) Board of Public Instruction adopted a resolution requiring every school to conduct a five to seven-minute period of meditation at the beginning of each school day. The resolution specifically called for the inclusion of Bible reading and prayer to be presented by individual school officials, teachers, students, or by groups and organizations.

At the same meeting, a member of the Gideon organization asked for, and received, permission to distribute Bibles in the county's schools.

A group of 39 parents,who claimed that the resolution violated their religious rights, filed suit in a federal district court but their complaint was dismissed. Their appeal reached the Supreme Court, where the school board urged the justices not to hear the case in light of the fact that no religious exercises have been conducted in Orlando's schools for more than seven years. Likewise, the board argued, the practice of allowing the Gideons to distribute Bibles in the schools had also been discontinued shortly after the suit by the parents was filed.

The board also asked the justices to accept the district court's finding "that there was no evidence showing a present or likelihood of future enforcement of the 'Christian virtues' statute."

The parents' statement to the high court, while failing to mention that the school board had ceased to enforce its resolution shortly after its adoption, nevertheless asked the high court to invalidate it. They also asked the justices to strike down the "Christian virtue" portion of the state law.

Although the justices did not indicate their reasons for turning down the parents' request, one possible explanation is that the high court almost always requires proof of conflict before agreeing to hear a case.

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1978 Career Appointees Baptist Press
Start Service Younger By Mary Jane Welch 1/11/79

RICHMOND, Va. (BP)--Southern Baptist foreign missionaries are starting their careers earlier, according to a report from the denomination's Foreign Mission Board.

The average age of career missionary men at the time of the appointment was 32 in 1977, but dropped to 30.4 in 1978. The average age of career missionary women dropped from 30 in 1977 to 29.4 in 1978.

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The average age of missionary associates, however, rose from 49 to 50.2 for men and from 46 to 50.7 years of age for women. Under the missionary associate program, persons from 35 to 59 are employed for four-year periods of service overseas.

The average missionary journeyman commissioned each year was 23. This program is for college graduates 26 and under who are employed for two-year periods of overseas service.

The number of children in the average missionary family varied only slightly, down to 1.9 in 1978 from 2 in 1977. Seventeen couples without children were appointed.

Appointees came from 35 states and five foreign countries. Leading the list of states with the most appointees were Texas with 55; North Carolina, 30; Alabama, 27; Arkansas, 20; Tennessee, 15; and Florida and California with 13 each. The top three states held the same positions in 1977.

The 350 missionaries appointed in 1978, a record number, contributed to a net gain of 130 in the total missionary force when losses were subtracted. Retirements accounted for 14 losses, in-service deaths for five, and auxiliary workers who completed their assignments accounted for 102 losses. Eighty-nine journeymen, six associates, and seven special project workers were included in this group.

Resignations accounted for 99 losses, including 68 career missionaries, 25 associates, and six journeymen. There were, however, 30 reappointments, a record number.

At the end of 1978, the missionary personnel department was in contact with 1,828 prospective missionary couples or individuals. About 550 of these were applicants for the missionary journeyman program.

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Nonsmokers' Appeal
Goes Up In Smoke

Baptist Press
1/11/79

WASHINGTON (BP)--Nonsmokers lost a legal battle as the Supreme Court declined to hear an appeal which sought to outlaw smoking in the Louisiana Superdome.

The modern New Orleans facility, which is completely enclosed, is the site of athletic, entertainment, and cultural events. A group of Louisiana citizens had sued the controlling board which operates the facility, asking the courts to forbid all smoking inside the arena.

Although the nonsmokers insisted that they were concerned with regulation of smoking in a public facility rather than with prohibition of smoking altogether, they did claim that individuals have a constitutional right "to be free from the forced inhalation of hazardous tobacco smoke."

"Tobacco smoke is a clear and present danger" to the "health and bodily integrity" of citizens, the argument continued, "not merely a tolerable inconvenience of minor discomfort." A report from the department of Health, Education and Welfare released Jan. 11 has reaffirmed laboratory proven evidence that smoking is causally related to a host of lung and heart ailments.

The nonsmokers acknowledged that their legal and constitutional arguments were novel, but argued that the privacy implications of the First Amendment and the Fifth Amendment's guarantee of liberty presented the justices with sufficient justification to hear their appeal.

Without comment, however, the justices unanimously declined, leaving in effect the rulings of two lower federal courts which had declared that the matter should be left to legislative rather than judicial bodies.

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Union Gains Review of
Baptist Hospital Dispute By Stan Hastey

WASHINGTON (BP)--The Supreme Court agreed to decide if Baptist Hospital of Nashville, Tenn.,may continue to forbid its employees from engaging in union solicitation in certain areas of the hospital.

At the same time, the justices unanimously declined to review a lower court ruling that a Seventh-Day Adventist worker in Tucson, Ariz., may keep his railroad job despite his refusal to pay union dues on religious grounds.

In the Baptist Hospital case, the justices agreed to a request by the National Labor Relations Board to review a decision by a federal circuit court denying hospital employees the right to solicit for union membership in areas of the hospital where patients commonly mingle with the public during nonworking hours, such as the gift shop or cafeteria.

The union local filed a protest with the National Labor Relations Board, which agreed that the hospital policy violated a portion of the National Labor Relations Act giving employees the right "to self-organization, to form, join, or assist labor organizations... and to engage in other concerted activities for the purpose of collective bargaining."

In its statement to the justices, the federal agency pointed out that the hospital policy restricting union activities to areas of the hospital where patients would not be present was made just two months after union activities in the hospital began.

The NLRB also pointed to a Supreme Court decision last year which ruled against a Jewish hospital which also placed restrictions on union activities. Baptist Hospital argued that the Jewish hospital case was decided on narrow grounds.

Justice William J. Brennan Jr., who wrote that opinion for the court, pointed out that "hospitals carry on a public function of the utmost seriousness and importance. They give rise to unique considerations that do not apply in the industrial setting," he said.

While the high court did not indicate a date for oral arguments in the case, it is likely to be heard and decided this spring.

In the Arizona case declined by the justices, the Southern Pacific Transportation Company and the United Transportation Union failed to convince the court that it should review a lower court decision upholding the right of Duane T. Burns to refuse to pay union dues for reasons of religious conscience.

Burns, who has worked for Southern Pacific since 1955 and who earlier served for nearly three years as president of the union's local chapter, resigned from the union in 1974 after becoming convinced that his eternal salvation depended in part upon forsaking the union. He cited the teachings of the Seventh-Day Adventist Church, to which he belongs.

The union had argued that to allow Burns to continue working for the railroad company and benefiting from collective bargaining agreements placed an "undue hardship" on both the company and fellow workers.

Attorneys for Burns argued that the railroad could prove no "undue hardship," nor had they reasonably tried to accomodate his religious needs as required by a 1972 amendment to the Civil Rights Act.

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Court Upholds, Reverses
Obscenity Convictions Baptist Press
1/11/79

WASHINGTON (BP)--Returning to the bench after a month's absence while they worked on cases already heard this term, the justices of the Supreme Court disposed of a cluster of obscenity cases.

The high court, over the objections of three justices, declined to review a California law which exempts theater projectionists from prosecution under obscenity laws, while leaving

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owners and theater managers open to prosecution. The latter had claimed that the law violates their equal protection under the law.

Justices William J. Brennan Jr., Potter Stewart, and Thurgood Marshall, who oppose most obscenity laws on First Amendment grounds, indicated they would reverse the convictions of those bringing the appeal.

In four Georgia cases involving men who were convicted of distributing various sexual devices and publications, the court declined to hear a challenge to that state's law forbidding the sale of objects designed "as useful primarily for the stimulation of human genital organs." The same three justices dissented, saying they would overturn the convictions.

Another three of the justices, Byron R. White, Lewis F. Powell Jr., and William H. Rehnquist, dissented from another action which summarily overturned the convictions of an Oregon man who was convicted under a federal law for mailing obscene material to Wyoming. The action means that government officials may not solicit pornography and then select the U.S. district court of their choice in which to prosecute persons charged with mailing obscene materials across state lines, a choice presumable based on the likelihood of obtaining convictions.

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Court Throws Out Mo. Law
Excusing Women From Juries

Baptist Press
1/11/79

WASHINGTON (BP)--In a series of actions in the field of sex discrimination, the Supreme Court struck down a Missouri law which allows systematic exclusion of women from jury duty and agreed to hear the complaint of a Pennsylvania man who was fired from his job for advocating the rights of women employees.

In related action, the high court declined to review a New York law which mandates disability benefits for pregnant women, although it ruled earlier that federal law does not require such benefits.

The Missouri law was held to violate the so-called "fair cross section" requirement contained in the Sixth Amendment to the Constitution. The provision was designed by the nation's founders to help insure that every person charged with a crime be given a fair trial.

The Missouri Supreme Court had earlier upheld the constitutionality of the state law which granted women an automatic exclusion from jury duty at their request. During the appeal challenging the law, evidence was presented showing that Missouri women who were summoned to jury pools could be excused merely by not showing up.

The high court agreed, 8-1, with a Missouri man convicted of first-degree murder and robbery that he had not received a fair trial because his all-male jury was chosen from a panel of 53, only five of whom were women.

The justices also announced they will hear the case of John R. Novotny, a former employee of a Pittsburgh savings and loan association who was fired after a 24-year career for taking up the cause of a woman employee who claimed she was the victim of sex discrimination. Novotny also accused his employer of blanket discrimination against women in its employment policies.

The court also declined to review the New York law which orders companies to include pregnancy-related disabilities in their overall disability benefit packages. In 1976 the court ruled that the federal Civil Rights Act falls short of requiring companies to include pregnancy as an illness covered by such disability plans. At that time, a sharply divided court held that pregnancy is not an illness as such and that private companies are not obligated under federal law to include it as a disability.

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