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I am Fr. Sinclair Oubre, J.C.L., a diocesan priest of the Diocese of Beaumont in Texas. I am a canon lawyer, and have acted as a canonical consultant on issues dealing with labor and Church institutions.

I am tremendously committed to my Catholic tradition. Whether the concern revolves around life issues like abortion or capital punishment, or whether the concerns have to do with social justice questions, I truly believe that the Catholic Church's teachings can assist all of us to work for the common good, and the betterment of all.

The concern for the common good, and the betterment of all compels me to submit this paper. I believe that much of the discussion on the appropriateness of including religious school teachers into Pennsylvania labor law, as outlined in House Bill 2626, is more reflective of America's anti-union, or union avoidance attitude, than a reflection of the teaching and tradition of the Catholic Church.

The primary law that governs the Catholic Church is not civil law, but Canon Law. Church life is governed by the 1752 canons found in the Code of Canon Law, and the hundreds of other norms, like those found in the document *Pastor bonus* and *Stella Maris*, that regulate specific areas of ecclesial life. Canon 1286 is at the heart of our discussion today. Canon 1286 states:

“Administrators of Goods:

- 1° in the employment of workers are to observe meticulously also the civil laws concerning labor and social policy, according to the principles handed on by the Church;

Rev. Robert T. Kennedy, JD, JUD comments on this canon in *New Commentary on the Code of Canon Law*:

“The uniquely valuable contribution of canon 1286, 1° is to remind church administrators that there are in the Church two sources of authentic guidance for appropriate behavior, the law and the magisterium. Neither is to be neglected. Administrators are called to look beyond the law, not only civil but canonical as well, to the teaching of the Church and conform their actions to its dictates and

not just to those embodied in law.”¹

The question which I wish to address in my submission is not whether the Catholic Church supports the rights of employees to organize unions and participate in collective bargaining. For more than 100 years, Catholic social teaching has repeated these rights, and they are absolutely incontrovertible. However, the question raised by House Bill 2626 is whether protecting the rights of teachers in religious schools to organize unions, and participate in collective bargaining is somehow contrary to the magisterium of the Church, or its law. My firm opinion is that such a law would in fact codify what the Church already teaches, and which is already the practice in a number of dioceses in the United States, and even at Vatican City.

What Does the Church Say About Organizing Unions in Church Institutions?

Nowhere in Church teaching or canon law are the faithful barred from labor unions in ecclesial institutions.

“Moreover, by neither code and at no point in the official statements of the magisterium since Leo XIII have the faithful been barred from labor unions or associations formed for the purpose of collective bargaining. The Church’s law and teaching have not excluded the activities of these associations within church institutions themselves. Neither the Church’s law nor its teaching require prior permission for members of the faithful to join such associations.”²

The fundamental principle for organizing unions in Catholic institutions is based on the Church’s recognition of the laity’s right to form associations. This was firmly articulated in *Apostolicam actuositatem* 19 & 24 (*The Decree on the Apostolate of the Laity*) at Vatican II in 1965. There, the council fathers stressed:

“Maintaining the proper relationship to Church authorities, the laity have the right to found and control such associations and to join those already existing....”³

The general right of the laity to form associations is then extended specifically to “unions for working people” in *Guadium et spes* (*The Church in the Modern World*) n. 68:

“Among the basic rights of the human person is to be numbered the right of freely

¹Beal, John, *New Commentary on the Code of Canon Law* (Paulist Press, Mahway, N.J., 2000) pp. 1488-89.

²*Canonical Standards in Labor-Management Relations: A Report*, (Canon Law Society of America, Washington, D.C., 1986) p. 15.

³*Apostolicam actuositatem*, n. 19; *AAS* 58 (1966) 853-854.

founding unions for working people. These should be able truly to represent them and to contribute to the organizing of economic life in the right way. Included is the right of freely taking part in the activity of these unions without risk of reprisal. Through this orderly participation joined to progressive economic and social formation, all will grow day by day in the awareness of their own function and responsibility, and thus they will be brought to feel that they are comrades in the whole task of economic development and in the attainment of the universal common good according to their capacities and aptitudes.”⁴

This principle of free association is enshrined in the canon 215.

c. 215 – “The Christian faithful are at liberty freely to found and direct associations for the purposes of charity or piety or for the promotion of the Christian vocation in the world and to hold meetings for the common pursuit of these purposes.”

Presently, there are Catholic organizations arguing for restrictions on the types of associations that the laity can form and participate in, but there is no such restriction in church law or teaching.⁵ In fact, on a number of occasions, the Church challenges itself to be the first to give witness to justice.

For instance, the 1971 *Synod of Bishops* issued the document *Justice in the World*. Here, they

⁴*Gaudium et spes*, n. 68: AAS 58 (1966) 1090.

⁵This freedom of association assumes that the association’s goals or not contrary to the Church’s teachings. The popes have strongly encouraged lay associations. This was certainly the case in 1962, when Pope John XXIII wrote *Pacem in terris* #23 & #24:

“23. Men are by nature social, and consequently they have the right to meet together and to form associations with their fellows. They have the right to confer on such associations the type of organization which they consider best calculated to achieve their objectives. They have also the right to exercise their own initiative and act on their own responsibility within these associations for the attainment of the desired results.

24. As We insisted in Our encyclical *Mater et Magistra*, the founding of a great many such intermediate groups or societies for the pursuit of aims which it is not within the competence of the individual to achieve efficiently, is a matter of great urgency. Such groups and societies must be considered absolutely essential for the safeguarding of man's personal freedom and dignity, while leaving intact a sense of responsibility.

stressed that no one should be deprived of their rights⁶ just because he or she is associated with the Church.

“40. While the Church is bound to give witness to justice, she recognizes that anyone who ventures to speak to people about justice must first be just in their eyes. Hence we must undertake an examination of the modes of acting and of the possessions and life style found within the Church herself.

“41. Within the Church rights must be preserved. No one should be deprived of his ordinary rights because he is associated with the Church in one way or another.”

Pope John Paul II stressed that forming and joining unions was not limited to just for profit or industrial industries. In his 1981 encyclical *Laborem exercens*, he insists every profession can use unions.

“20. ...The experience of history teaches that organizations of this type are an indispensable element of social life, especially in modern industrialized societies. Obviously, this does not mean that only industrial workers can set up associations of this type. Representatives of every profession can use them to ensure their own rights. Thus there are unions of agricultural workers and of white-collar workers; there are also employers' associations. All, as has been said above, are further divided into groups or subgroups according to particular professional specializations.”⁷

In 1986, the United States Conference of Catholic Bishops, then known as the National Conference of Catholic Bishops' specifically applied the right of church workers to organize and bargain collectively. In the pastoral letter *Economic Justice for All*, the bishops stated:

“353. All church institutions must also fully recognize the rights of employees to organize and bargain collectively with the institution through whatever association or organization they freely choose. In the light of new creative models of collaboration between labor and management described earlier in this letter, we challenge our church institutions to adopt new fruitful modes of

⁶Among the basic rights of the human person is the right of freely founding unions for working people. This is stated in numerous Catholic social justice teachings. One example is *Guadium et spes* n. 68.

⁷It is important to note that Pope John Paul II could have made an exception for employees in church institutions at this point in his encyclical. The fact that he did not leads one to conclude that he intended church employees to be included in his statement: “Representatives of every profession...” *Laborem exercens*, n.20: *AAS* 73 (1981) 629.

cooperation.”⁸

Certainly one of the most important places that Catholic ministry takes place is at Vatican City. By 1982, the Association of Vatican Lay Employees had been founded. Instead of being suppressed by Pope John Paul II, or having special legislation adopted to prevent a union at Vatican City, the pope praised the new association for promoting a spirit of concern and justice.

Two paragraphs are very relevant for the issues before this committee. In the first paragraph, Pope John Paul II stresses that the Vatican offices and departments must conform themselves to the principal truths of the “gospel of labour” and the Catholic doctrine on human work.

“In the recent Encyclical *Laborem exercens*, I recalled the principal truths of the “gospel of labour” and Catholic doctrine on human work, a doctrine always alive in the Church’s tradition. There is need for the life of that singular community which operates *sub umbra Petri* – in Peter’s shadow –, in such immediate contact with the Apostolic See, to conform itself to these truths.”⁹

In the second paragraph, the pope gives explicit recognition to the Vatican union, Association of Vatican Lay Employees.

“A valid collaborative function may be performed by workers’ associations such as the Association of Vatican Lay employees, which recently came into existence, in promoting that spirit of concern and justice, through representing those working within the Apostolic See. Such associations take on a specific character within the Apostolic See. They are an initiative in conformity with the Church’s social teaching, for the Church sees them as one instrument for better assuring social justice in relations between worker and employer....

“I express confidence that associations such as that now existing and just mentioned will perform a useful function in the work community, operating in solid harmony with the Apostolic See, by taking inspiration from the principles of the Church’s social teaching. I am likewise certain that as they set forward work problems and develop continuous and constructive dialogue with the competent organisms they will not fail to take account in every case of the particular character of the Apostolic See, as pointed out in the initial part of this letter.”¹⁰

⁸NCCB, pastoral letter *Economic Justice for All: Catholic Social Teaching and the U.S. Economy*, November 13, 1986 (Washington: USCC, 1986), n. 353

⁹*Code of Canon Law: Latin-English Edition* (Washington: CLSA, 1999) p. 745.

¹⁰*Ibid.*: p. 749.

This letter was originally written to Agostino Cardinal Casaroli, the Secretary of State for the Holy See. It was later incorporated into *Appendix II: The Collaborators of the Apostolic See as a Work Community* in the 1988 *Apostolic Constitution Pastor bonus (Apostolic Constitution on the Roman Curia)*. With the Code of Canon Law, *Pastor bonus* is the law which governs the process of running the central government of the Roman Catholic Church. Therefore, the inclusion of Pope John Paul II's November 20, 1982 letter to Cardinal Casaroli, codifies the relationship between the Vatican offices and the Association of Vatican Lay Employees.

The Canon Law Society of America summarized the right of association in four points:

1. All persons have the natural right to assemble freely and to form associations for legitimate purposes. Church teaching recognizes that these purposes include those collective bargaining and other activities proper to labor unions.
2. The Church's law recognizes the fundamental rights to assemble and to form associations, and affirms them within the Church itself.
3. Associations formed by the Christian faithful, while they are under the vigilance of the church authorities, are governed by the members themselves in keeping with their statutes.
4. No types of work, no areas or segments of the workplace, are excluded *a priori* from the formation of labor unions or associations for collective bargaining, including diocesan offices and church related institutions, agencies and programs.

In the end, one should not ask whether the right of church workers to have a union is determined by that right being included or excluded in civil law. Rather, church administrators should be motivated by the teaching of the Church. As Fr. Kennedy notes:

“Resistance to the exercise of these rights cannot be justified on the ground that relevant civil law does not extend its jurisdiction to include employer-employee relationships in church-related enterprises. Church administrators should be motivated by the teaching of the Church to transcend the confines of civil law.”¹¹

Ministry vs. Work: A False Distinction

In an effort to maintain control, or to maintain a union-free environment in Catholic institutions, theories are put forth that try to make the false distinction that what is done in a church institution is ministry, and that which is done in the secular world is work. As elaborated above, that distinction has no basis in Catholic social teaching, or in the many actual instances where workers in Catholic schools, hospitals and even Vatican departments are represented by unions,

¹¹*New Commentary on the Code of Canon Law*; p. 1490.

and participate in collective bargaining.

When both the law and the teaching of the Church are examined, ministry and work are never divided. The idea that what is done in the Church is ministry, and what is done in the secular world is work is just false.

Since ministry is the means by which many in the Catholic Church make their living, church documents and canon law both recognize that care must be taken to see that proper remuneration and social security is extended to those who carry out ministry, and especially those in the laity.

Canon 1287 2° directs administrators of goods to:

“Pay a just and decent wage to employees so that they are able to provide fittingly for their own needs and those of their dependents.”

In the United States bishops’ pastoral letter *Economic Justice for All*, the responsibility of providing an adequate living is laid out.

“351. We-bishops commit ourselves to the principle that those who serve the Church-laity, clergy, and religious-should receive a sufficient livelihood and the social benefits provided by responsible employers in our nation.”¹²

This commitment to meet a minimum level of dignity for church employees manifests itself by the Church allowing itself to be included into a number of federal and state laws. These would include the federal minimum wage, FICA, American With Disability Act, federal wage and hour laws and many state and local building codes.

The theory that some Catholic teachings should be enshrined in civil law, while others should not, seems to lack any logic. Since those who minister in the Church, work for the Church, and those who work in the Church do ministry, any civil law that enshrines the Catholic Church’s teaching, and is not contrary to that teaching, is an assistance to the Church in carrying out its ministry.

Including the right to organize and collective bargaining in the Pennsylvania civil law is no different than covering church employees through minimum wage and wage and hour laws. In both cases, the civil law is codifying what the Church already teaches, promotes, and should be binding on itself.¹³

¹²*Economic Justice for All*, n. 351.

¹³“Even though canon law does not require good faith bargaining and other elements of fair labor practices which the civil law may require of others, the moral values embodied in the civil law are binding within the Church....” *Canonical Standards in Labor Management*

Relations: A Report, p. 18-19.