

High Court Declines to Hear Tuition Grant Case

By Stan L. Hasty

WASHINGTON—In a brief, unsigned order, the U.S. Supreme Court let stand a ruling by the Missouri Supreme Court that a tuition grant program for the state's college students passes First Amendment requirements.

The 8-1 action of the high court, with only Justice William J. Brennan voting to hear the case, means that more than 10,000 Missouri students will continue to receive state funds for use at the educational institutions of their choice.

Among Missouri's 57 colleges and universities, 17 are affiliated with religious denominations. Three of the schools, Hannibal-LaGrange College, Southwest Baptist College, and William Jewell College, are Baptist-related.

Missouri's law, which took effect in 1972, provides the state's students with "non-religious educational services in a public or private institution of higher education of their choice."

Schools whose students participate in the program are prohibited from discriminating on the basis of race, color, religion, sex, or national origin in the hiring of administrators, faculty, and staff or in the admission of students. Schools must also be in compliance with federal civil rights laws to be eligible for participation.

The law further requires the schools to permit their faculty members to select textbooks "without influence or pressure by any source."

Americans United for Separation of Church and State, a Silver Spring, Md.-based group, brought suit against the coordinating board of the Missouri program in July 1974. Eighteen months later, in January 1976, a St. Louis County circuit court ruled that the law violates the First Amendment prohibition against an "establishment of religion" by the state.

On appeal, however, Missouri's Supreme Court ruled 4-3 last July that the law meets constitutional requirements.

G. Hugh Wamble, professor at Midwestern Baptist Theological Seminary in Kansas City and former president of the Missouri Baptist Convention, and A.L. Palmer, pastor of First Baptist Church, Fenton, Mo., joined Americans United in the suit.

In written arguments submitted to the (See TUITION, p. 5)

Report from the Capital

January 1977

Expose of Hoax

Millions Are Misled About FCC Petition

By W. Barry Garrett

WASHINGTON—Have you heard that a famous atheist is petitioning the Federal Communications Commission (FCC) to ban religious broadcasting? The unfounded fear of maybe 20 or 30 million church people about this non-existent possibility is the most amazing phenomenon I have witnessed in 19 years of news reporting from the nation's capital.

Yes, that many people have either written or signed petitions asking the FCC not to agree to an imaginary petition by Madalyn Murray O'Hair to ban religious broadcasting.

Such a petition by Mrs. O'Hair does not even exist. Neither is there any other petition before the FCC to ban religious broadcasting. That is what makes this story so amazing.

If this story were not so ridiculous and tragic, it would be hilariously funny. In fact, I imagine that the perpetrators of this colossal hoax (whoever they are) can hardly contain their mirth at the gullibility of so many church people and the irresponsibility of so many broadcasters, newspapers and organizations.

If you want to stop wasting your time, if you want to help preserve the Christian witness in public affairs, if you want to maintain respect as a responsible communicator, then, for goodness sake, do your best to stop this silly outburst of fear about a non-existent threat to religious broadcasting.

Please, my friends, let's stop this FCC petition business and move on with a genuine witness to the Christian gospel and its significance for the important problems people face.

Once again we give you the facts.

In December 1974, two California men, Jeremy D. Lansman and Lorenzo W. Milam filed petition RM 2493 with the FCC. In this lengthy document they asked the FCC to issue rulings that would freeze the assignment of additional educational television or FM radio licenses to individuals or groups planning to air only religious or quasi-religious programs.

Almost immediately this petition was misunderstood, misinterpreted, twisted, distorted, misrepresented and used to generate an extensive mail campaign directed at the FCC. The effect of these appeals was electric. Within a few brief months hundreds of thousands of letters poured into the FCC mail room. Most of these were based on misinformation. Only a few people had taken the trouble to find the facts and to address the real questions.

On August 1, 1975 the FCC in a unanimous action denied the requests made in the petition. It issued an 11-page statement explaining the reasons the requests were denied. This action of the FCC was made public on August 13, 1975. The information was carried on the nation's wire services. Articles appeared in newspapers, magazines and the religious press. Once again we thought we had slain the dragon of misinformation, rumor, myth and hysteria.

But the dragon refused to die.

For a while the volume of mail at the (See EXPOSÉ, p. 4)



Garrett

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Human Rights in International Affairs

By James E. Wood, Jr.

I

There is a tendency on the part of many persons, even when not supported by the facts of history and in spite of the political realities of today's world, to regard human rights as being progressively realized throughout the history of mankind. Persecution and tyranny are most easily associated with the distant past than with the present. The truth is that the twentieth century, while it has witnessed the almost worldwide ratification of the Universal Declaration of Human Rights, has by no means been accompanied by a steady advance of human rights among the nations of the world. Rather the twentieth century has clearly been marked by flagrant and wholesale violations of human rights by states and governments throughout the world.



Wood

Political totalitarianism has emerged in this century to a degree and in a manner unparalleled in history. The Holocaust of Nazi Germany against the Jews is a perennial reminder of the terrifying depths to which a modern nation may go in the denial of human rights, even of life itself, to millions of its own citizens. One aspect of the tragedy of the denials of human rights in recent history is that they were frequently not even formally disavowed by much of contemporary Christianity.

While human rights are almost universally espoused in principle by most of the nations of the world, in actual practice human rights are expressly denied throughout the world by nations, large and small, politically on the right and on the left. Political persecutions have become widespread resulting from charges of "political crimes" against the state. In addition to mass arrests and imprisonments, a repeated claim made today is that probably more people have been put to death—men, women, and children—during the twentieth century than were slaughtered during all previously recorded history. Nevertheless, there has been evidence of a growing concern of human rights all over the world. Much of the impetus for this concern has resulted from the far-reaching implications to be found in the Universal Declaration of Human Rights.

II

Human rights must be made an authentic and independent concern in international affairs. Up to now this has not been realized either within the framework of the United Nations or in the foreign policy of any single nation state. Recent steps

have been taken in this direction by the United States, but here, as elsewhere, there is much confusion concerning the role of human rights in international affairs. U.S. military and economic aid, trade negotiations, and cultural and political ties are all too often established and sustained with little or no regard for human rights in U.S. international relations. U.S. aid is, in fact, frequently being used to violate human rights throughout the world.

Recently one official of the U.S. State Department acknowledged what he called "a legitimate concern of human rights in U.S. foreign policy." His reasons simply stated were: "the maintenance of peace," "the security of the United States," and "the economic welfare of the American people." These reasons completely miss the mark in making human rights a legitimate concern in U.S. foreign policy. The most oppressive regimes in recent history have flagrantly violated human rights in the name of maintaining peace and stability of the social order.

Americans need hardly to be reminded that it was "national security" in recent years which became the basis for bureaucratic lawlessness, reaching the highest levels of government, and the resultant denial of human rights to multitudes of American citizens. The economic welfare of the American people as an objective for human rights in U.S. foreign policy easily becomes the basis of American imperialism as economic considerations became in an earlier day the motivation of colonialism and the building of empires by major world powers. Under such circumstances any violation of human rights remains "classified" information if and when such disclosures are found not to serve the alleged "national interests."

Concern for human rights must stand on its own, unencumbered by self-serving interests. Hence human rights in U.S. foreign policy cannot be subsumed under national objectives of "peace," "national security," and "the economic welfare of the American people." To do so is to deny any authentic role of human rights in international affairs.

III

Human rights must be rooted in our concern for the inviolable rights of persons. These rights are appropriately symbolized in minimal terms in the freedoms verbalized in the Universal Declaration of Human Rights. Justice must become a matter of ultimate concern in international affairs. The American concept of government and regard for human values requires that we encourage in every way possible the elevation of human values in international affairs, based upon the protection of human rights by government.

In contributing to the elevation of human rights in international affairs, the United States is adhering to the best tradition of the meaning and mission of America. To make the rationale of U.S. support of human rights the security and welfare of the United States is a travesty. It is also inconsistent with the American scale of human values which are prior to American self-interests. As Woodrow Wilson wrote: "I hope that we shall never forget that we created this nation, not to serve ourselves, but to serve mankind."

In supporting the cause of human rights around the world, America is thereby contributing to the stability and strength of the world community to benefit all mankind. For this nation to do less is not to serve mankind, but to be served as an end unto itself and to profane the cause of human rights.

Preview of the 95th Congress

By John W. Baker

The 95th Congress looks somewhat different from but will grapple with the same problems as its predecessor.

There are sixty-three new members of the House of Representatives—fifty filling vacancies created by death, retirement, or decisions to run for other offices and thirteen who defeated incumbents. The nomination of Rep. Brock Adams (D-Wash.) to be Secretary of Transportation and the election itself left vacant the chairmanships of six of the House's twenty-one standing committees. All but one of those committees had vacancies to be filled when the Congress organized.

The Senate has an unusually large number of new faces in it, but there is little apparent shift in ideology, and the political party distribution remains the same.

Nine incumbent Senators were defeated for reelection—the largest number since the Democratic Senate landslide in the election of 1958. There is a total of eighteen newcomers. Ten of the first-termers are Democrats and eight are Republicans. Despite the large turnover there is no indication that the Senate has become either more liberal or more conservative. For every liberal Democrat unseated by a conservative Republican there was a case in which the exact opposite occurred.

Three of the seventeen standing committees needed new chairmen and vacancies existed on all the committees.

The leadership of both houses of Congress also changed. Speaker Carl Albert (D-Ok.) retired from the House and Thomas P. O'Neill (D-Mass.), who served as Majority Leader for the past four years, was unanimously elected by the Democrats to take his place. There was a somewhat bitter contest for O'Neill's former position and after four ballots Jim Wright (D-Tex.) won by one vote.

The Senate had to replace both its Majority and Minority leaders because Senators Mansfield (D-Mont.) and Scott (R-Pa.) did not run for reelection. With Senators Byrd (D-W.Va.) and Baker (R-Tenn.) chosen to fill these vital posts, the Senate leadership will be substantially different in style, but the positions taken should be essentially the same.

The new faces and new leadership in Congress will face problems which are very familiar.

THE ECONOMY

The economy is sluggish and unemployment remains unconscionably high. President-elect Carter has indicated that he favors a program to provide jobs for the unemployed and a temporary tax cut which will stimulate the economy. Both of these programs will require congressional action.

Carter has said that he favors a modified form of the 94th Congress' proposed Humphrey-Hawkins Bill which aimed at reducing unemployment to 3% over a four year period with the federal government serving as an employer of last resort.

A new version of Humphrey-Hawkins was introduced shortly after Congress reconvened in January. The Administration will try to shape it to suit its own program. So will other interests. Some will make a determined effort to kill the bill. There probably will not be a quick decision because Congress has difficulty settling controversial proposals rapidly.

The President-elect has put secondary priority on a large tax reduction even though that approach is urged by conservatives, Republicans and the business community. The same groups tend to oppose a jobs program.

There is a clear division within Congress as to the scope and nature of a tax cut. Senator Russell Long (D-La.), who chairs the Finance Committee, would like to have a tax cut of about \$15 billion as the main stimulus to the economy. His emphasis is on a uniform tax cut through increasing of personal exemptions for individuals and a temporary system of tax rebates. Rep. Al Ullman (D-Or.), Chairman of the Committee on Ways and Means, opposes such tax cuts. In part this is because he favors tax reduction as a by-product of additional tax reform. Ullman asserts that the first effort to stimulate the economy should consist of federal spending to reduce unemployment. In this preference he is joined by organized labor.

With two powerful chairmen on oppo-



Baker

site sides of this issue, there will probably be time-consuming friction and compromise before Congress can present a bill to the new President for his signature.

REGISTRATION OF LOBBYISTS

Senator Abraham Ribicoff (D-Conn.) introduced a lobby registration act in the 94th Congress. That act, which was supported by the public lobbying group Common Cause, died in the final rush to adjournment. The act, opposed actively by the churches and Ralph Nader's group, will be reintroduced in the 95th Congress and will probably pass fairly rapidly.

Many of the churches feel that the influencing of pending legislation is a part of their religious activity (i.e., legislation affecting liquor and drugs, war and peace, etc. needs input from the religious community). To the extent that government, in such a bill, attempts to limit or control lobbying by religious groups, it is defining for the churches the limits of their religious mission. It is basically for this reason that the Baptist Joint Committee on Public Affairs directed the Committee's staff not to register as lobbyists or make the required reports if such a law is passed.

The churches hope that they will be exempted from coverage by the act. If not, this legislative action will probably culminate in a test case to determine the constitutionality of the act under the First Amendment.

WELFARE REFORM

The Congress will look to the new President for leadership in the much needed reform of the welfare system. Carter has said that he wants to consolidate and nationalize the welfare program and provide a minimum income for the very poor. Reforms can and will be undertaken but the costs of the program and the pressures on Congress for other programs may keep Congress from achieving any major reforms during 1977.

FOOD STAMPS

The present authorization for the food stamp program expires in September. Therefore, Congress will have to determine the program's future. The new Secretary (See PREVIEW, p. 5)

Expose

(Continued from page 1)

FCC declined, but now a year and a half after the FCC effectively and permanently killed the petition, the mail has begun again to escalate, so much so that two new employees in the FCC mail room have been hired to do nothing but open and count the letters.

The total number of pieces of mail processed by the FCC mail room has now reached nearly 4½ million. In the month of November 1976 alone, 81,000 pieces of mail were received in 20 working days. This mail count does not include the hundreds of thousands of letters that have been received by the individual FCC commissioners nor the mail that has been sent to members of Congress.

Often included in the mail are petitions signed by multiplied thousands of persons in churches, schools and civic organizations. Many signatures were obtained by individuals who had been frightened by misinformation that religious broadcasting is in jeopardy. No one really knows how many names are on these petitions, because the FCC does not have the resources to process them. We have estimated that there are 20 to 30 million names, but others believe that the number is much higher.

A spokesman in the FCC said in an interview that, as of the end of November 1976, it had cost \$568,520 in postage to send this mail. Add to this the time, money and energy many people have spent on this false issue, and we begin to see how much has been wasted.

Now let us look at some of the non-facts or myths about FCC petition RM 2493.

Myth: This is a project of Madalyn Murray O'Hair to stop religious broadcasting on radio and television.

Fact: Mrs. O'Hair does not now and never has had any connections in any way with RM 2493, according to a statement by a highly placed official in the FCC. This fact was confirmed last year by a personal telephone call to Mrs. O'Hair by John W. Baker, director of research services for the Baptist Joint Committee on Public Affairs.

Myth: Mrs. O'Hair has been granted a hearing before FCC to present 27,000 signatures in support of her petition.

Fact: This is not true. She has not requested such a hearing. Several years ago she did present a petition with 27,000 signatures to NASA in an attempt to stop astronauts from praying and reading the

Bible from outer space. This effort died in the courts in 1971.

Myth: "This petition (2493) would ultimately pave the way to eliminate the proclamation of the gospel via airways of America."

Fact: The petition had nothing to do with commercial broadcasting which is the main channel for religious broadcasting in America. Besides that, the FCC must abide by the provisions of the Constitution of the United States, which guarantees the freedom of religion.

Myth: "If Mrs. O'Hair's attempt is successful, all Sunday worship services currently being broadcast either by radio or television would cease."

Fact: This is plain hogwash. (BPA)

Companies May Exclude Pregnancy as Disability

By Stan L. Haste

WASHINGTON—The U.S. Supreme Court ruled here that private employers are not legally obligated to provide pregnancy disability benefits to women who must drop out of the labor force temporarily to give birth.

The 6-3 decision was immediately condemned by women's rights advocates as a major setback for the cause of equality between the sexes.

The ruling came in a case brought by the General Electric Co. (GE) after twice losing in lower federal courts. The new ruling overturns contrary decisions in six of the ten circuit courts of appeals.

Forty-three women employees of GE's Salem, Va. plant brought the original suit charging the company with sex discrimination for failing to comply with a requirement of the Equal Employment Opportunity Commission (EEOC) that disability insurance plans must cover pregnancy.

The EEOC is the federal agency charged by Congress with implementing provisions of the Civil Rights Act of 1964. In 1972, the EEOC issued a ruling that private companies must include pregnancy in their list of disabilities.

Speaking for the six-man majority, Justice William H. Rehnquist said that while "pregnancy is of course confined to women . . . it is in other ways significantly different from the typical covered disease or disability."

Rehnquist went on to say that GE's disability package, when taken as a whole, does not discriminate in that "there is no risk from which men are protected and women are not. Likewise, there is no risk

from which women are protected and men are not."

The court observed further that "gender-based discrimination does not result simply because an employer's disability benefits plan is less than all inclusive."

An attorney for GE earlier told the court that women leave the work force on a larger scale than do men, thereby making pregnancy disability payments nothing more than severance pay benefiting women only.

According to *The Washington Post*, a GE attorney said after the high court's decision that the average cost of disability benefits runs 70 per cent higher for women than for men at GE. The company earlier had presented estimates that comprehensive pregnancy disability benefits would cost American industry \$1.6 billion annually. That figure was disputed by women's rights leaders.

Justice William J. Brennan, speaking for himself and Justice Thurgood Marshall, dissented from the majority opinion, stating that pregnancy is no more voluntary than are attempted suicide, venereal disease, sports injuries, disabilities resulting from fighting, or elective cosmetic surgery, all of which are covered by GE's plan.

Brennan charged the court's majority with inconsistency in isolating pregnancy as the only sexually-related disability not covered. GE's plan calls for disability payments to male employees for absenteeism brought on by prostatectomies, vasectomies, and circumcisions.

Also dissenting was Justice John Paul Stevens, who expressed the view that GE's plan clearly discriminates on the basis of sex, "for it is the capacity to become pregnant which primarily differentiates the female from the male."

Ironically, women's rights leaders opposed Stevens' nomination to the high court last year, alleging that he had been insensitive to their cause as a federal appellate judge.

Kathleen W. Peratiff, director of the Women's Rights Project for the American Civil Liberties Union (ACLU) told Baptist Press that the court's decision is a "disaster." She called it "the worst thing that has happened to women in 50 years."

Peratiff, an attorney, said the effect of the decision will be to force some women onto welfare rolls because they will have been deprived of income protection "just when they need it the most."

She said the ACLU will press for legislation in the near future to nullify the high court's action. (BPA)

Preview

(Continued from page 3)

Secretary of Agriculture, Robert Bergland, has indicated a desire for an expanded program. In 1976 the Senate passed legislation which proponents claimed would eliminate 1.4 million people from the program and would cut costs by some \$241 million. House leadership, citing the pressure of time, put the bill off until the 95th Congress.

Carter has said that if substantial welfare reform can be enacted there will be no need for a food stamp program. However, until Congress can settle on the shape of that reform it will have to come to grips with the problem of food stamps.

HEALTH CARE

The Democratic Party Platform pledged a national health plan and Carter campaigned for the enactment of a comprehensive national health insurance program. Carter did not endorse any specific plan and none has emerged from the transition period. However, he has agreed with labor that the program should be mandatory and that it should be financed by payroll taxes. Faced with conflicting cost estimates, Carter has indicated that he might favor a partial program which would cover the poor first.

Some kind of health insurance program should be hammered out this year. The

cross pressures of labor, the American Medical Association, the National Hospital Association, and public interest pressure groups will make the task more difficult.

ENERGY, ENVIRONMENT

Energy and environment constitute a single problem.

President Ford has twice vetoed bills which would have established stricter controls over strip mining and last year the House Rules Committee refused to allow the House to consider revised bills. However, Carter campaigned in favor of requiring strip miners to restore the lands they have mined. Morris Udall (D-Az.), the new Chairman of the House Interior Committee, favors such legislation and should be able to speed it through the congressional labyrinth.

Congress will also be dealing with bills to amend basic air and water pollution laws. The battle between those who want to loosen the regulations and those who want to make the laws much tougher on polluters should be interesting to watch. More stringent controls are given a high priority by many members of Congress.

One potential conflict shaping up between the Congress, the new President and the oil companies is the proposed break-up of the eighteen largest oil companies in the country. Some powerful congressional groups support "vertical divestiture." This should prevent a single company from

owning all phases of oil production and distribution. Carter has indicated a preference for "horizontal divestiture." This would prohibit the oil companies from going into other energy fields (e.g., coal, uranium, nuclear reactors, solar energy). The oil companies strongly oppose both vertical and horizontal divestiture.

These divergent views could create a confrontation between the Congress, the new President and a powerful special interest group.

MISCELLANEOUS

In addition, Congress will have to grapple with such problems as the renewal of the omnibus farm program, the expiration of nearly all of the housing and mortgage insurance programs on September 30, the expiration of the community development and block grant program, the reorganization of the federal transportation policy, sunshine and sunset bills, the Panama Canal treaty, arms sales, government reorganization, and so on and on.

Further, there is always the problem of responding to an outgoing President's proposed budget and to that of an incoming President.

The 95th Congress has more than its share of problems to confront. Those who have watched Congress at work realize the long hours that most of these representatives put in on the job and the dedication which they show to the task. It is difficult to envy them their jobs this year.

Tuition

(Continued from page 1)

U.S. Supreme Court, they held that the sectarian colleges have an essentially religious purpose. To back that argument, they quoted from all 17 college catalogs, pointing primarily to the schools' statements of Christian purpose.

The brief argued further that the sectarian colleges' claim to subscribe to academic freedom "has no bearing nor relevance to their selection of faculty or upon any individual faculty member's choice of material for or method of classroom presentation."

In addition, the brief pointed out that some of the 17 schools require chapel attendance and the taking of religion courses.

Another argument cited was the "potential misuse" of state funds in such a program, a factor which has in the past swayed the high court.

On the other side, attorneys for the state of Missouri charged that Americans United failed to prove that it had been injured by the program and therefore had no legal standing in federal court.

Countering arguments raised by its opponents, the state argued that the challenged law meets the Supreme Court's three-part test for constitutionality set down five years ago: (1) the law must have a secular purpose; (2) it must not have the primary effect of advancing religion; and (3) it must not foster excessive entanglement between church and state.

Missouri asserted further that none of

the 17 sectarian colleges "has ever refused admission to any student on the basis of religion" and that none of the colleges' governing boards is legally responsible or accountable to any church body. In addition, the state held that academic freedom is practiced in each of the schools, even in the teaching of religion courses.

In its July ruling, the Missouri Supreme Court pointed to possible problems with four of the 17 schools. Since then, two of those have been expelled from the program and one other suspended.

Missouri's written brief also argued that "total separation of church and state is simply not possible in our society" and charged Americans United, Wamble, and Palmer with making a plea for "compulsory atheism." (BPA)

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