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THE RECENT DECLARATION
OF THE VATICAN COUNCIL
AND AMERICAN JURISTS

Sermon by Robert F. Drinan, S.J., Dean, Boston College Law School

At Basilica of the Assumption, Baltimore, Maryland

Time Wednesday, October 6, 1965, at 5:30 P.M.
It is clear beyond a doubt that the recent pronouncement of the Vatican Council affirming that the religious freedom of every man must be safeguarded is one of the most momentous and significant declarations in the entire history of the Church. The bishops of the world have re-asserted as basic Catholic teaching the inviolability of conscience and the duty of every temporal power to avoid any infringement on religious liberty.

The Vatican Council has not, of course, asserted anything novel in Catholic tradition. The Council has rather clarified and summarized the many principles drawn from both reason and revelation which prohibit civil authority from interfering with man's relationship to God.

Although only the final as yet unpublished statement will reveal the ultimate justifying reasons for the declaration of the Vatican Council on religious freedom it appears to be clear at this time that the Council's decree will state that the right of every person to religious freedom is a result both of human dignity itself as well as of the Redemption by which all men have been liberated. The statement of Vatican II therefore is a monumental affirmation by the Church of a point of view on a crucially important subject on which the true teaching of Christ has been through the centuries not infrequently obscured because of the blindnesses and experiences of Christians, both clerical and lay.

The faithful of the primatial see of Baltimore have special reason to be gratified and grateful at the Vatican Council's vindication of religious freedom. For it was here in the mid 1600's that Catholics enunciated in America for the first time those principles underlying the profoundly Catholic reverence for the
supremacy of conscience which have now been endorsed and embraced by the Universal Church in an historic statement which cannot fail to change the future of the Church and of the world.

What are some of the consequences and implications of the Council's solemn declaration of war against any state-sponsored coercion in favor of or against religion? Let us review the following three:-

(1) The deepening of the personal responsibility of every Christian to influence his milieu.

(2) The tendency which the Vatican Council's statement might have to accelerate the secularization of the modern state, and,

(3) The Council's validation of the separation of church and state as this is conceived in the First Amendment to the United States Constitution.

1. THE INDIVIDUAL CHRISTIAN'S NEW PERSONAL RESPONSIBILITY

The statement of the Vatican Council solemnly affirms that the Christian and the Church should live only by the sword of the spirit. Citizens with religious faith and sectarian organizations should not expect the government to offer them assistance and secular support to reinforce their beliefs. A government in a religiously pluralistic, - and indeed in a religiously homogeneous, - world should extend to individual consciences and to organized religion only an immunity from state-sponsored coercion or interference.

The Council's declaration on religious liberty therefore makes the task of Christianizing society primarily and almost exclusively the personal responsibility of individual Christians. These believers should not expect a secular government to assist them in
their sacred task; all that Christians should request of the state is an immunity from interference with their mission.

Although at first some may be frightened at the prospect of the Christian Church doing battle against the powers of darkness without the shield of the state we should always remember that the protection which any government may extend to religion or to the moral values endorsed by religion has in the ultimate analysis a very limited usefulness. If a religion is a vital and profound part of the lives of its adherents it does not need state protection; if a religion, on the other hand, does not compel the loyalty of its followers no state support, however rigorous, can revitalize a faith which is the work of God.

The Vatican Council therefore has in effect by its decree on religious freedom re-emphasized the role and the responsibility of the individual Christian and particularly the layman, in the Church and in the modern world. We are now living in an age when the Church has recognized and welcomed the full flower of the true secularity of the state. This flowering of the secular world is not a defeat or a withering away of the Church but rather a victory for the Church. The Church, while never failing to remember that the secular order has been transfigured by Christ, nonetheless affirms that both the Church and the state have reached a point of inner maturity where each can be more fully autonomous, more completely itself, more confident of its own powers and limitations, - and more trusting of each other.

This newly validated separation of the sacred and the secular has one thunderously overwhelming truth to proclaim: the Church of Christ will speak and even survive across time and through space only in direct proportion to the faith and zeal of its individual members.
2. THE COUNCIL'S STATEMENT AND THE SECULARIZATION OF GOVERNMENTS

The declaration vindicating religious freedom recognizes the fact that the legal institutions of the modern state can effectively protect only those elements of basic morality on which there is a substantial consensus. Some Christians, - and perhaps particularly Catholics, - have been inclined to insist that contemporary governments enforce certain principles of morality even if the majority of the citizens fail to believe in the inherent immorality of the conduct which is forbidden. The insistence on a strong governmental policy with regard to such moral issues is understandable; no one, after all, says that morality should be determined by the will of even an overwhelming majority.

The point, however, which is frequently missed by those who insist that government now weakens its traditional protection of certain moral and religious values is the fact that when a state endorses and enforces a particular viewpoint of morality on which there is no consensus the state itself becomes not merely the nation's law-maker but also its morals-maker. The state disregards or overlooks the moral views of the majority of its citizens and enforces a view of morality which must be justified because it is the state's attitude towards a particular moral issue. Is there anything more fraught with danger than the prospect of the modern state embracing and enforcing one view of a moral question as a state-composed and state-endorsed and state-enforced morality? To state the question is to answer it.

The Vatican Council's declaration on religious freedom reaffirms, of course, that the state is the guardian of law and order. But at the same time the declaration says unequivocally that the
state must carry out its role as the protector of law and order in a way which will minimize all restraints on religious freedom.

If some say that this process will lead to a secularization of the state are they not in effect conceding that modern governments are enforcing moral standards which originated with the Christian churches but which today could not effectively be enforced by these same churches?

It should be clear consequently that all persons, with or without religious faith, who are interested in the preservation of public morality should, by dialogue and by every other possible means of inter-communication, clarify and re-assert those moral values on which consensus exists and which the state should endorse and enforce. If this dialogue does not occur we may see the government dropping its legal sanctions against more and more forms of conduct simply on the ground that some individuals object to having a particular type of conduct legally approved or disapproved.

This course of action will be the easiest one for the modern state to follow. It will claim -- and indeed may attempt to cite the declaration of the Council on religious freedom -- that it has no right or duty to lend its secular assistance to any moral doctrine whose origin is sacred. Such a conclusion is surely a total misunderstanding of what the Vatican Council's declaration intends; the Council has stated that a government must protect those basic moral values essential to the preservation of law and order but that, in so doing, it cannot place disabilities on the conscience of believers or of non-believers.

The affirmation of the Vatican Council on religious freedom need not, therefore, lead to a withdrawal of the modern state's involvement in the protection of those moral values in which the state
has a legitimate interest. But a gradual and even a precipitate retreat by the state from its present position of safeguarding certain moral values may be possible unless religionists and non-religionists alike discuss and decide upon those basic values of good citizenship without which no society can assure justice to its people.

This threat or this possibility of a secularization of society can be averted only if countless individuals understand and implement the very first mandate of the Council's historic statement on religious liberty -- the mandate to follow one's conscience wheresoever it might lead.

These first two implications of the Council's declaration lead us into the third, -- and possibly the most important, -- implication for Americans. What does the decree of Vatican II mean with respect to the First Amendment?

3. THE COUNCIL'S DECLARATION ON FREEDOM OF RELIGION AND THE FIRST AMENDMENT

Not a few commentators on the Church-State decisions of the United States Supreme Court in the last two decades have expressed misgivings over what has been described as the "establishment of non-religion" by the nation's highest tribunal. In its attempts to harmonize both of the provisions regarding religion in the First Amendment the Court has stated that governments in America should adopt an attitude of wholesome neutrality towards religion. The Supreme Court has tended, however, to identify this principle of state neutrality with a policy of "no-aid-to-religion". It is submitted and urged that the Supreme Court's basic orientation and its fundamental emphasis should not be on a prohibition of aid to religion but on the widening of the horizons of religious freedom.
Liberty of Conscience and freedom of religion should be the starting point for the Supreme Court, -- as it was for the Vatican Council.

If the Supreme Court gave priority to the free exercise of religion guarantee in the First Amendment its reasoning and its conclusions would give to freedom of religion the primacy which it merits and deserves.

Those with religious faith and those without faith therefore should seek to understand the centrality which reason, revelation, -- and providentially, the First Amendment -- confer on the freedom to believe and to worship according to one's conscience. If the modern state accepted this centrality as the source and origin of its attitude towards religion a fundamentally simple relationship between the state and religion could emerge. An approach to that relationship has in fact developed in America but its full flowering has been impeded because American jurists, reflecting divisions within American public opinion, have as yet been unable to harmonize the majesty of the free exercise of religion with the necessity of separating church and state.

Let us hope therefore that the historic declaration of the Vatican Council exalting religious liberty as the first and foremost of all the rights of man may in the Providence of God illumine the minds of all Christians and non-Christians throughout the world with regard to the increasingly severe problem of preventing an ever more omnicompetent state from restricting the religious freedom of the children of God. Let us pray that the ringing affirmation of the bishops of the world may bring enlightenment to our scholars and jurists here in America who seek, as do we all, both to enhance the majesty and supremacy of civil government in the fulfillment of its role in the secular order as well as to assure the inviolability of
the conscience and religious freedom of every human being.

These objectives cannot be secured, however, unless each of us realizes in a more profound way his increased responsibility as a result of the newly clarified role of the modern secular state as a government with an acute sensitivity against any possible interference in the sacred sanctuary of a citizen's conscience. The modern state, furthermore, cannot maintain this sensitivity unless the majority of its citizens, meeting together in a spirit of dialogue and brotherhood, form a consensus with regard to those moral values which it is appropriate for the state to endorse and enforce. If Christians and non-Christians do become more aware of their new responsibilities and if a consensus on basic legal-moral issues is formed in America we have every reason to feel that the First Amendment to the Constitution will not be an instrument for the secularization of the American state but rather an instrument for the flowering and fulfillment in this nation of religious freedom in a way more splendid than ever before in the annals of mankind.