

PLAYING OF 'DIXIE' STIRS COURT TEST

Negro Student Seeks to Bar Enforced Playing of Song

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NASHVILLE, March 8—A Federal Court has been asked to decide if Negro musicians in Tennessee high school bands may be forced to play "Dixie," the song adopted by the Confederacy during the Civil War.

A suit filed here Wednesday by the American Civil Liberties Union contends that the song, a favorite in the repertoires of many high school and college bands in the South, is "traditionally associated with support of the institution of slavery and white racial supremacy" and may therefore be offensive to Negroes.

The complaint was offered to the United States District Court for the middle district of Tennessee on behalf of two Negro residents of nearby Lebanon, Tenn.

They are Charles Caldwell, a 14-year-old trumpet player, who was dismissed from the Lebanon High School band in early January after he twice refused to play the song; and his mother, a teacher's aide at the same school, who was dismissed from her job later that month.

School Officials Cited

Named as defendants are the band instructor and principal of the school, the superintendent of the county school system and the members of the County Board of Education as well as all band instructors, principals and boards of education in Tennessee.

The suit asks the court to reinstate the student to band membership and to return his mother to her job with back pay. It describes their dismissals as retaliatory acts of racial discrimination.

Charles Morgan Jr., A.C.L.U. southern regional director, said in Atlanta that the suit did not represent an effort to forbid the playing of "Dixie" at high school or college activities.

"We have no idea of stopping anyone from playing whatever they wish to play," said Mr. Morgan, "but the intent of this litigation is simply to insure that Negroes or anyone else involved in public education not be forced to participate in ceremonies or activities which they regard as offensive to them or derogatory to their race as a requisite for their enrollment in the school or public institution."

Support in Iowa Alleged

The suit argues that Negro students and education personnel have a constitutional guarantee not to be subjected to "badges of slavery" and that forced participation in the playing of "Dixie" and in other ceremonies or programs glorifying the Confederacy or "otherwise extolling the virtues of slavery or white racial superiority" is in violation of the laws and the Constitution of the United States.

In an accompanying memo, the suit cites as support for its contentions a recent decision by the United States Supreme Court allowing students in Des Moines, Iowa, to wear black armbands to classes as a protest against the Vietnam war.

The Negro student, whose father is a clergyman, recently transferred to Lebanon High School because his former school, an all-Negro institution, did not offer band or musical training. He plans to be a musician when he completes his education.

His mother was dismissed without prior notification that her performance as a teacher's aide in a federally funded education program was unsatisfactory.

Since mid-February, the Caldwell home has been the target of rocks and bricks, one of which shattered the windshield of the family automobile.