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RELIGIOUS DIFFERENCES
and
COMMUNITY UNDERSTANDING

Luncheon Address - by Robert F. Drinan, S.J., Dean, Boston College Law School

At Conference on Church and State. Sponsored by the University of Pennsylvania Law School, on October 13 - 14, 1965, at Law Building, Philadelphia

Time Thursday, October 14, 1965, 12:30 P.M.
The momentous statement in favor of religious freedom adopted on September 21, 1965 by the Vatican Council in Rome will almost certainly be one of the most significant and the most cited documents for at least the rest of the twentieth century. Like *Pacem In Terris* the solemn vindication by the Ecumenical Council of the inviolability of the human conscience has already touched the soul and heart of modern man.

Although the final and definitive text of the Vatican Council's declaration is not yet available it is clear that the 2200 bishops of the Catholic Church have, in a monumental affirmation, stated that human dignity forbids civil authority from interfering with man's relationship to God. The impact which this historic statement will have is almost beyond calculation.

It seems predictable that the Catholic Church's statement exalting religious freedom as the first and foremost of all human freedoms results in part from the Church's and the modern world's recognition of the validity and dignity of the secularity of the state. The pronouncement by the Vatican Council means that both the church and the state have in the contemporary world reached a point of inner-maturity where each can be more autonomous, more completely itself, and more confident of its own powers and limitations.

We can be confident that the Vatican Council's declaration of war against all state-sponsored coercion of conscience will, in due time, have a powerful impact on all predominantly Christian countries; the government-enforced disabilities on religious minorities in the nations will wither away and the fullest freedom of worship will be granted to all. In non-Christian lands the 1965 statement of the Vatican Council may gradually attenuate the often harsh exclusive-
ness characteristic of nations where the dominant religion is/to be the source of the country's national unity.

The effect in America of the Ecumenical Council's decree on religious liberty will be manifold. The declaration cannot fail to increase the confidence of non-Catholics regarding the fullness and the total sincerity with which Catholics desire to respect the religious freedom of everyone. Catholics on the other hand now have the clearest possible guidelines on a matter not infrequently obscured in the past.

The statement of the Vatican Council does not resolve, however, the crucial question of public or legal morality in America. The Vatican declaration is not intended and does not purport to solve this question. The recent Vatican affirmation of the sacredness of the rights of conscience says only that everyone has a right to immunity from the state in matters of religion; the Vatican statement asserts, however, that the state has the right and duty to preserve and protect the moral values needed to safeguard law and order. The crucially important unresolved question is this: whose moral values should the modern religiously pluralistic state preserve and protect?

In an attempt to analyze this central question confronting jurists and all of contemporary society let us investigate three closely interrelated issues:

(1) The remarkable consensus on Church-State relations which exists in America,

(2) The absence or the breakdown of this consensus with regard to the place of religion and the teaching of morality in American Education, and,

(3) Some reflections on how the nation's extraordinary entente
between church and state might, if supplemented by the mandates of the declaration of the Vatican Council, bring about with regard to the place of religion in education both a greater respect for religious differences and a more profound community understanding, - the twin purposes of the title of this paper.

(1) AMERICA'S UNIQUE CONSENSUS ON CHURCH-STATE RELATIONS

It is almost astounding that the 16 words in the First Amendment of the U. S. Constitution prohibiting an establishment of religion and guaranteeing the free exercise of religion were not really needed from the birth of the nation in 1789 until the year 1947. The country followed during that period of 158 years an almost unconsciously held set of principles from which there resulted a workable, though perhaps logically indefensible, arrangement of Church-State relations.

Rather substantial anomalies still exist in the symbiosis of Church and state in America, - anomalies which cannot be logically squared when measured against one or both of the guarantees of the First Amendment. But the fact is that Church-State relations in America, as compared to many nations, are unusually harmonious and satisfactory both to the churches and the state.

Since 1947 and the Everson decision there are signs that the remarkable alliance - with - separation between Church and State which America has enjoyed for so long may be withering. On the other hand it may be that the Supreme Court will enunciate principles which will articulate and strengthen the bonds which both separate and unite religion and government in America.

It is an open question, furthermore, whether there is really any substantial division of public opinion in America regarding
existing and accepted practices such as tax exemption for churches, draft exemption for seminarians and massive Federal and state financial support for Church-related social welfare agencies. Virtually no one seems to think of challenging other no less substantial benefits to religion such as revenue-producing tax-exempt cemeteries owned by sectarian groups, clearly preferential treatment in federal and state income tax structures and the waiving of all Federal and state income tax payments for persons with a religious vow of poverty.

In view of the unchallenged, - and indeed almost unrecognized, - series of links between church and state in America it is somewhat anomalous that in one area America's consensus on Church-State relations has either never really existed or has eroded in the last two generations. This area is, of course, the thorny problem of the teaching of religion and morality in American education. It may be helpful to try to outline the fundamental conflicts in American thought regarding the role of religion in education.

(2) THE ROLE OF RELIGION AND MORALITY IN AMERICAN EDUCATION

A double revolution occurred around 1850 in America when education became compulsory and when the newly-established common or public school was mandated to be simultaneously pro-religion but non-sectarian. This seemingly impossible mandate actually was feasible and to a degree successful for about 75 years; the public school during these years shared in the vague, unarticulated consensus regarding church-state matters which permeated the nation.

The academic inadequacy of the public school vis a vis the teaching of religion and morality became more and more apparent to educators and churchmen as the twentieth century progressed. Almost every experiment designed to bring religion into the public
school has ended, however, in failure. Released time, Bible-reading, the recitation of Scriptural or state-composed prayers are the most notable of the experiments that failed.

It is submitted that the problem of furnishing academically adequate training about religion and morality in the public school is more acute than most educators will admit and more important than most parents or churchmen realize. For the danger now is not that the schools will revert to some type of neo-sectarianism but rather that the schools will, pursuant to the most laudable motives, teach moral values not as the products of any religious tradition but as truths to be accepted and adhered to because they are state-endorsed and state-enforced.

Every school must surely have an orientation towards a particular set of moral values. If any school consciously and deliberately rejects any such orientation this rejection itself shows that this particular school is convinced that an adequate education can be obtained without an understanding of varying moral values, - an attitude which is, of course, in and of itself a philosophy of education.

The public school in America, furthermore, is expected to communicate moral and spiritual values. The public school teacher is told by her superiors, by the P.T.A., by the community and often by statutory law that she must develop the moral character of her pupils. At the same time she is made to realize that she must adhere to the directive of the United States Supreme Court and observe a "wholesome neutrality" towards religion. By which standards and with whose moral values does the teacher therefore transmit values to her students?
Most teachers and public school administrators have tended to follow the easy but academically unsound path of transmitting moral values the origin and validation of which remain unexplored and unexamined in the classroom. Impressionable students are allowed to draw the inference that the moral values they are taught are to be accepted because the state via its agent, the public school teacher, has endorsed these particular values. Actually no other motive for accepting moral values is given, -- or perhaps constitutionally can be given, -- than the fact that the state, with or without a consensus of the people, has decided to teach, for example, that lying, stealing, cheating in examinations and other similar actions are wrong. A public school teacher, -- theoretically at least, -- cannot urge acceptance of these values because one religion or even all religions endorse them; such conduct would amount to a clearly proscribed endorsement of religion by a state agency. The public school teacher may therefore subscribe to these moral values only on the ground that they are necessary for good citizenship.

If it is felt that this characterization of the dilemma of the public school teacher is over-drawn it is suggested that such a reaction occurs only because public school personnel have not yet been challenged to defend their present legally indefensible and academically unsupportable position that moral values may be taught even though they are (or were) sectarian values.

Will the public schools more and more be required to justify and validate the moral values they communicate by recourse to a legal or statutory enforcement of these values? Would such an approach by the public school tend to teach only those minimal values which are legally protected? And would the public school in
the ultimate analysis be required to say that the state is not merely
the law-maker but also the morals-maker?

Answers to these questions will depend on one's interpre-
tation of the requirement that governments in America be "neutral"
towards religion. If the public school is serious about teaching
its students to respect the rule of law and to follow the mandates
of the Supreme Court, -- even when one disagrees with them, -- then
the public school can hardly be thought to be consistent if it
violates the letter and the spirit of Supreme Court decisions by
transmitting sectarian values smuggled into the curriculum under the
label of moral or legally enforced values. Such a policy is hypo-
critical, subversive of law and academically disreputable.

Is there then some solution for the public school caught,
on the one hand, between a mandate to be neutral towards religion
and, on the other, impelled by a profound conviction that the
public school should not be a state school which hands on moral
values whose only justification can be that the state has endorsed
them? Let us try to suggest some approaches to a solution.

(3) HOW AMERICA'S CHURCH-STATE CONSENSUS AND THE VATICAN COUNCIL'S
DECLARATION ON RELIGIOUS FREEDOM CAN DEEPEN COMMUNITY UNDERSTANDING
OF RELIGIOUS DIFFERENCES.

At the very heart of America's broad-based consensus regard-
ing Church-State relations is the acknowledgement that this country
is made up of believers and non-believers covering a very wide
spectrum. The basic assumption has been that all varieties of
religious belief should receive maximum freedom.
That basic principle, however, almost disappears when the question of religious differences in the public school arises. By common consent and more and more by law the religious beliefs of public school teachers and pupils are supposed to be suppressed during all activities associated with the public school. To be sure, teachers and students may have time off to observe religious holy days but beyond concessions of this nature religious beliefs are deemed to be largely irrelevant in the work of the public school.

It is submitted that such an attitude is in violation of America's traditionally deep-seated respect for the religious freedom of every person. It is furthermore urged that the suppression of religious differences in the public school creates an unrealistic situation, a "never-never land," which prevents the public school from carrying out one of its missions, -- the establishment of community understanding despite the presence of religious differences.

Community understanding of religious differences cannot be advanced by silence and suppression of these religious differences in the greatest molder of future American opinion, -- the public school. Children cannot learn to understand, appreciate and respect religious differences if there is a black-out of discussion and even of recognition of these differences in the schools they attend for the first seventeen years of their lives.

The tragic non-treatment of the Negro in American life during the past century has clearly added to and deepened the prejudice of the white majority towards the Negro about whom they learned virtually nothing in the public school. Similarly non-treatment of religion in the public school can only result in the perpetuation into the next generation of existing misunderstandings over religious differences.
The religious pluralism which has enriched the American nation should not be stopped at the door of the school. Nor should it be suppressed in the class room in the name of governmental neutrality towards religion. Such an interpretation of the no-establishment of religion mandate collides and perhaps conflicts with the free exercise of religion guarantee which, more than any other single principle, is at the heart of the remarkable Church-State consensus which exists in America regarding almost every major issue except the place of religion in the public school. If full religious freedom were granted to public school teachers and to their students would not this grant of freedom bring religious pluralism, -- a fundamental characteristic of American society, -- into the classroom? And would not the public school be thereby a more accurate reflection of American life and consequently a better training ground for future citizens?

No one, of course, desires to permit any teacher to "indoctrinate" or any minority or majority group of religiously minded students to be able to use the public school for religious worship or sectarian instruction. What is suggested is that the enlarging religious and academic freedom now being extended to college professors and students in state-related institutions of higher education be made available, with appropriate modifications, to schools of less than collegiate rank.

The accent in discussions about the place of religion in the public school should, in other words, be shifted from the often exaggerated emphasis on the no-aid-to-religion principle to the equally important but often neglected principle of extending the maximum freedom in religious and cultural matters to all citizens.

The sweeping language of the Vatican Council's affirmation of religious liberty has words which could serve as a guide in
this matter. The Council declared that:

"...the right to religious liberty is based on the very dignity of human nature.... Such freedom requires that man must be free from coercion, either by individuals or by social groups or by any human power, in such wise that in religious matters no one should be forced to act or be prevented from acting according to his conscience, in private or in public, always within due limits."

(emphasis supplied)

No one claims that this passage, or even the complete statement of the Vatican Council, -- contains specific formulas by which the problem of the place of religion in American Education can be resolved. But the emphasis which the cited section places on the inherent right of every person to be free from coercion from every human source and the right of everyone to act in public according to conscience surely raises fundamental questions about the wisdom and fairness of a public school system where the religious freedom of teachers and students is supposedly safeguarded by the suppression of all reference to the religious convictions of the instructors, the pupils and the nation of which they are a part.

There have always been religionists and sectarian groups in America for whom the public school has not been an acceptable training ground for their children. American public policy, -- rightly or wrongly, -- has consistently held that those religious parents who are dissenters from the orientation of the public school may not receive tax support for non-public schools oriented to their own sectarian beliefs. Will the number of these dissenters increase if the public school does not discover a viable method of granting a fuller and more meaningful religious freedom to teachers and students in public education? Only an inspired prophet could hazard an answer to that question.

Regardless of the answer to that question, however, all of
us should face up to the undeniable fact that public schools have not, we may fairly assume, done as much as is possible to carry out their role in promoting community understanding. Anti-Semitism, anti-Catholicism and other forms of religious prejudice remain as a significant factor in American life. Obviously not all of this prejudice may be attributed to the public school. But is it not fair to raise the question whether the silence about religion in the public school is the best way to bring about inter-religious harmony among the young citizens of the oncoming generation?

It is submitted that the liberality with which Americans have broadened religious freedom for all persons acting outside of the public school be broadened so as to become available, with due precautions, to that vast population of some 50,000,000 citizens who are teachers and students in America's public schools. This broadened religious freedom finds support in the free exercise of religion clause of the First Amendment and in the Vatican Council's solemn declaration of war against any state-endorsed coercion in favor of or against religion. If the sense and the spirit of the First Amendment and the decree of the Vatican Council were given full recognition in American life and American education this nation would behold a flowering and fulfillment of religious freedom unparalleled in all the annals of mankind.