

High Court to Rule on Aid To Church-Tied Colleges

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WASHINGTON, June 22—The Supreme Court agreed today to rule on the constitutionality of Federal construction grants to church-related colleges and universities.

In a brief order the Court granted the appeal of 15 Connecticut taxpayers who contend that the Department of Health, Education and Welfare acted illegally when it approved grants to four Roman Catholic institutions in Connecticut under the Higher Education Facilities Act of 1963.

The appeal will bring before the Supreme Court for the first time the legal and constitutional issues posed by the statute, under which \$2.3-billion in loans and grants to colleges has been allocated since 1963.

Today's challenge was sponsored by the Connecticut Civil Liberties Union and the American Jewish Congress. They asserted that the aid statute did not contemplate aid to institutions under the control of a religious denomination. If the law did contemplate such grants, they asserted, it violates the First Amendment's prohibition against any "establishment of religion" by the Government.

Bridgeport Diocese Cited

Four construction grants totaling \$987,739 were challenged in the suit. They were made to Albertus Magnus College in New Haven, Annhurst College in South Woodstock, Fairfield University in Fairfield, and Sacred Heart University in Bridgeport.

The suit charged that all were under the "control" of the Roman Catholic Diocese of Bridgeport and that all were engaged in the propagation and promotion of the Catholic faith.

The institutions denied that they were controlled by the diocese and offered proof that the grants would be spent for construction of academic buildings that would never be used for religious purposes.

A special three-judge Federal District Court ruled on March 19 that Congress intended that church-related institutions should receive grants as long as only academic buildings were to be built. It held that this did not violate the First Amendment, relying upon a Supreme Court decision of 1961 that approved the lending of textbooks by New York to parochial schools.

In its order today the Court set the stage for a wide-ranging ruling on aid to education by ordering the Connecticut case to be argued immediately after another appeal in which aid by Pennsylvania to parochial schools is being challenged. In that case the fund goes for teachers' salaries, textbooks and instructional materials for non-sectarian studies.

With an important test case obviously in the making, the Catholic colleges in Connecticut have retained Edward Bennett Williams to argue their case. Mr. Williams, who made his national reputation as criminal defense attorney, has participated in several cases that produced significant Supreme Court decisions.

Draft Foe's Case Taken

The Court also agreed today to confront the "dirty words" issue that has arisen frequently in connection with youth protests. The Justices granted the appeal of Paul Robert Cohen, 21 years old, of Los Angeles, who was sentenced to 30 days in jail for disorderly conduct because he wore a jacket bearing an obscene in-

scription attacking the draft.

Mr. Cohen was arrested in the Los Angeles courthouse, where the inscription was seen by many persons, including women and children. He said nothing and there was no commotion, but his conviction was upheld on the ground that the message had a tendency to incite others to violent behavior.

In asking the Supreme Court to review the case, Mr. Cohen's lawyers said that "in view of the increasing use of profanity in political and other public discourse, it is vital that this court clarify the constitutional status of such discussions."

The court also agreed to consider an issue that could open up an important new legal remedy against police brutality. The question is whether a person whose constitutional rights have been violated by Federal agents may recover money damages.

The Bill of Rights forbids various types of police abuse, but it does not lay down any remedy for persons whose rights are violated. Courts have enforced the safeguards by suppressing the use of evidence obtained in unconstitutional ways, but this has brought charges that the courts are "handcuffing the police." Further, it has no effect when there is no prosecution of the victim of the unconstitutional conduct.

Today the Court granted the appeal of Webster Bivens, who sued six Federal narcotics agents for breaking into his Bronx apartment in November, 1965, without an arrest or search warrant. He was booked on narcotics charges but was never tried, and he later filed his handwritten suit, demanding \$15,000 from each agent for violation of his Fourth Amendment right to be free from unreasonable searches and seizures.

Federal District Court Judge Walter Burchhausen dismissed his suit, and the United States Court of Appeals for the Second Circuit affirmed, holding that until Congress passes a statute authorizing civil suits for violation of the Bill of Rights, the courts could not entertain such suits.

A 'Blockbusting' Case

The Court also agreed to decide next term if the courts of Illinois violated the free speech rights of an interracial group in Chicago. The group was attempting to persuade real estate agents to sign a pledge that they would not engage in "blockbusting"—frightening white homeowners into selling their property at low prices by spreading stories that Negroes were moving into the neighborhood.

One agent who would not sign was Jerome M. Keefe, who operated in the city but lived in a suburb, Westchester, Ill. When the group distributed leaflets in Westchester, accusing him of blockbusting, the state courts held that this violated his right of privacy. It ordered the group to cease distributing the leaflets in Westchester, but said that they could distribute them at his Chicago office.

In another free speech case today the Court denied a hearing to seven students who were suspended from East Tennessee State University because they had distributed leaflets critical of the university's policies.

Justice Harry A. Blackmun did not take part in any of the decisions, as he was not a member of the Court when the cases were argued.