Collection: Barr, William: Files
Folder Title: [Bob Jones & Goldsboro] (2)
Box: 2

Mark Yecies' Telephone Log

1/13/82

PHONE-O-GRAM® for: Mark

M Toby Bennett of Drapper & Watson Mich.

☐ Telephoned ☐ Returned your call ☐ Came in

☐ Will call again ☐ Please return the call ☐ See me

Message:

pchils

Phone: 833-9520 Date 1/13 Time ______ By ______

PHONE-O-GRAM for: Mack

M Frances Caravan of Cong. Ford.

☑ Telephoned ☐ Returned your call ☐ Came in

☐ Will call again ☑ Please return the call ☐ See me

Message: Schools

Ph. 225-1025 Date 1/13 Time 11:25 By

PHONE CALL for:

Connie Hillard of Six Powers

☐ Came in
☐ See me

Message

Pay scale

224-2771 Date 1/12 Time ______ By ______

M. Yecies Tel. Log

PHONE-O-GRAM* for: Mark

M John McGovern of

Telephoned | Returned your call | Came in
Will call again | Please return the call | See me

Message:

Sr Logan

Phone 224-4814 Date 1/12 Time 12:30

20

TREASURY DOCUMENT PROFILE

DOC MO	DOC DA	RECEIVED MO	RECEIVED DA	RECEIVED YR	ACTION
1	12	1	12	82	TAX POLICY

32-437

SOURCE/DESCRIPTION

TO:
- ☐ PRESIDENT
- ☒ SECRETARY (S)
- ☐ D/SECRETARY (D)
- ☐ U/SEC. (MA) (M)
- ☐ OTHER (Specify)

FROM: Smith, Robert L.
Council for American Private Education

REFS:

CLASSIFICATION: ☐ UNCLASSIFIED ☐ SECRET ☐ CONFIDENTIAL ☐ TOP SECRET ☐ OTHER (Specify)

SUBJECT: Opposes Administrative decision on denying tax exemption for private schools

DISTRIBUTION/ACTION ASSIGNMENT

DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO
1. SECRETARY (S)		X	ATF			EXEC ASST/SEC (S)		X
2. D/SECRETARY (D)		X	CUSTOMS			CONF SEC/SEC (S)		
3. U/SECRETARY (MA) (M)			COMPTROLLER CURRENCY			EXEC ASST/D/SEC (D)		
4. U/SECRETARY T&E (U)		X	ENGRAVING & PRINTING			WHITE HOUSE FELLOW (S)		
5. ADMINISTRATION (A)			FOREIGN ASSETS CONT (OF)			INSPECTOR GENERAL (SG)		
6. DOMESTIC FINANCE						COUNSELOR TO THE SECRETARY		
7. ECONOMIC POLICY (E)			GOVT FIN OPERATIONS			EXEC SEC (SE)		X
8. ENFORCEMENT & OPS (O)			IRS		X	D/EXEC SEC (SE)		
9. FISCAL (F)						REVIEWERS (SE)		
10. GENERAL COUNSEL (G)		X	LEGISLATIVE COUNSEL (GL)			INTELLIGENCE SUPPORT (SE1)		
11. INTERNAT'L AFFAIRS (I)			MINT			SPECIAL ASSISTANT		X
12. OASIA SECRETARIAT			PUBLIC DEBT					
13. ~~LEGISLATIVE AFFAIRS~~ (L)		X	REVENUE SHARING (RR)			READ FILE		
14. ~~PUBLIC AFFAIRS~~ (P)		X	SECRET SERVICE					
15. PUBLIC LIAISON			SAVINGS BONDS					
16. TAX POLICY (X)	X		CORRESPONDENCE					
17. TREASURER (T)			DISCLOSURE BRANCH (AAL)					

ACTION REQUIRED

DUE DATE:

☒ APPROPRIATE ACTION ☐ DIRECT REPLY ☐ COME BACK COPY TO EXEC SEC (SE)

MEMO TO: REPLY FOR SIG. BY:

COMMENTS/SPECIAL INSTRUCTIONS

SUBSEQUENT ROUTING/ACTION

DATE	FROM	TO	SUBSEQUENT ACTION TAKEN/REQUIRED	DUE	COPY TO

FILE DISPOSITION

DISPATCH TO: NOTIFY:

☐ WHITE HOUSE ☐ ALPHA ☐ TREASURY ☐ CONGRE

82-437

21

COUNCIL FOR AMERICAN PRIVATE EDUCATION
1625 Eye Street. N.W.. Washington. D.C. 20006

(202) 659-0016
Robert L. Smith
Executive Director

January 12, 1982

Donald Regan
Secretary
Department of the Treasury
Washington, D.C.

Dear Secretary Regan:

I'm enclosing, for your information, a statement we have just issued on the decision of the Administration to switch to Congress the regulation of tax-exempt private schools and colleges which practice racial discrimination.

Although I think this statement speaks for itself, it's very important for the Administration to know clearly how seriously this decision affects not only private education but the President's own goals.

1. It puts into serious jeopardy, indeed will probably eliminate, the possibility of passing tuition tax credit legislation by making one of the most sensitive parts of any such bill, the compliance language, virtually meaningless.

2. The decision makes much more difficult and hazardous private-public school cooperation envisaged in the block grant legislation. The President has laudably championed private initiative at the local level. In education, crucial collaborative efforts between public and private school educators are needed to improve educational quality in every city and town in the country. This effort will now suffer irremediable damage because public education officials, mostly hostile to private schools anyway, now have a strong public rationale for not working with them.

3. The decision strengthens the insidious myth that private education is essentially racist. How can private education, which prides itself on its leadership on quality, in responsible innovative change, in moral and ethical education, in meeting societal needs, particularly in major cities, play its full, essential role in the betterment of American Education and the improvement of our moral climate when the Administration casts it as the enemy of our national laws and our public good?

22

COUNCIL FOR AMERICAN PRIVATE EDUCATION
1625 Eye Street, N.W., Washington, D.C. 20006

(202) 659-0016
Robert L. Smith
Executive Director

We urge the Administration to put its full weight behind Congressional efforts to create the necessary legislation to meet the need created by its decision. We promise our full help in any way possible.

Very sincerely,

Robert L. Smith
Executive Director

cc. James A. Baker
Martin Anderson
Ann Fairbanks

(23)

cape
COUNCIL FOR AMERICAN PRIVATE EDUCATION

1625 Eye Street, N.W., Washington, D.C. 20006

(202) 659-0016
Robert L. Smith
Executive Director

January 11, 1982

CAPE DENOUNCES ADMINISTRATION REVERSAL OF TAX-EXEMPTION FOR PRIVATE SCHOOLS

The Council for American Private Education, representing organizations which enroll nearly 85% of private school students, deeply regrets the Administration's decision to abandon the government's policy of denying tax-exempt status to private schools and other private institutions which practice racial discrimination. We find this a highly regressive step with serious implications for the future of private schools and of American education.

The member organizations of CAPE, the major denominational and secular school organizations in the country, have long opposed racial discrimination in private education. It is significant that the Packwood-Moynihan Tuition Tax Credit Bill, of deep current concern to private education, contains specific language prohibiting racial discrimination in schools. We are firmly of the mind that no school should be able to flout the law of the land and most particularly where human rights and dignity are at stake.

We will now work with members of Congress in every possible way to legislatively redress this action and will take part, as appropriate, in relevant court actions toward the same end.

1/12/82

Q. Has the Administration changed its position on tax exemptions for private schools which discrimate on the basis of race?

A. No. The Treasury Department's announcement on Friday was based upon a conclusion that the Internal Revenue Code did not authorize the IRS to decide whether certain social goals were matters of fundamental national policy, and then to revoke the tax exemptions of organizations which do not pursue these goals.

Treasury said at the time of its announcement that these decisions of policy were matters for Congress and not for administrative agencies.

The President's statement reflects the Administration's view that racial discrimination for tax exempt organizations is intolerable, and a determination to have the Congress deal with the issue so that it is decided in the appropriate, constitutionally-sanctioned way.

1/12/82

Q. Under your proposal, will Bob Jones University be entitled to a tax exemption?

A. The Administration's proposal is being drafted now at the Treasury Department, but it will provide for

the revocation of the tax exemptions of organizations which practice racial discrimination. Bob Jones University and the Goldsboro Schools have never denied that they practice racial discrimination because of their reading of scripture.

Q. What about the contention of Bob Jones University that its discrimination is based on bona fide religious beliefs?

A. The Administration's proposal will not interfere with religious beliefs. It will be directed at discriminatory practices. Bob Jones University is entitled to continue their interpretation of scripture, but they may not follow practices which deny the fundamental rights of all citizens to be free of racial discrimination.

1/12/82

Q. When will the Administration's legislation be submitted to Congress?

A. The legislation is being drafted now at the Treasury Department. It should be ready for submission to Congress this week.

1/12/82

Q. Will the Administration's proposal deal with the discrimination based on sex, religion, or other matters?

A. No. The Administration's proposal will provide for the revocation or denial of tax exemptions for organizations which discriminate on the basis of race. On this, we believe, all Americans agree.

Whether a school may admit only women, or a church only admit those who follow its particular religious beliefs, is a much more difficult question and we do not want this proposal -- on which all can agree -- to become confused with these other questions.

1/12/82

Q. If the Administration is so much opposed to racial discrimination, why did it reverse its position on the Bob Jones case?

A. The issue is one of legal principle; it has nothing to do with race. The Internal Revenue Service had contended that it had the authority to revoke tax exemptions of organizations which do not pursue fundamental national policies -- and it was the IRS which would determine what these policies are.

In the Bob Jones case, the exempt organization practiced racial discrimination. Although no one doubts that this is against national policy, the legal principle which the IRS sought to establish before the Supreme Court was that it could revoke tax exemptions for other reasons as well.

At some time in the future, therefore, the IRS might announce that it was revoking the tax exemption of schools which will not admit men, or hospitals which perform (or refuse to perform) abortions, or environmental groups which interfere with national energy policy.

No administrative agency should have this power; these judgments are fundamentally judgments for Congress. For this reason, to prevent the possible establishment ~~by~~ IN the Supreme Court of a precedent which would give excessive authority to the IRS, the Treasury Department determined to moot the case and turn the matter over to Congress -- where it belongs -- for resolution.

LAW OFFICES
COHEN AND URETZ
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
1775 K STREET, N. W.
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RICHARD D'AVINO*

*ADMITTED IN PA. ONLY

LESTER R. URETZ
1922-1972

TELEPHONE
(202) 293-4740

TELEX 89-562

January 12, 1982

The Hon. Donald T. Regan
Secretary of the Treasury
Washington, D.C. 20220

Dear Secretary Regan:

I am appalled by the action of the Treasury Department in granting tax exemption to private schools which practice explicit racial discrimination.

The reasons given for the action in your Department's announcement of January 8, 1982, are wholly without legal justification or merit.

As an administrative matter, the Treasury Department and the Internal Revenue Service may wish that they had not become involved in judgments as to the racial discrimination in various private schools. However, that is not the issue. The United States District Court for the District of Columbia has already determined that the Service must make such a judgment in order to properly discharge its duty. An attempt by the Department to overturn the case of Green vs. Connally by administrative fiat is completely disruptive to ordinary government procedures.

If the Treasury Department wishes to overturn the existing case law, which the Department of Justice asked the Supreme Court to affirm just four months ago, you should now ask the Supreme Court to rule on the cases now pending. By mooting the pending cases, you have make it impossible to get a prompt decision from the Supreme Court. The Treasury Department should not deprive the Supreme Court of jurisdiction and then unilaterally change the law to fit the administration's political goals.

It has been the fundamental policy of the United States since the time of George Washington that our government should not sanction bigotry. Washington's famous letter to the Newport Congregation so states. Every administration since Brown vs. Board of Education has reiterated this policy. It is tragic at this late date for our government to endorse, and provide financial support to schools practicing overt racial discrimination.

Sincerely,

Sheldon S. Cohen

Sheldon S. Cohen, P.C.

SSC:ch

cc: Hon. William French Smith
Hon. Roscoe L. Egger, Jr.

1/12/82 PW

MEMORANDUM - BACKGROUND ON TREASURY DECISION IN BOB JONES UNIVERSITY AND GOLDSBORO CHRISTIAN SCHOOLS CASE

I. Treasury Decision: On January 8, 1982, Treasury announced that the IRS will no longer deny tax-exempt status to religious, charitable, educational or scientific organizations on the grounds that they do not conform with certain fundamental public policies. In doing so, Treasury reversed previous IRS policy of denying tax exemptions to private educational institutions which maintain a racially discriminatory admissions policy, agreed to restore the tax exemption of Bob Jones University and to grant tax exemption to the Goldsboro Schools. The Treasury decision reflected a judgment that the Internal Revenue Code did not authorize the Service to determine what are fundamental national policies, and that to the extent such policies are to be enforced through the Internal Revenue Code they should be articulated by Congress in legislation.

II. Analysis of the Treasury Decision

1. In making its decision, the Treasury made clear that it deplores racial discrimination.

2. The Treasury decision was based on the legal principle that an administrative agency, such as the IRS, should not be interpreting public policy in the absence of specific guidance from Congress. In deciding to deny tax-exempt status to an educational institution on the grounds of a racially discriminatory admissions policy, the IRS had taken the position that discrimination based

on race was against national public policy and for this reason could form the basis for a denial or revocation of tax exemptions for schools and other organizations, without an expression of Congressional intent that the Internal Revenue Code be applied in this way.

3. Treasury determined that if the IRS were permitted to set racial discrimination as the basis for denying tax-exempt status without Congressional action, a legal principle would be established that would have no inherent boundries. i.e., if the IRS were permitted the discretion to determine that racial discrimination was against national policy without specific direction from Congress, what would stop it from arguing at some later point that sex discrimination or age discrimination were also violations of national policy? How would the IRS decide the question of whether it was a violation of national policy for a church hospital to refuse to perform an abortion or for a charitable hospital to agree to perform an abortion?

4. The basic purpose of our tax laws is to raise revenue and the Internal Revenue Service should, as a general matter, not be diverted from its primary mission and expertise. This Administration has serious reservations as to whether the Internal Revenue Service should employ the tax power of the government to enforce social policies. Thus, if Congress does wish to act in this area, it may be more appropriate to do so through direct legislation not involving the tax laws.

III. The Bob Jones and Goldsboro Schools Cases

1. Up until 1970 the IRS granted or denied tax-exempt status to private schools without regard to their admission policies. After 1970, the IRS took the position that private schools which have a policy of discriminating against applicants on the basis of race were in violation of national public policy and, therefore, could not be considered "charitable" in the common law sense even though they were bona fide educational institutions.

2. Following this policy, the IRS revoked the tax exemption of Bob Jones University and refused to grant a tax exemption to the Goldsboro Schools. These schools, although unquestionably non-profit educational institutions, had adopted affirmative programs of racial discrimination.

3. Bob Jones appealed the IRS decision to the District Court and won on December 26, 1978. This case was then appealed to the Fourth Circuit Court of Appeals which reversed and held that BJU was not entitled to tax exemption and entered judgment for the Government on December 30, 1980. Goldsboro Schools appealed the IRS decision and lost before the District Court for the Eastern District of North Carolina on May 7, 1980. This decision was affirmed by the Court of Appeals for the Fourth Circuit on February 24, 1981.

4. Both schools filed petitions for writs of certiorari with the Supreme Court on July 2, 1981. The Solicitor General's office joined in the petition for certiorari in September, 1981, and the Supreme Court granted the petition on October 13, 1981. The Government's brief was due in the Supreme Court on December 31, 1981, and postponed until January 11, 1982.

1

PHONE-O-GRAM for: MF

Ms Chris Frukert of Cong. Jim Collins

☑ Telephoned ☐ Returned your call ☐ Came in

☐ Will call again ☑ Please return the call ☐ See me

Message: tax exempt status of church schools

Phone: 295-4201 Date 1/11 Time 12⁰⁰ By CMB

p. 16

TREASURY DOCUMENT PROFILE

DOC MO	DOC DA	RECEIVED MO	RECEIVED DA	RECEIVED YR	ACTION
1	10	1	20	82	GENERAL COUNSEL

82-758

TO

- ☐ PRESIDENT
- ☒ SECRETARY (S)
- ☐ D/SECRETARY (D)
- ☐ U/SEC (MA) (M)
- ☐ OTHER (Specify)

FROM: Hamilton, James E.

REFS:

CLASSIFICATION

- ☐ UNCLASSIFIED ☐ SECRET
- ☐ CONFIDENTIAL ☐ TOP SECRET
- ☐ OTHER (Specify)

SUBJECT: Objects to decision to allow tax exempt status to schools that discriminate against blacks

DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO
1. SECRETARY (S)			AT			EXEC ASST/SEC (S)		
2. D/SECRETARY (D)			CUSTOMS			CONF SEC/SEC (S)		
3. U/SECRETARY (MA) (M)			COMPTROLLER CURRENCY			EXEC ASST/D/SEC (D)		
4. U/SECRETARY T&E (U)			ENGRAVING & PRINTING			WHITE HOUSE FELLOW (S)		
5. ADMINISTRATION (A)			FOREIGN ASSETS CONT (DF)			INSPECTOR GENERAL (SG)		
6. DOMESTIC FINANCE						COUNSELOR TO THE SECRETARY		
7. ECONOMIC POLICY (E)			GOVT FIN OPERATIONS			EXEC SEC (SE)		
8. ENFORCEMENT & OPS (O)			IRS		X	D/EXEC SEC (SE)		
9. FISCAL (F)						REVIEWERS (SE)		
10. GENERAL COUNSEL (G)	X		LEGISLATIVE COUNSEL (GL)			INTELLIGENCE SUPPORT (SE)		
11. INTERNAT'L AFFAIRS (I)			MINT			SPECIAL ASSISTANT		
12. OASIA SECRETARIAT			PUBLIC DEBT					
13. LEGISLATIVE AFFAIRS (L)			REVENUE SHARING (HR)			READ FILE		
14. PUBLIC AFFAIRS (P)		X	SECRET SERVICE					
15. PUBLIC LIAISON			SAVINGS BONDS					
16. TAX POLICY (X)			CORRESPONDENCE					
17. TREASURER (T)			DISCLOSURE BRANCH (AAL)					

DUE DATE

☒ APPROPRIATE ACTION ☐ DIRECT REPLY ☐ COME BACK COPY TO EXEC SEC (SE)

MEMO TO: REPLY FOR SIG. BY:

COMMENTS/SPECIAL INSTRUCTIONS

DATE	FROM	TO	SUBSEQUENT ACTION TAKEN/REQUIRED	DUE	COPY TO

NOTIFY: ☐ WHITE HOUSE ☐ ALPHA

(17)

Jan. 10, 1982

758

Dear Mr. Secretary:

I am annoyed, and my wife is outraged, by your decision to allow tax-exempt status for schools that discriminate against the Negro race. For the past 11 years your department has had the tacit support of the Congress for a policy designed to remove their governmental support. We see no reason for you to change that policy.

Yours,

James E. Hamilton

(11)

TREASURY DOCUMENT PROFILE

DOC		RECEIVED			ACTION
MO	DA	MO	DA	YR	
1	9	1	20	82	GENERAL COUNSEL

82-759

TO
- ☐ PRESIDENT
- ☒ SECRETARY (S)
- ☐ D/SECRETARY (D)
- ☐ U/SEC (MA) (M)
- ☐ OTHER (Specify)

FROM: Oshaugitnessy, Tracey A.

REFS:

CLASSIFICATION
- ☐ UNCLASSIFIED
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ TOP SECRET
- ☐ OTHER (Specify)

SUBJECT
Requests an explanation of decision to give tax-exempt status to schools which discriminate against blacks

DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO
1. SECRETARY (S)			ATF			EXEC ASST/SEC (S)		
2. D/SECRETARY (D)			CUSTOMS			CONF SEC/SEC (S)		
3. U/SECRETARY (MA) (M)			COMPTROLLER CURRENCY			EXEC ASST/D SEC (D)		
4. U/SECRETARY T&E (U)			ENGRAVING & PRINTING			WHITE HOUSE FELLOW (S)		
5. ADMINISTRATION (A)			FOREIGN ASSETS CONT (OF)			INSPECTOR GENERAL (SG)		
6. DOMESTIC FINANCE						COUNSELOR TO THE SECRETARY		
7. ECONOMIC POLICY (E)			GOVT FIN OPERATIONS			EXEC SEC (SE)		
8. ENFORCEMENT & OPS (O)			IRS		X	D/EXEC SEC (SE)		
9. FISCAL (F)						REVIEWERS (SE)		
10. GENERAL COUNSEL (G)	X		LEGISLATIVE COUNSEL (GL)			INTELLIGENCE SUPPORT (SE)		
11. INTERNAT'L AFFAIRS (I)			MINT			SPECIAL ASSISTANT		
12. OASIA SECRETARIAT			PUBLIC DEBT					
13. LEGISLATIVE AFFAIRS (L)			REVENUE SHARING (RR)			READ FILE		
14. PUBLIC AFFAIRS (P)		X	SECRET SERVICE					
15. PUBLIC LIAISON			SAVINGS BONDS					
16. TAX POLICY (X)			CORRESPONDENCE					
17. TREASURER (T)			DISCLOSURE BRANCH (AAL)					

DUE DATE

☒ APPROPRIATE ACTION ☐ DIRECT REPLY ☐ COME BACK COPY TO EXEC SEC (SE)

MEMO TO: REPLY FOR SIG. BY:

COMMENTS/SPECIAL INSTRUCTIONS

DATE	FROM	TO	SUBSEQUENT ACTION TAKEN/REQUIRED	DUE	COPY TO

DISPATCH TO: NOTIFY: ☐ WHITE HOUSE ☐ ALPHA

(12)

82-759

318 Hughes Hall
The American University
Washington D.C.
20016

1/9/82

Dear Mr. Reagan

I read with shock and dismay the recent decision to exempt racially segregated private schools and colleges! families Apparently, the war on bigotry and discrimination along with the war on poverty, has been won.

Congratulations! I hope you relay this fascinating information to the 17.4% of the black population which is unemployed, and the millions of blacks "living" in conditions which [illegible] the administration's [illegible] achievement.

What I would like is an explanation and as a citizen of the United States, I think I deserve one. I happen to be a white, middle class American and somewhere I acquired the notion that equality was a major tenet of this society. This dismantling of equality and justice I find revolting and debilitating to the prestige of the United States.

[illegible]

circumscribed and applied as under the Reagan administration adding to the fabric of democracy

In hopes this [illegible] to the [illegible],
I am sincerely

Mary A. O'Shaughnessy

MARY A. O'SHAUGHNESSY
STUDENT COLLEGE OF ARTS & SCIENCES
THE AMERICAN UNIVERSITY
WASHINGTON, D.C.
Jul. 16.

(14)

TREASURY DOCUMENT PROFILE

DOC MO	DOC DA	RECEIVED MO	RECEIVED DA	RECEIVED YR	ACTION
1	9	1	20	82	GENERAL COUNSEL

82-756

TO

- ☐ PRESIDENT
- ☒ SECRETARY (S)
- ☐ D/SECRETARY (D)
- ☐ U/SEC IMA (M)
- ☐ OTHER (Specify)

FROM Meigs, Jonathan

REFS

CLASSIFICATION

- ☐ UNCLASSIFIED
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ TOP SECRET
- ☐ OTHER (Specify)

SUBJECT
Objects to decision to give tax-exempt status to schools who discriminate against blacks

DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO	DISTRIBUTION	COPY ACT	COPY INFO
1. SECRETARY (S)			ATF			EXEC ASST/SEC (S)		
2. D/SECRETARY (D)			CUSTOMS			CONF SEC/SEC (S)		
3. U/SECRETARY IMA (M)			COMPTROLLER CURRENCY			EXEC ASST/D SEC (D)		
4. A/SECRETARY T&E (U)			ENGRAVING & PRINTING			WHITE HOUSE FELLOW (S)		
5. ADMINISTRATION (A)			FOREIGN ASSETS CONT (OF)			INSPECTOR GENERAL (SG)		
6. DOMESTIC FINANCE						COUNSELOR TO THE SECRETARY		
7. ECONOMIC POLICY (E)			GOVT FIN OPERATIONS			EXEC SEC (SE)		
8. ENFORCEMENT & OPS (O)			IRS		X	D/EXEC SEC (SE)		
9. FISCAL (F)						REVIEWERS (SE)		
10. GENERAL COUNSEL (G)	X		LEGISLATIVE COUNSEL (GL)			INTELLIGENCE SUPPORT (SE)		
11. INTERNAT'L AFFAIRS (I)			MINT			SPECIAL ASSISTANT		
12. OASIA SECRETARIAT			PUBLIC DEBT					
13. LEGISLATIVE AFFAIRS (L)			REVENUE SHARING (RS)			READ FILE		
14. PUBLIC AFFAIRS (P)		X	SECRET SERVICE					
15. PUBLIC LIAISON			SAVINGS BONDS					
16. TAX POLICY (X)			CORRESPONDENCE					
17. TREASURER (T)			DISCLOSURE BRANCH (AAL)					

DUE DATE

☒ APPROPRIATE ACTION ☐ DIRECT REPLY ☐ COME BACK COPY TO EXEC SEC (SE)

MEMO TO ____________ **REPLY FOR SIG. BY** ____________

COMMENTS/SPECIAL INSTRUCTIONS

DATE	FROM	TO	SUBSEQUENT ACTION TAKEN/REQUIRED	DUE	COPY TO

NOTIFY: ____________ ☐ WHITE HOUSE ☐ ALPHA

15

82-756

9 Jan. 82

Secretary Regan:

I am appalled by your/your department's decision, reported today, to permit private schools which discriminate against blacks to enjoy tax-exempt status. I find this utterly reprehensible, and am DAMNED if I want any of my taxes to go toward easing the burden of such institutions as they promote hate and injustice.

If I can attempt a small degree of hyperbole; it seems to me that the next step could be the granting of favorable tax status to a nursery school run by the Ku Klux Klan, in which children are indoctrinated in the Klan's perverse and inhuman tenets.

I trust - I hope - that you don't feel it is appropriate for any organizations which discriminate against American citizens to enjoy tax privileges. If you do not, HOW can you countenance it?

Please reconsider this reprehensible decision!

Sincerely

Jonathan Meigs

TREASURY NEWS

partment of the Treasury • Washington, D.C. • Telephone 566-2041

FOR IMMEDIATE RELEASE
Friday, January 8, 1982

Contact: Marlin Fitzwater
(202) 566-5252

TREASURY ESTABLISHES NEW TAX-EXEMPT POLICY

The Treasury Department announced today that without further guidance from Congress, the Internal Revenue Service will no longer revoke or deny tax-exempt status for religious, charitable, educational or scientific organizations on the grounds that they don't conform with certain fundamental public policies.

"In the past," said Deputy Treasury Secretary R. T. McNamar, "the IRS has revoked the tax exemptions of organizations which, did not adhere to certain fundamental national policies, such as those forbidding discrimination on the basis of race, even though this requirement is not explicitly stated in the Internal Revenue Code except in the case of social clubs."

"Whether or not the Treasury Department or this Administration agrees with the position of the IRS in particular cases is not the issue," McNamar stated. "The question is whether the IRS is required under the Code as enacted by Congress to decide -- as a condition to granting or continuing tax-exempt status -- whether private organizations conform with fundamental national policies. The Treasury Department has concluded that this kind of judgment -- which may mean life or death for certain organizations -- is fundamentally a question for Congress; and if the authority to make this judgment is given by Congress to an administrative agency it should be done in explicit terms and subject to specific guidelines."

As a consequence of this decision, the IRS will restore the tax exemption of certain organizations which had previously been revoked. In particular, the appeal of Bob Jones University, and the Goldsboro Schools, which are currently before the Supreme Court will be rendered moot.

"In taking this action," McNamar stated, "we are attempting to protect the independence of all private tax-exempt organizations -- many of which may follow practices and adhere to principles with which we disagree. But before the government gets into the business of deciding which organizations are worthy of tax exemption and which are not, we want Congress to fully consider the implications of such a course."

The Treasury Department decision reflects the advice of the Department of Justice that the authority which the IRS previously had been asserting as its basis for revoking the tax exemptions in question is not supported by the language of the Internal Revenue Code or its legislative history. The Internal Revenue Code provides tax exemptions for "Corporations (or other organizations) organized and operated exclusively for religious, charitable, scientific ... or educational ... purposes ...." IRC Section 501(c)(3), 26 U.S.C. Section 501(c)(3). The Justice Department has advised that both the language of Section 501(c)(3) and the statute's legislative history provide no support for the statutory interpretation adopted by the Commissioner in 1970. Thus the IRS is without legislative authority to deny tax-exempt status to otherwise eligible organizations on the grounds that their policies or practices do not conform to notions of national public policy.

This new policy is reflected in a motion filed with the Supreme Court today by the Justice Department to vacate a case in which the Internal Revenue Service revoked the tax-exempt status of Bob Jones University and Goldsboro Christian Schools. IRS revoked the Bob Jones University tax exemption in 1970 on the grounds that the school's racial policies violated Federal policies on racial discrimination. This decision was nullified by the U.S. District Court in South Carolina on June 30, 1971. However, the lower court's decision was reversed by the 4th Circuit Court of Appeals on December 30, 1980.

Similarly in 1974 the IRS determined that Goldsboro Christian Schools Inc. did not qualify for an exemption on the grounds that it maintained a racially discriminatory admissions policy. On May 7, 1980 the District Court for the Eastern district of North Carolina upheld the IRS decision. On February 24, 1981 the Court of Appeals for the 4th Circuit affirmed this judgement period.

Both schools appealed the Circuit Court decision to the Supreme Court which accepted their petitions for certiorari on October 13, 1981.

THE DEPUTY SECRETARY OF THE TREASURY
WASHINGTON, D.C. 20220

January 8, 1982

MEMORANDUM FOR COMMISSIONER EGGER

Subject: Tax-Exemption for Bob Jones University and Goldsboro Christian Schools, Inc.

This memorandum is to confirm the Department's direction to you to begin the process of granting Bob Jones University and Goldsboro Christian Schools, Inc. tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

After much consideration and having the benefit of discussions with you and the Department of Justice, I have decided as a policy and legal matter that the Internal Revenue Service is without legislative authority to deny tax-exempt status to otherwise eligible organizations on the grounds that their policies or practices do not conform to notions of national public policy.

Therefore, I am directing you to take the necessary steps to reverse the previous decisions of the Internal Revenue Service in denying tax-exempt status to Bob Jones University and Goldsboro Christian Schools, Inc. It is my understanding that in order to accomplish this, you will also have to revoke the applicable revenue rulings under which you denied these institutions tax-exempt status and refund to them Federal social security and unemployment taxes. These steps should be taken as soon as legally possible.

R. T. McNamar

R. T. McNamar

January 8, 1982

Bob Jones University Case
Chronology of Events

1. Until 1970, the Internal Revenue Service recognized Bob Jones University ("BJU") as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code.

2. On November 30, 1970, the Internal Revenue Service notified BJU and other private schools that it would no longer recognize organizations as legally entitled to tax-exemption which maintained a racially discriminatory admissions policy.

3. BJU responded that it did not admit black students and that it did not intend to alter that policy in September of 1971.

4. BJU filed suit to enjoin revocation on September 9, 1971. In 1974, the Supreme Court ruled that such a suit was barred by the Anti-Injunction Act and the Declaratory Judgment Act.

5. The Internal Revenue Service began a formal audit/ examination to determine payroll tax liability and to consider revocation of BJU's tax exemption during July, 1974.

6. In January, 1976, the Internal Revenue Service issued a final notice of revocation to BJU in January, 1976, effective from December 1, 1970.

7. On May 4, 1976 , BJU filed suit in federal district court in South Carolina seeking a refund of $21 in federal unemployment tax as a means of seeking reinstatement of it exemption. The United States counterclaimed for approximately $490,000 in federal unemployment taxes for the years 1971 through 1975.

8. The District Court held BJU qualified for tax exemption on December 26, 1978 and entered judgment for BJU in the refund suit. In a separate suit decided the same date, the District Court ordered the Secretary of the Treasury and Commissioner of Internal Revenue Service to restore BJU tax exempt status.

9. The Court of Appeals for the Fourth Circuit reversed both judgments in 2-1 decision and held that BJU was not entitled to tax exemption and entered judgment for the Government on December 30, 1980.

10. BJU filed a petition for a writ of certiorari to the Supreme Court on July 1, 1981. The petition for a writ was granted October 13, 1981.

11. The parties briefs were set for filing on December 31, 1981.

Goldsboro Christian Schools, Inc.

Chronology of Events

1. Goldsboro Christian Schools, Inc. ("Goldsboro") is a nonprofit organization incorporated in 1963; however, Goldsboro has never been granted tax-exempt status.

2. On July 10, 1970, the Internal Revenue Service announced that it would no longer recognize the tax-exempt status of private schools maintaining racially discriminatory admissions policies.

3. After audit in 1974, the Commissioner of Internal Revenue determined that Goldsboro did not qualify for exemption from federal unemployment and social security taxes and accordingly assessed those taxes against Goldsboro.

4. Goldsboro commenced a suit for refund of its partial payment of such taxes and the Government counter-claimed for the balance of the taxes assessed.

5. On May 7, 1980, the District Court for the Eastern District of North Carolina rendered judgment for the Government that Goldsboro's exemption was properly denied.

6. On February 24, 1981, the Court of Appeals for the Fourth Circuit in a 2-1 decision affirmed the judgment for the Government.

7. Goldsboro filed its petition for certiorari with the Supreme Court on July 2, 1981. The petition was granted October 13, 1981.

8. The parties briefs were set for filing on December 31, 1981.

PETER J. WALLISON January 8, 1982

This afternoon, the Justice Department filed with the Supreme Court, on behalf of the United States, a memorandum noting that the IRS would restore the tax exemption of Bob Jones University and grant a tax exemption to the Goldboro Schools.

This decision, which was made as a matter of legal policy at the Treasury Department, reflects a conclusion that the theory which the IRS has been advancing in the Bob Jones litigation since 1970 is overly broad, and threatens -- if endorsed by the Supreme Court-- to establish a principle which grants too much discretionary authority to the IRS without adequate guidance from Congress.

The Service's theory is that all tax exempt organizations -- to obtain or retain their tax exemptions -- must be "charitable" in the common law sense even if they are bona fide religious, educational or other organizations.

To be "charitable" in the common law sense, the Service has contended, means that an organization must pursue practices which are not at variance with the fundamental public policies of society.

These fundamental public policies, of course, are not anywhere written down. What they are and whether an organization is acting in a manner consistent with them, is a matter left in this theory to the discretion of the IRS.

In the judgment of the Treasury Department, this is too much discretionary authority to be exercised by an executive agency without guidance from Congress or at least an expression from Congress that it wants the revenue laws to be applied in this way. The fact that the internal revenue laws are involved is particularly troublesome because the implementation of this approach could divert the IRS from the task of raising revenue to the task of enforcing certain other national policies.

The decision to reverse this particular IRS position was an especially difficult one, since the racial discrimination practiced by Bob Jones University and the Goldsboro Schools is deplored by this Administration.

But ultimately the judgment was that the egregious facts of this case could not be allowed to form the basis for the establishment of a legal principle which has no inherent limitations.

In the Bob Jones case , the IRS argued that racial discrimination is against national policy; this in itself is unexceptionable. But at some later time could the Service argue that sex discrimination or age discrimination is also a violation of national policy? What about the propagation and advocacy or unpopular views? Could advocative truly odious views be against national policy and hence grounds for revoking a tax exemption? Would it be a violation of national policy for a church hospital to refuse to perform an abortion or for any charitable hospital to perform abortions.? Congress can certainly impose these policies as it wants, but we do not believe it has yet done so.

Considerations such as these are at the heart of the Treasury's decision. Although some will focus on the facts of the Bob Jones case itself -- and claim that Treasury has endorsed racial discrimination -- we see the issue as one of the authority of any executive agency to make determinations as to what is fundamental national policy without the guidance of Congress.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

January 7, 1982

MEMORANDUM FOR: Dave Gergen
Director of Communications
White House

Tom DeCair
Director, Public Affairs
Justice Department

From: Ann Dore McLaughlin ADMcL
Assistant Secretary
(Public Affairs)

Subject: Bob Jones Decision

Attached is a press release which lays out our rationale for the Bob Jones decision. Although it is still an open question whether the release should come from Treasury or Justice, following is the suggested strategy for the release:

1. Release of the following documents: Press Release including statement by the Deputy Secretary, chronology of the legal history of the case, and a copy of Justice's motion to the Court.

2. File the motion at 4:00 p.m. Fri. or [illegible] with simultaneous release of press documents.

3. Hold a background briefing at 4:00 p.m. for legal reporters on key national publications including the New York Times, Washington Post, Wall Street Journal, Atlanta Journal-Constitution and Los Angeles Times. Participants to include: Deputy Secretary McNamar, Treasury General Counsel, and a Justice Department official, probably ~~Brad Reynolds~~?

Strategy

This is a relatively low-key strategy with maximum control of the story's content. However, because of the complexities of the case the background session with key reporters is probably a necessary ingredient.

Attachment

Draft (Jan. 7, 1982)
RELEASE DATE OPEN

Contact: Marlin Fitzwater
(202) 566-5252

TREASURY ESTABLISHES NEW TAX-EXEMPT POLICY

The Treasury Department announced today that without further guidance from Congress, the Internal Revenue Service will no longer revoke or deny tax-exempt status for religious, charitable, educational or scientific organizations on the grounds that they do not promote certain fundamental public policies.

"In the past," said Deputy Treasury Secretary R. T. McNamar, "The IRS has revoked the tax exemptions of organizations which, in its judgment, did not adhere to certain fundamental national policies, even though this requirement is not part of the ~~IRS~~ Internal Revenue code."

"Whether or not the Treasury Department or this Administration agrees with the position of the IRS in particular cases is not the issue," McNamar stated. "The question is whether the IRS was given authority by Congress to decide -- as a condition of granting or continuing tax-exempt status -- whether private organizations are promoting fundamental national policies. The Treasury Department has concluded that this kind of judgment -- which may mean life or death for certain organizations -- is fundamentally a question for Congress; and if the authority to make this judgment is given by Congress to an administrative agency it should be done in explicit terms and subject to specific guidelines."

As a consequence of this decision, the IRS will restore the tax exemption of certain organizations which had previously been revoked. In particular, the appeal of Bob Jones University, and the Goldsboro Schools, which are currently before the Supreme Court will be rendered moot.

"In taking this action," McNamar stated, "We are attempting to protect the independence of all private tax-exempt organizations -- many of which may follow practices and adhere to principles with which we disagree. But before the government gets into the business of deciding which organizations are worthy of tax exemption and which are not, we want Congress to fully consider the implications of such a course."

This new policy is reflected in a motions filed with the Supreme Court today by the Justice Department to vacate a case in which the Internal Revenue Service revoked the tax-exempt status of Bob Jones University. IRS revoked the tax exemption in 1970 on the grounds that the school's racial policies violated Federal policies on racial discrimination. This decision was nullified by the U.S. District Court in South Carolina on June 30, 1971. However, the lower court's decision was reversed by the 4th Circuit Court of Appeals on December 30, 1980. Bob Jones University appealed the Circuit Court decision to the Supreme Court.

The government's motion to the court today said:

(INSERT WHEN AVAILABLE)

January 8, 1982

Bob Jones University Case
Chronology of Events

1. Until 1970, the Internal Revenue Service recognized Bob Jones University ("BJU") as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code.

2. On November 30, 1970, the Internal Revenue Service notified BJU and other private schools that it would no longer recognize organizations as legally entitled to tax-exemption which maintained a racially discriminatory admissions policy.

3. BJU responded that it did not admit black students and that it did not intend to alter that policy in September of 1971.

4. BJU filed suit to enjoin revocation on September 9, 1971. In 1974, the Supreme Court ruled that such a suit was barred by the Anti-Injunction Act and the Declaratory Judgment Act.

5. The Internal Revenue Service began a formal audit/examination to determine payroll tax liability and to consider revocation of BJU's tax exemption during July, 1974.

6. In January, 1976, the Internal Revenue Service issued a final notice of revocation to BJU in January, 1976, effective from December 1, 1970.

7. On May 4, 1976, BJU filed suit in federal district court in South Carolina seeking a refund of $21 in federal unemployment tax as a means of seeking reinstatement of it exemption. The United States counterclaimed for approximately $490,000 in federal unemployment taxes for the years 1971 through 1975.

8. The District Court held BJU qualified for tax exemption on December 26, 1978 and entered judgment for BJU in the refund suit. In a separate suit decided the same date, the District Court ordered the Secretary of the Treasury and Commissioner of Internal Revenue Service to restore BJU tax exempt status.

9. The Court of Appeals for the Fourth Circuit reversed both judgments in 2-1 decision and held that BJU was not entitled to tax exemption and entered judgment for the Government on December 30, 1980.

10. BJU filed a petition for a writ of certiorari to the Supreme Court on July 1, 1981. The petition for a writ was granted October 13, 1981.

11. The parties briefs were set for filing on December 31, 1981.

Los Angeles Times
DEC 26 1981

Pg 11 d

Two Churches Enter Dispute on Tax Status

By DAVID E. ANDERSON,
United Press International

Two mainline Protestant denominations have come to the defense of fundamentalist Bob Jones University in a touchy Supreme Court case involving both religion and race.

But another major mainline group, the National Council of Churches, found itself hopelessly divided on the case and will not enter the dispute.

In October, shortly after it began its new term, the Supreme Court announced that it will agree to decide if church-related schools that practice racial discrimination on religious grounds are entitled to retain their tax-exempt status.

But to the dismay of many proponents of strict church-state separation, the court has linked two different cases, one of which church leaders fear could undercut their separationist arguments.

Taxes an Issue

At issue in the case is an Internal Revenue Service rule that denies tax-exempt status to private institutions that practice racial discrimination in their admission policies.

Bob Jones University, Greenville, S.C., which has been battling the IRS on the issue since 1970, has had a changing policy on blacks, excluding all blacks until 1971, then allowing married black couples to attend the school and, since 1975, allowing single blacks to enroll provided they promised to date only blacks.

Both the 1.6-million-member American Baptist Churches and the 2.4-million-member United Presbyterian Church have entered the case on the university's side.

In a brief written by John W. Baker of the Baptist Joint Committee on Public Affairs and American Baptist National Ministries counsel Earl W. Trent Jr., the two denominations argued that the real issue in the case did not involve racism, but whether the IRS has constitutional authority to deny "fundamental rights which take precedence over public policy evolved from non-First Amendment rights."

Question of Rights

Also at issue in the case is the question of whether tax exemption constitutes state aid to or sponsorship of religion.

The Baptist-Presbyterian brief argues that the IRS may not require religious groups "to forego constitutional rights in order to secure the statutory privilege of tax exemption."

Dean M. Kelley, head of the National Council of Churches religious liberties office, said the case was "immensely important" and could be a "watershed case" in church-state relations.

But Kelley's desire to enter the case was strongly opposed by the Council's racial justice working group, which wanted to enter the case on the side of the government.

"There was a standoff," Kelley said, "with divided counsel and therefore no consensus reached and the National council will not enter the case."

Kelley also said church-state lawyers "do not like the Goldsboro case and are distressed the court has linked the two cases."

The Goldsboro case involves a Christian school established in 1963 by the Second Baptist Church in Goldsboro, N.C.

"It is clearly a white-flight school," Kelley said, established after the Supreme Court and other federal courts ordered the desegregation of public schools.

Baker and Trent also emphasized that their brief does not apply to the Goldsboro case.

"The issues in the cases are different," Baker said.

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ASSOCIATED PRESS

DEC 21 1981

WASHINGTON (AP) -- THE INTERNAL REVENUE SERVICE IS AWAITING WORD FROM THE SUPREME COURT ON WHETHER IT OVERSTEPPED THE CONSTITUTION BY BANNING TAX EXEMPTIONS FOR PRIVATE SCHOOLS THAT DISCRIMINATE AGAINST BLACK STUDENTS ON RELIGIOUS GROUNDS.

THE IRS HAS CITED RACIAL DISCRIMINATION AS THE BASIS FOR REVOKING MORE THAN 100 EXEMPTIONS AND DENYING TAX-EXEMPT STATUS TO AN UNSPECIFIED NUMBER OF OTHER PRIVATE SCHOOLS OVER THE PAST 11 YEARS.

BUT OF THOSE SEEKING TAX-EXEMPT STATUS -- AT LEAST FIVE OTHER CASES ARE PENDING IN U.S. TAX COURT -- THE ONLY TWO WHICH SPECIFICALLY HAVE CITED RELIGIOUS BELIEFS AS THE BASIS FOR THEIR RACIAL POLICIES ARE BOB JONES UNIVERSITY IN GREENVILLE, S.C., AND THE GOLDSBORO CHRISTIAN SCHOOLS IN GOLDSBORO, N.C., THE IRS SAYS.

BY AGREEING IN OCTOBER TO REVIEW THOSE TWO CASES, THE JUSTICES SIGNALED THAT THEIR RULING, WHICH IS EXPECTED BY JULY, IS LIKELY TO BE LIMITED TO SCHOOLS PROFESSING THAT THEIR RACIAL SEGREGATION POLICIES ARE FOUNDED ON RELIGIOUS BELIEFS.

''THE UNQUESTIONED FIRST AMENDMENT RIGHT TO FREE RELIGIOUS BELIEF AND EXERCISE DOES NOT CARRY WITH IT A GUARANTEE OF ANY PERSON'S OR CORPORATION'S ENTITLEMENT TO TAX-EXEMPT STATUS,'' GOVERNMENT LAWYERS ARGUE.

GOLDSBORO CHRISTIAN SCHOOLS CONTENDS IN ITS APPEAL:

''IF THE ... DECISION IS NOT OVERTURNED, THE IRS WILL HAVE SUCCESSFULLY DENIED TAX-EXEMPT STATUS TO THE SCHOOL BECAUSE IT PROMOTES AND PRACTICES AN UNORTHODOX, UNPOPULAR, MINORITY BELIEF WHICH THE IRS -- AND NOT CONGRESS -- HAS DECIDED VIOLATES FEDERAL PUBLIC POLICY.''

ALTHOUGH THE IMMEDIATE FOCUS IS ON THE RELIGIOUS ISSUE, THE IRS POLICY ON TAX EXEMPTIONS FOR PRIVATE SCHOOLS IS UNDER INTENSE SCRUTINY FROM A VARIETY OF DIRECTIONS.

CONGRESS, FOR EXAMPLE, HAS LIMITED IRS AUTHORITY TO REVOKE THE EXEMPTIONS TO CASES IN WHICH THERE IS BLATANT AND OPEN DISCRIMINATION. THAT RESTRICTION WAS ADOPTED IN RESPONSE TO A 1978 IRS PROPOSAL TO BAR TAX EXEMPTIONS FOR SO-CALLED ''WHITE FLIGHT'' ACADEMIES PRACTICING SUBTLE FORMS OF RACIAL BIAS. THAT PROPOSAL RAISED SUCH A PUBLIC OUTCRY THAT THE SERVICE REVISED ITS PLAN EVEN BEFORE CONGRESS APPROVED THE FORMAL RESTRICTIONS.

AP-WX-12-21-81 0917EST

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The Cincinnati Enquirer
Cincinnati, Ohio
December 20, 1981

Exemption Case Leads Churches To File Briefs

religion beat

BY BEN L. KAUFMAN
Enquirer Reporter

A nasty bit of business surfaced again recently when two major Protestant denominations filed a friend-of-the-court brief with the U.S. Supreme Court.

It has to do with the claim of Bob Jones University (BJU) that its policy of restricting black enrollment is justified by Scripture.

Five years ago, the Internal Revenue Service (IRS) jerked the BJU tax exemption, saying the Greenville, S.C., school had violated federal law and the nation's "public policy." Coming to BJU's aid now and holding their noses are the American Baptist Churches and United Presbyterian Church.

Their joint brief repudiated "any form of racism for any reason," but they found IRS behavior even more noxious. The issue is whether the IRS has constitutional authority to deny "fundamental rights which take precedence over public policy evolved from non-First Amendment rights."

John W. Baker wrote the brief. He is general counsel for the Baptist Joint Committee on Public Affairs, based in Washington, D.C. Earl W. Trent Jr., house counsel for the American Baptist National Ministries, lent a hand.

It is the latest attack on recent IRS regulations which attempt to limit the freedom of religious groups to define themselves. Others have been beaten back formally or informally.

The Baptist Joint Committee "strongly objects to any attempt by the government to force—by threat of loss of tax exemption—any religious organization to alter sincerely held religious beliefs to conform to public policy arbitarily defined by a government agency such as the IRS."

The brief charged that BJU's First Amendment freedom of religion was sacrificed to IRS's view of public policy and that the IRS exceeded its legal authority because Congress never said public policy determines eligibility for a tax exemption.

Moreover, the joint brief said the IRS may not require religious groups "to forego constitutional rights in order to secure the statutory privilege of tax exemption."

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Savannah Evening Press
Savannah, Georgia
December 3, 1981

BJU-IRS Tax Fight Cited

GREENVILLE, S.C. — The Bob Jones University tax battle with the Internal Revenue Service before the U.S. Supreme Court, is "the most important case involving churches to be decided in this century," says an American Baptist Churches staff lawyer.

Lawyer Earl Trent Jr. said that although the Baptist group doesn't support the religious philosophies of the university, the organization has joined the case before the U.S. Supreme Court to fight for BJU's right to practice its religious beliefs.

"It is a thoroughly religious institution," said Trent. "If the Internal Revenue Service can do this to Bob Jones University, they can determine that some of the positions of our church are contrary to federal public policy."

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THE CHRISTIAN SCIENCE MONITOR
23 NOV 1981

Front Page

?acial bias
s. freedom
f religion

gh court suits seek to keep
S from 'regulating' religion

Julia Malone
Staff correspondent of
The Christian Science Monitor

Washington

3ob Jones University in Greenville, S.C., es no attempt to hide its racial discrimi- on. Although the fundamentalist Chris- school accepts blacks and other minor- , it strictly forbids interracial dating.

nyone married to a person of a different need not apply to Bob Jones, and a stu- found dating interracially will be ex- ed, university rules state. The policy is d on the belief that "It's in Scripture that Lord has established racial barriers," ex- ns university spokesman Bob Harrison.

The school does not record the numbers of ks or other minorities among its 6,300 stu- ts, who come from all 50 states and 35 for- countries.

No one has ever been kicked out because of rules, maintains Mr. Harrison, because y understand the policy when they e." But the rules have run afoul of the US rnal Revenue Service (IRS), which cut off Jones University from tax exempt status.

The dispute, which will be argued before US Supreme Court next January, is just of a growing number of lawsuits over the rcise of religion. Inspired by resurging lamentalist religions, as well as by unpop- cult groups, the cases will almost cer- ly make important new law regarding re- ous freedom.

For more than a decade, courts have con- trated on keeping religion out of govern- t. The Supreme Court ruled prayers out ublic schools and drew careful limits on lic aid to parochial schools.

The new cases aim at keeping government of religion.

In Bob Jones University v. United States, school asserts that the government is treading on a religious tenet to enforce a public policy (racial equality). It is a clear clash between the right of religious exercise, as guaranteed by the First Amendment to the US Constitution, and the power of the government to pursue its objectives.

"The government is moving ever more inten- sively at the federal and state levels to regulate in First Amendment areas, especially in the area of religion," says William B. Ball, a Harrisburg, Pa., lawyer who is one of the leading litigators in reli- gious liberty issues. He argued the bellwether case Wisconsin v. Yoder, in which the Supreme Court exempted Amish children from compulsory school attendance beyond the eighth grade so that they could conform to their religious traditions. That ruling has led the way for many of the cases now coming into the courts.

The Bob Jones suit is "critically important be- cause the government thesis is that to enjoy tax exemption, a religion must conform to whatever may be said to be public policy," says Mr. Ball.

"We are very clear that it is not subterfuge," he says of the university racial policy. "This is a sincere and established religious belief."

Like most fundamentalist schools, Bob Jones takes no federal grants, and losing tax exempt sta- tus could be a serious blow. University President Bob Jones III, grandson of the Baptist minister who founded the university, predicts that the school would have to pay millions of dollars in back taxes if it loses. Perhaps equally damaging, donors could not take tax deductions for their gifts.

Linked with the Bob Jones case is a similar dis- pute between Goldsboro Christian Schools Inc. of North Carolina and the IRS. "Based on its percep- tion of God's will, the school has maintained a ra- cially discriminatory admissions policy since its founding," states a document filed in the Supreme Court. The IRS has ruled that the whites-only rule bars the school from tax exemption.

The US Fourth Circuit Court of Appeals has backed the IRS in both cases.

Lawyers for the US government maintain that the IRS acted well within the mandate of Congress in enforcing antidiscrimination rules. Moreover, they point to widespread resistance from church- related schools, including 29 private academies in Mississippi. Of those, 12 are defending their racial policies on First Amendment grounds.

With the current national growth of Christian schools, the high court's ruling in these two cases will be felt widely. However, for several religious groups, the issues go even further than schools.

The Mormon Church, the Mennonite Church, the Amish, and the Center for Law and Religious Freedom, among others, have urged the Supreme Court justices to rule against the IRS. The groups foresee Uncle Sam stepping into churches and de- manding that they conform to a laundry list of federal policies, especially in the area of sex discrimination.

"Discrimination against women on the basis of sincere religious belief exists in many churches the National Association of Evangelicals' constit ency," says a brief filed by that association.

According to constitutional law professor A. Dick Howard of the University of Virginia, the S preme Court will be moving into "larg unchartered territory" as it takes up cases on fr exercise of religion. Leo Pfeffer, professor at Lo Island University, predicts that religious expr sion will occupy center stage in constitutional l in coming years.

Judges in lower courts now are confronting Arkansas law ordering schools to give equal ti to Biblical "creationism" when they teach evo tion. In New York, a federal court of appeals considering whether the Unification Church of Rev. Sun Myung Moon can have tax exemption its printing facility.

The Supreme Court this term will be ruling c bumper crop of religious cases. They include:

- A dispute over a University of Missouri r forbidding all religious groups from holding v

IN THE SUPREME COURT

ship services on campus. The school, citing need to keep church and state separate, allows study of religion but bans its actual practic school grounds. A nondenominational Chris group is challenging that ban in the case ar awaiting a decision.

- An Amish carpenter's challenge of a fec requirement that he pay social security taxe his employees, who are also Amish. In USA v win D. Lee, which was argued earlier this m Mr. Lee holds that providing for the elderly central requirement of his church. Paying i government program conflicts with that resp bility, according to his attorney, who notes the Amish do not collect social security benefi

- The Unification Church is fighting a M sota law that requires it to register with the before soliciting in public and to file fin records with the state. The law, which ex most churches from such requirements, is a at groups such as the "Moonies," who r most of their contributions from outsiders.

- In Grace Bretheren Church v. Californi court is asked to decide whether an indepen incorporated religious school can enjoy the tax exemptions as a church. The justices las exempted church-owned schools from payi employment insurance taxes for employees

One of an occasional series of stories exa issues facing the US Supreme Court

THE WALL STREET JOURNAL

OCT 14 1981 pg- 14

Supreme Court Agrees to Hear 2 Busing Cases

Disputes Are Seen as a Test Of Referendums Linked To School Desegregation

By STEPHEN WERMIEL

Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—The Supreme Court set the stage for an important test of using state referendums to limit or block busing plans aimed at correcting racially imbalanced schools.

The Justices agreed to hear two separate cases testing the constitutionality of voter-approved measures involving school busing.

In one case, a federal appeals court ruled unconstitutional a Washington State referendum passed in 1978. The ballot measure apparently was aimed at stopping a busing plan the Seattle School Board had adopted voluntarily.

In the other case, the California Court of Appeals threw out a local judge's busing order. The appeals court ruling upheld a 1979 state constitutional amendment that restricted the authority of state judges to order busing to instances in which segregation was intentional.

CIVIL RIGHTS CASES

Both cases raise questions about the use of busing when the racial imbalance involved hasn't been found to violate federal law or the Constitution's guarantee of "equal protection of the laws." Such questions have arisen with increasing frequency as busing foes, stymied in federal courts, have taken their cause out of the federal courts and to the voting booth.

Also yesterday, the Supreme Court:

—Agreed to review the authority of the Internal Revenue Service to deny tax-exempt status to religious schools and colleges that discriminate on the basis of race. Appeals were filed by Bob Jones University in Greenville, S.C., and Goldsboro Christian Schools Inc. in Goldsboro, N.C.

—Agreed to decide whether students in the Island Trees School System on Long Island, N.Y., may have had their rights violated by school board officials who banned nine books from the junior and senior high school libraries.

Test of Views

The Seattle and Los Angeles cases mark the high court's first venture into the area of school busing in more than two years. The cases also provide Justice Sandra O'Connor, the court's newest member, with an early test of her views about the way in which the Constitution deals with race. At her confirmation hearings, Justice O'Connor said she personally opposed busing.

In the Seattle case, the school board concluded that the system was racially imbalanced and adopted a busing plan that has been operating for three years.

After state voters restricted the power of school boards to order busing, the Seattle board went to court and the referendum was declared unconstitutional.

With the Justice Department supporting Seattle's voluntary busing efforts, a federal appeals court said the referendum created an illegal racial classification by banning busing only for racial purposes, while allowing it for other reasons, such as safety or special education.

However, under the Reagan administration, the department has changed its position, saying the referendum is constitutional.

The Justice Department hasn't taken a position yet in the Los Angeles case. In that dispute, voters said local judges could order busing only to correct racial imbalance that violates federal law or the Constitution. The state appeals court found that a local judge's 1980 desegregation plan went beyond what federal law would require. As a result, the plan, which was in effect from September 1980 through last April, was scrapped.

Students Sued

In the two tax appeals, the issue is whether the IRS has acted properly in ruling that institutions won't be considered "charitable" entities for the purposes of tax exemption if their policies are contrary to general public policy. In denying tax-exempt status to Bob Jones University and Goldsboro Christian Schools, the IRS found that both discriminated against blacks.

The schools argue that they still are religious organizations and thus are entitled to tax-exempt status. Moreover, they say they are nonprofit entities that should be classified as "charitable" organizations.

In the book censorship case, the Island Trees School Board banned a list of books that included "Slaughterhouse Five" by Kurt Vonnegut, "The Fixer" by Bernard Malamud, "Soul on Ice" by Eldridge Cleaver and "The Naked Ape" by Desmond Morris. Five students sued, saying the ban violated their rights of free speech and expression guaranteed by the First Amendment.

A federal judge ruled before trial in favor of the school board. But a federal appeals court decided the students should have a chance to prove at a trial that their rights were abridged.

It is unclear whether the high court will rule on the volatile question of school board authority to ban books. The decision could be limited to the issue of whether the law allows students to assert that their rights were violated.