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CURRENT TAX PROBLEMS AND IMPLICATIONS: EXPERIENCE IN INDIANA AND VIRGINIA; STATUS OF TAX REFORM IN CONGRESS

WILLIAM J. O'CONNOR, ESQ.*

Before I begin let me say that I have attended these meetings since they began several years ago, that I have great admiration and respect for all of you who represent the Ordinaries, and also some compassion, especially those who contribute their services; and I consider it an honor to have the opportunity to tell you about a third major Church-State issue which has arisen in Indiana.

We have struck out for the time being in Indiana on the issue of State aid to private education.

We have also struck out for the time being as has everyone else on the issue of abortion, although we do have a new tightly restricted and regulated abortion statute and which goes about as far as it can in view of the recent Supreme Court decisions.

We are now faced in Indiana with the issue of real property tax exemption for Church real estate; and we may well be faced in the near future with the issue of tax exemption for Church income.

For many years, Indiana has specifically exempted Church property from real estate taxes to the extent of 40 acres in some instances, and 15 acres in other instances. The Statute is known as IC 6-1-1-2.¹ I have it here if anyone desires to read it.

Consequently, no real estate taxes are assessed against any church, rectory, or school.

In the recently ended session of the 1973 Indiana Legislature, a bill

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¹ IND. STAT. ANN. § 64-201 *et seq.* (1961).

known as House Bill 1647, was introduced which sought to repeal all real property tax exemptions for Church property, as well as other property, in the State. Fortunately, Church leadership was aware of the possibility of such a bill since the Legislative Interim Study Committee Report had suggested changes in property tax exemptions including those of churches. The Indiana Council of Churches and the Indiana Catholic Conference compared notes and as a result an Ad Hoc Committee was formed consisting of representatives from the major Protestant denominations and the five Dioceses of Indiana. The Committee drafted a statement for signature by the heads of all the major religious denominations in the State, all of whom, including the six Bishops in Indiana, signed the document. It was then decided that the private approach was preferable to a public confrontation; and consequently a meeting between four representatives of the Ad Hoc Committee and the leaders of the House and Senate was arranged. Ray Rufo, Associate Secretary of the Indiana Catholic Conference, who was one of the Committee present, is also present here and can give you the details if you want them.

Generally, the sponsors of the bill claimed that the elimination of real property tax exemption, including the exemption for churches, would give Indiana some 400-500 million more in tax revenue.

The legislative leaders indicated that the traditional arguments for Church real property tax exemption are less defensible than in years gone by; that only 40% of the population goes to church; therefore, there is a lack of constituency support for the issue; that there is no reason not to tax some religious organizations such as the K of C and Masonic Lodges, and others who run various businesses in competition with private enterprise; that it seemed inevitable that some form of taxes would be assessed against Church property in the years to come; and that the Churches should be prepared to face this reality by preparing a more solid concrete documentation for the case of Church tax exemption.

HB 1647 died in Committee as a result of this meeting but the Ad Hoc Committee was warned that it has its work cut out for it to meet the threat in the future.

In Indiana, real property is assessed by Statute at 1/3 of its actual cash value. The actual cash value of Church property in Indiana is unknown to me. There are five dioceses in Indiana. The Diocese of Gary is the second largest in population. The actual cash value of real property in the Diocese of Gary is also unknown to most, but I've heard educated guesses place the figure in excess of \$100,000,000.

The tax rate in Gary for 1972 taxes was over \$17.00 per 100 dollars of assessed valuation. Obviously, the threat of losing our real property tax exemption is a very serious matter, money-wise. It may well be the most serious financial problem ever to be faced by the Church in Indiana.

This is the second threat within the last year to the exemption of the

Church in Indiana from income and real property taxation. The other was an attempt to require all Church institutions to report their gross incomes under the Indiana Gross Income Tax Law. This matter was defeated in the Executive Branch and never got to the Legislature, but only after much work, effort, and consternation by all concerned.

You may well ask—what can a lawyer do about these matters? (Or—what are the legal problems involved?)

There are probably no legal problems involved, although some of you bright creative thinkers may be able to find some which will be to the Church's advantages.

We look at this as more of a practical problem of organizing our resources, of cooperation with the other denominations, of educating the public, and of making every effort to defeat the forces we believe are seeking to diminish the influence of religion on our lives.

The Indiana Catholic Conference at its annual meeting next week is expected to give this matter priority, and to provide the means to do the research and investigation which will be necessary.

We must not strike out on this issue!