

Appendix B

CORRESPONDENCE

THE CTSA AND THE PROPOSED SCHEMA ON CATHOLIC UNIVERSITIES

In 1986 the Congregation for Catholic Education distributed a document entitled "Proposed Schema (Draft) for a Pontifical Document on Catholic Universities." The Congregation distributed this document to North American Universities requesting comments. Since certain regulations within the document would especially affect teachers of religion or theology, the document was brought to the attention of the CTSA. In the fall of 1986 a subcommittee of the Board of Directors met in order to prepare a draft of a response by the CTSA. That draft was approved with suggested emendations that were reworked into the draft by a local subcommittee in Washington in October and November of 1986. It was then sent to all members of the Board for approval in November of 1986. The final version was sent in December to Cardinal William Baum with a copy also to Bishop James Malone. In 1986 I received a letter from Cardinal Baum thanking the CTSA for its response to the proposed scheme. The Board of Directors has decided to make its response available to all the members of the CTSA by publishing it within the *Proceedings*.

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COMMENTS BY THE CATHOLIC THEOLOGICAL SOCIETY OF AMERICA

The "Proposed Schema (Draft) for a Pontifical Document on Catholic Universities" especially affects professors of Catholic theology at all Catholic universities. Since the Congregation explicitly requests a thorough examination of its content and invites concrete suggestions, the Board of Directors of the Catholic Theological Society of America has studied and examined the proposed schema. In fact, many members of the Catholic Theological Society of America have asked the Board of Directors to draft an official response of the Catholic Theological Society of America to the document.

We welcome the concern of the Congregation regarding an area of the Church's life that is so central to its teaching mission. Because the majority of the Catholic colleges and universities which serve the Church are actually found in North America, the region served by our society, and since many hundreds of our members are professors of theology in these institutions, the Catholic Theological So-

ciety of America feels a special responsibility to assist the Congregation in the formulation of that Pontifical Document that will serve the needs of the Universal Church and best assist these North American institutions in their service of the Church.

1. Opportuneness

The proposed schema notes that there are regional differences and even different types of universities. Yet insofar as it seeks to promulgate a single document for the whole Church that is applicable for all regions, it fails to attend to differences specific to different countries, cultures, and political situations. This failure is further aggravated insofar as it seeks to apply a univocal juridical solution to non-judicial problems and to complex situations. It appears to apply Canon Law to the American academic situation without due recognition of the peculiarities of that situation.

The document causes Catholic scholars and universities embarrassment to the extent that it creates the impression that Catholic universities and colleges lack the freedoms that the document itself notes are appropriate to universities. Indeed, the document gives the impression that the autonomy proper to a university is not present within Catholic universities. It could thereby discourage many potential students from attending Catholic universities and many scholars from teaching at them. Thereby it would erode rather than strengthen the credibility of Catholic scholarship in the public forum.

Consequently, we fear that in its present form the proposed scheme will contribute to the isolation of North American Catholic intellectual life from the society it is attempting to influence. Instead of integrating theology into the whole academic enterprise, the present form of the schema tends to remove theology from creative intellectual commerce with other faculties of the institution. The document thereby accomplishes the very opposite of what it intends to accomplish. It could tragically lead to an erosion of Catholic influence on North American life precisely at the moment in history when that influence, especially through recent episcopal pastoral letters, has begun to have an effect on public life.

2. Ecclesiological Issues

The document maintains an inconsistent understanding of truth and its attainment. On the one hand, it affirms the integrity of the scholarly disciplines and encourages them to search for truth. On the other hand, it implies that the full truth is already known by the magisterium and that these disciplines can contribute nothing new for the advancement of truth that the magisterium should take into account.

The document seems to reduce the "Church" to "hierarchical magisterium" in a way not consistent with *Lumen Gentium* (Chapter 2). It makes the university an instrument of the magisterium, thereby undermining its distinct proper role. Only if the distinctiveness of the university is acknowledged and maintained can the university be of genuine service to the magisterium.

The document is unclear about who should judge the doctrinal integrity of individual scholars or institutions. It refers somewhat indiscriminately to the role in

this process played by episcopal conferences, the local ordinary, "a proposed episcopal commission for universities," or "competent ecclesiastical authority."

Furthermore, regarding the role of the local ordinary, the document places at times a heavy burden on individual local bishops. The declaration that an institution, especially one established by a religious order, is no longer Catholic is a very complex judgment. Such a judgment demands a much more complex procedure than a judgment about the Catholicity of a single individual. It should not be simply left to a local ordinary. In raising this issue, in no way do we intend to deny what is proper to a bishop by his office in regard to doctrinal integrity within his diocese.

Again it is important not to place an intolerable and unfair burden upon a local bishop in his relationship to a theological faculty of a Catholic institution. A significant difference exists between a university as an institution and an individual theologian. Institutional fidelity to the Catholic tradition is not *eo ipso* vitiated by the presence of an individual in dissent from that tradition.

Furthermore, judgments about the orthodoxy or heterodoxy of any particular theologian cannot be made in justice apart from consultation with his/her theological peers. Such judgments must, however, also provide the theologian or a Catholic university with a judgment by scholarly peers, with the attendant constructive criticism such a judgment should provide. Since theological scholarship has an impact beyond diocesan boundaries, adjudication of its doctrinal integrity should not be left to the local bishop alone. The document treats Catholic scholars and universities too locally when it makes the local bishop their judge, since scholarship has a public impact on Catholics at the national level. It is at such a level that assessments of doctrinal integrity should be sought.

3. Civil Implications

Article 19 seems to presuppose that the document has a uniform code whereby Catholic identity is secured even though in the same document the various types of Catholic universities are acknowledged. The diversity of these types of institutions necessarily entails differences in the definition of Catholic identity.

The document does not take sufficiently into account the civil and public implications surrounding the establishment and governance of Catholic universities and colleges. Whereas the document correctly stresses the Catholic Church's right to establish universities and colleges, it does not sufficiently indicate that these institutions are also subject to civil charters, accrediting agencies, professional associations, and public legislation. Public legislation and rules of accreditation spell our regulations in regard to the rights of employees, due process in regard to the termination of employment, and the right to tenure. Catholic institutions must take care not to legislate procedures for the dismissal of teachers that conflict with these laws and regulations.

Should any of the Catholic universities and colleges in North America attempt to reformulate its statutes to bring them in line with the proposed Schema, the result would probably be not simply public outcry and internal dissension, but lawsuits and court-ordered injunctions. It would lead to a weakening rather than a strengthening of Catholic educational institutions on the American scene.

4. Self-Regulation of Universities

The document overlooks the fact that many universities have over the course of time and in respect to local customs developed ways to ensure their Catholicity and their responsibility to instruct students in the basic teachings of the Catholic tradition. Theological faculties often distinguish between core courses and electives, between required lectures and optional seminars, between basic and advanced levels. These distinctions often make it possible for theological faculties to ensure that students are taught the Catholic tradition. Individuals teachers who move beyond the legitimate bounds of dissent are hence informally but effectively criticized by their peers and prevented from exercising an undue influence within an institution. These procedures are often effective in maintaining a general atmosphere of doctrinal integrity and yet they allow institutions to facilitate genuine academic freedom and to safeguard academic tenure.

In addition, the document overlooks the subtle and indirect ways the People of God can bring influence to bear upon Catholic universities and colleges. These institutions are dependent upon the Catholic population for financial support, student enrollment, opportunities for the employment of their graduates, and general public support. In short, the Catholic community often can and does exercise an influence upon universities and theology departments in ways that respect the autonomy of these institutions while having a salutary influence upon them.

5. Recommendation

The draft schema in its present form could do serious damage to the Church in North America. Therefore we have limited our comments to its negative aspects. The draft schema could worsen the very situation it is attempting to ameliorate. We therefore urgently recommend that action on this schema be postponed until more careful study of its implications and consequences in North America can be made.

We suggest the following procedure to respond to the legitimate concerns of the Church in the matters addressed by the schema: Commission a group of North American bishops, theologians, university administrators, canon lawyers and civil lawyers to draft a schema which addresses these concerns of the Universal Church from a North American perspective. The next step would be to bring that schema and its drafters together with representatives of the Congregation to attempt to formulate a schema that serves the needs of both the Universal Church and the church in North America. This should clarify what kind of universal legislation will best serve the needs of the Church and whether specifically regional applications of that universal law may be required.