

HEADING OFF DISASTER

The principle of separation of church and state, though not explicitly mentioned in the First Amendment, essentially means that the state is barred from encroaching on the affairs of religious institutions. Since the Second World War, it has been interpreted by the judiciary to also mean that religious institutions cannot trespass on the affairs of the state. When the latter is perceived to be happening, a chorus of outcry emanates from the cultural elite. But they are generally silent when the former abuse takes place.

A case in point is a bill under consideration by the Westchester County Board of Legislators (a county north of New York City) that would authorize the establishment of a Human Rights Commission. Such a body currently exists at the state-wide level, but some believe that Westchester needs its own agency. This is no concern to the Catholic League, but what does concern us is the language in the proposed legislation that would empower the Commission to “develop courses of instruction” on prejudice that would be presented “to employers and employees situated in the County of Westchester and to public and *private* schools....” (Our emphasis.)

The courses of instruction under consideration would deal with, among other things, the subject of sexual orientation. This is because sexual orientation is being added to the list of social categories that receive protection from discrimination. What this means is that courses which seek to promote greater tolerance and respect for people on the basis of race, creed, religion, and so forth, would now embrace tolerance for people with different sexual orientations.

So there are two issues here: a) the right of public authorities to present curricula to Catholic schools and b) the problems that occur when sexual orientation is seen as the moral equivalent of race, ethnicity and religion.

Regarding the first concern, the idea that a governmental body should engage Catholic schools in any courses of instruction does violence to the principle of separation of church and state. William Donohue made that point in a prepared statement that was submitted into the record during a hearing on this issue. To drive home his point, he also said that if respect for the principle of separation of church is not to be honored, then "the Catholic League would then propose that an alternative proposal be considered, the terms of which would call for the institution of Catholic moral teaching in every public institution in Westchester."

Donohue then wrote a two-page letter to the entire Board of Legislators further outlining his concerns.

The Catholic League's primary concern, Donohue said, was preserving the autonomy of Catholic institutions from the reach of the state. He said that "Surely it is understood that public school authorities would object vehemently—and with good reason—if they were to be presented with courses of instruction that were derived from Catholic sources. The obverse is also true."

With respect to the issue of sexual orientation, Donohue expanded on the concerns he outlined in his letter to the entire board. In that letter, Donohue wrote the following: "Aside from homophobic bigots, no one would deny the dignity of homosexuals anymore than he would deny the dignity of heterosexuals. But it is one thing to voice this moral position, quite another to advance the notion that the gay lifestyle—or cohabitation between heterosexuals for that matter—is morally analogous to that to the institution of marriage."

Donohue was then asked to make recommendations on the proposed bill. He submitted a four-page letter that detailed his suggestions. He made it clear that his wariness stems from the knowledge that programs devised to foster tolerance for

homosexuals often wind up promoting acceptance of the gay lifestyle. "It is one thing to say that homosexuals should not be discriminated against in law," he argued, "quite another to say that teachers ought to incorporate respect for the gay lifestyle in their curriculum on 'achieving harmonious inter-group relations.'"

In his recommendations, Donohue suggested that all references to private schools be deleted. With regard to the question of sexual orientation, he advised the following language: "The Commission respects the diversity of religious beliefs and therefore distinguishes between fostering respect for persons and respect for lifestyles. Its interest is purely in the former and nothing in this bill should be construed as having application to the latter."

On March 8, at the invitation of the Board of Legislators, Donohue presented testimony outlining the league's concerns and answered questions from board members. He was relieved to learn that the general counsel for the board had already accepted virtually every recommendation that Donohue made.

The section dealing with private schools was deleted altogether, thus ensuring the autonomy of Catholic schools. Steps were taken to prevent the promotion of alternative lifestyles by inserting plain language barring such practices. In short, by engaging the Westchester Board of Legislators early on, the Catholic League was able to head off sure disaster.

The league hopes that its members will learn from this and get involved quickly when local legislators are considering bills that impact on Catholic sensibilities. The response must be professional, decisive and reasonable. It also helps to have a sense of humor.