

Letter to Fr. David Tyson, Superior to Fr. Jenkins

From Dr. Alan Keyes

...no man is with us, see, God is witness betwixt me and thee. (Genesis 31:50)

But Peter and John answered and said unto them, whether it be right in the sight of God to hearken unto you more than unto God, judge ye. (Acts 4:19)

Then said Paul unto him, God shall smite thee, thou whited wall: for sittest thou to judge me after the law, and commandest me to be smitten contrary to the law? (Acts 23:3)

Dare any of you, having a matter against another, go to law before the unjust, and not before the saints? Do ye not know that the saints shall judge the world? And if the world shall be judged by you, are ye unworthy to judge the smallest matters? Know ye not that we shall judge angels? How much more things that pertain to this life? If then ye have judgments of things pertaining to this life, do you set them to judge who are least esteemed in the church? I speak to your shame. (1Corinthians 6:1-4)

An obstacle set in the way, so that one is likely to fall over it, is called scandalum, a stumbling-block. So in the course of the spiritual way one is exposed to a spiritual fall by the deed or act of another, who by his advice or persuasion or example draws you to commit sin; and this is properly called scandal. (Thomas Aquinas, Of Scandal)

To the Reverend Father David Tyson
Provincial of the Indiana Province
The Congregation of Holy Cross

Dear Sir,

SUMMARY

We are writing to seek redress of grievances we have suffered at the hands of Father John Jenkins, a member of your order. We approach you in the first instance because of your special responsibility for the spiritual welfare of members of your order who are part of the University of Notre Dame community. We must in good conscience inform you that, by abuse of his authority as President of the University of Notre Dame:

- 1) He has scandalized us and other members of the community of the faithful by his role in the decision taken by the University of Notre Dame, in defiance of the explicit direction of Church leaders, to extend a scandalous commencement speaking invitation and honorary degree to Barack Obama, who has become the focus of abortion evil in the world today;
- 2) To cover this scandalous decision, he ordered the University Police to prevent us from fulfilling our obligation, under God's law and the Church's teaching, to witness to truth so that young souls affected by his scandalous action would not be lost through obstinate commitment to the sins it encourages;
- 3) Aside from the obstacle it posed to the fulfillment of our moral obligation toward endangered souls, his action appears to give moral license to similar steps by civil authorities to discourage pro-life witness, thus extending the scandalous demoralization it involves to the whole pro-life movement;
- 4) The posture of indifference to evil and contempt for right action exemplified by his behavior promotes culpable moral apathy in the community of the faithful, encouraging in Catholics and others the lukewarm disposition which the Scripture tells us is most emphatically rejected by Christ.

To address these grievances, we respectfully request that you:

- 1) Immediately grant us a hearing so that we may formally detail the moral and material harm we have suffered at the hands of a member of your order;
- 2) Request and require that Father Jenkins, and any others of your order who may be involved with him in this matter, appear at the said hearing to respond to our charges against him;
- 3) Render judgment and immediate relief from the harm done to us, and others of the community of the faithful acting as we do, including but not limited to the immediate, public and complete withdrawal of all charges brought against us by the University before the civil authorities and the immediate cessation of all acts that persecute individuals witnessing to truth in accordance with divine law and the teachings and direction of the Church;
- 4) In lieu of a public apology, and In light of the urgent need to repair this ongoing scandal and prevent further scandals like it, we ask that you join us in appealing to the appropriate Church authorities, including the Bishop of the Diocese in which Notre Dame is located, for a proper investigation of these events, and the imposition of such just penalties as it may warrant upon

all those members of the Catholic community responsible for this publicly scandalous injury to good morals;
- 5) In light of the injury to good morals inflicted by the invitation to Barack Obama, in which Father Jenkins played a major part, we ask that you join us in demanding an immediate end to the ongoing scandal it occasions, which has already produced victims, but which is likely

to produce many millions more. As long as Notre Dame's invitation and offer of an honorary degree are extended, the scandalous wrong continues.

NARRATIVE AND EXPLANATION

On Friday May 8, 2009 we were detained by the civil authorities at the behest of Father Jenkins and others authorized for the time being to act for the University of Notre Dame. At the time we were engaged in prayerful and peaceful witness to truth against the invitation extended by Father Jenkins et al to Barack Obama to be the university's commencement speaker and to receive an honorary degree.

The said invitation contravenes the Church's directive to the Catholic community to extend no such honors to those who "act in defiance of our fundamental moral principles." By this public show of defiance, Father Jenkins et al severely injure good morals. As Bishop D'Arcy said in his statement to the faithful "the outpouring of hundreds of thousands who are shocked by the invitation clearly demonstrates, that this invitation has, in fact, scandalized many Catholics and other people of goodwill. In my office alone, there have been over 3,300 messages of shock, dismay and outrage, and they are still coming in. It seems that the action in itself speaks so loudly that people have not been able to hear the words of Father Jenkins, and indeed, the action has suggested approval to many." Bishop D'Arcy's statement makes clear that per se the scandal has already injured thousands, if not hundreds of thousands of people. Archbishop Raymond Burke, Prefect of the Supreme Tribunal of the Apostolic Signatura, in a speech at the National Catholic Prayer Breakfast in Washington, DC stated emphatically that "The profound granting of an honorary doctorate at Notre Dame University to our President who is aggressively advancing an anti-life and anti-family agenda is a source of the gravest scandal."

Since the invitation involves Barack Obama, the moral injury caused by the scandal will reach throughout the world, where many millions who cannot and will not be exposed to any extenuating explanation will be exposed to the scandal it inherently occasions. Moreover, the extenuating effect of any explanations of the invitation must be judged in light of the fact that students at the University of Notre Dame have been exposed to Father Jenkins' influence for years, yet press reports indicate that a large majority of them support and admire a leader whose views and actions aggressively promote what the Church declares to be objectively wrong and sinful. Father Jenkins et al appear to have been gravely derelict in their responsibility for the souls entrusted to their educational care. Their invitation can only aggravate the damage produced by this dereliction by appearing to honor the disordered choice resulting from it. According to Church law their scandalous conduct calls for investigation by appropriate authorities and the imposition of a just penalty.

Now in defense of their scandalous wrong action, Father Jenkins et al have perpetrated new scandal by directly impeding the just and righteous efforts of those who seek to correct the scandalous impression created their faulty decision. Through the writings and teaching of the Holy Father and other Church authorities the faithful have been enjoined to pray, speak and act to achieve an end to the heinous practice of abortion, and the unjust judgments and laws that purport to legitimize it. In his

aforementioned speech at the National Catholic Prayer Breakfast Archbishop Burke stressed that “our encounter with the world must be clear and uncompromising.”

In accordance with this injunction, and in a manner strictly respectful of the requirements of prayerful love, decency and civil order, we stepped onto the grounds of the UND campus. Mindful of the University’s special claim to the patronage of Our Lady, we were praying the rosary and pushing before us strollers representing the words of Christ, to wit, that offenses such as abortion committed against children are in fact done to Christ himself. What we did strictly accords with the obligations of right action, both as regards the teaching of the Church, the words of Christ and the law of God.

Whereas the decision by Father Jenkins et al gave the scandalous impression that those who are part of the community of faith regard the slaughter of innocent children as a matter of such indifference that it is possible to applaud and honor the apparent success of those who advocate and directly support it;

And whereas media reports and our own direct experience suggested that students at the University of Notre Dame have accepted and obstinately acted upon this view;

And whereas by their conduct they showed contempt and disapproval for those who followed the law of God and the teaching of the church in respect of this view, indicating a firm, obstinate and contumacious commitment to wrongdoing;

We sought to provide clear and present witness to member of the Notre Dame community of the error that endangered their salvation in accordance with the true spirit and aim of charitable love, which is concerned above all with the spiritual salvation of every soul, not solely or even mainly with the strength and comfort of the body. We acted rightly and in accordance with true charity, and so, by God and the Church’s teaching, we had the right to act as we did.

In direct contravention of this right, Father Jenkins, et al issued an order to ban us from the UND campus. This order literally put a stumbling block in the path of our fulfillment of our duty as determined by God’s law and the Church’s teaching. It sought forcibly to persuade us to ignore spiritual danger to our fellow believers and thus by omission to sin against justice and charity. It is therefore an occasion of sin and an unlawful act in terms of the law that governs the community of the faithful. (If we knew, for example that, with the collusion of the University administration, members of the Notre Dame community were being covertly done to death, and we sought to enter the campus to warn them of the danger, who would fail to recognize that we acted rightly in doing so? Who would fail to recognize the crime committed by members of the university administration who abused their authority in order to impel civil authorities to prevent the warning we sought to give? What it is right to do when only physical danger is involved, it is, in the eyes of God and the Church even more imperatively right to do when seeking to remedy mortal danger to the soul.) So despite the unlawful order issued by Father Jenkins et al, we continued with our prayerful witness to truth. By their command, the university police arrested us and turned us over to the civil authorities for judgment and punishment.

The action order by Father Jenkins, et al may or may not have been in accordance with their legal rights under the civil laws of property, since property rights are in certain circumstances constrained and

conditioned by respect for civil rights such as the freedom of speech. As a matter of civil law that would be for the civil courts to determine. However, in the first instance (as a matter of spiritual concern dealing with events on the University's grounds, and thus subject first of all to the laws of God and the authority of the Church) their invocation of their property rights is subject to a higher law and a different authority. It involves a private judgment with respect to property they care for as a spiritual trust from the community of the faithful, who over the generations built and developed the University of Notre Dame in order to provide higher education that respects the truth exemplified in Jesus Christ and preserved through the centuries by the faithful activity of the Church community. Notre Dame, and indeed all universities that claim to be part of the community of the faithful, do not exist solely as material buildings and land, etc. They are as well the sum total of the accrued results of past action, ongoing activity and preserved potential for the future, all contributing to the goal of education that respects the truth of Christ, in light of the teachings of the Church.

In its public mission statement the University Of Notre Dame professes to be part of the community of the faithful. "God's way to us comes as communion, through the communities in which men and women live. This community includes the many theological traditions, liturgies, and spiritualities that fashion the life of the Church. A Catholic university draws its basic inspiration from Jesus Christ as the source of wisdom and from the conviction that in him all things can be brought to their completion. As a Catholic university, Notre Dame wishes to contribute to this educational mission." Given its professed mission the University of Notre Dame has a responsibility to the Church, to the faithful and to the faith itself.

Rightly understood, in fact, the University is not the property of any human persons, but a shared spiritual obligation to God, who has entrusted its fulfillment to particular persons as they promise faithfully to respect His will. Operating under the name and invoking the patronage of Our Lady, the Blessed Mother of God, the University has a further special spiritual obligation to act with particular regard for her unique contribution to the saving mission of the Body of Christ.

Some people have willfully misrepresented our prayerful witness as an instance of civil disobedience. We say that, to the contrary, it was an act of pious obedience. The command directly involved did not come from any civil authority, but from Father Jenkins, et al. When received by me and others, we were standing on University ground. As members of the community of faith both we and Father Jenkins et al are everywhere and always subject to the authority of the Church and the law of God. As our witness involved action strictly in accordance with the obligations and standards of right established by both, the order to interfere with it was, by the terms and standards of the law applicable to our behavior as members of the community of the faithful, an unlawful interference with our right action. On our part, therefore, no disobedience to law was in any way intended or involved. Rather we obeyed the law of God and the directives of the church, while Father Jenkins et al abused their authority, using the civil authorities to cover their own malfeasance with respect to the spiritual welfare of the Notre Dame community.

By thus unjustly commanding the UND police to detain us, and turn us over to the civil authorities for judgment, Father Jenkins, et al compounded the harm already done to the body of the faithful by their

willful disregard for the Church's directive against honoring those who practice, advocate or otherwise support abortion. They exposed us to actions and penalties that may materially damage both our livelihood and reputations. Their actions gave rise to the false imputation that we behaved unlawfully, despite their presumed knowledge that our action was in strict accordance with the standards of right that govern the community of the faithful. In this they bore false witness against us, in contravention of another of God's universally recognized commandments "you shall not bear false witness against your neighbor." By this false witness they expose the faithful to further scandal by bringing contempt and disrepute upon people of faith acting for aims and in a manner that strictly accord with right as judged by the standards of our community of faith.

We were shocked and grieved that those who profess to be our brothers and sisters in faith would authorize the civil authorities to persecute us for actions they know to be in strict accordance with our obligation to God and the Church. Catholics and other pro-life Christians have practiced prayerful, peaceful witness for truth through the whole tragic era of supposedly legalized abortion in the United States and elsewhere. Beyond the harm done directly to those involved in this episode, the example of Notre Dame's harsh treatment of our witness appears to give moral license to the employment of similarly harsh methods by the civil authorities, even where they have until now respected the prayerful and peaceful nature of the activity as a legitimate exercise of the civil right of free speech. An increase in such harsh actions could frighten and discourage members of the community of the faithful who might otherwise pursue righteous witness against evil. Thus, in order to defend their scandalous invitation to Barack Obama, Father Jenkins et al do further scandalous harm to the whole pro-life community and its mission to fulfill the moral obligation clearly imposed by Church teaching.

REQUESTED REDRESS OF GRIEVANCES

In light of these events it is clear that we, and any who acted as we did before or after the events in which we were involved, are the direct and public victims of an ongoing and grave public scandal directly perpetrated by Father Jenkins, et al. As Father Jenkins immediate superior in the Congregation of Holy Cross order, we appeal to you to for relief from this gravely scandalous behavior. We respectfully and urgently request that you:

- 1) Immediately grant us a hearing so that we may formally detail the moral and material harm we have suffered at the hands of a member of your order;
- 2) Request and require that Father Jenkins, and any others of your order who may be involved with him in this matter, appear at the said hearing to respond to our charges against him;
- 3) Render judgment and immediate relief from the harm done to us, and others of the community of the faithful acting as we do, including but not limited to the immediate, public and complete withdrawal of all charges brought against us by the University before the civil authorities and the immediate cessation of all acts that persecute individuals witnessing to truth in accordance with divine law and the teachings and direction of the Church;

- 4) In light of the urgent need to repair this ongoing scandal and prevent further scandals like it, we ask that you join us in appealing to the appropriate Church authorities, including the Bishop of the Diocese in which Notre Dame is located, for a proper investigation of these events, and the imposition of such just penalties as it may warrant upon all those members of the Catholic community responsible for this publicly scandalous injury of good morals;
- 5) In light of the injury to good morals inflicted by the invitation to Barack Obama, in which Father Jenkins played a major part, we ask that you join us in demanding an immediate end to the ongoing scandal it occasions, which has already produced victims, but which is likely to produce many millions more. As long as Notre Dame's invitation and offer of an honorary degree are extended, the scandalous wrong continues.

CONCLUSION

Because their actions take place in the context of a proposed event that necessarily focuses the attention of the world upon them, the scandal involved in the actions of Father Jenkins et al is an occasion of scandal to members of the community of the faithful throughout the world. This means that you, Bishop D'Arcy and other responsible Church authorities in America must act on behalf of those throughout the world whose responsibilities may be adversely affected by the ongoing scandal, including of course both the Head of your Order and the Holy Father in Rome. As directly injured victims of the scandal, we will certainly be grateful for your performance of this duty, but we are sure responsible shepherds of the Church throughout the world will pray to the Lord in thanksgiving for your diligence.

As members of the laity with no expertise in matters of canon law and procedure, we beg your indulgence and charitable aid if anything in this letter, or the manner of its presentation, fails to accord with forms that could only be known to such experts. However, for many centuries those such as you, who are charged with responsibility for overseeing the conduct of orders such as the Congregation of Holy Cross, have been asked to hear and judge cases that arise from the relations between their members and the larger community of the faithful in which they operate. The laity has always relied upon the guidance, fairness, charity and justice before God of those charged with such responsibilities, before and in preference to any recourse to civil authorities who may operate without regard for the laws of God and the teachings of the Church.

In recent years, unfortunate and spiritually tragic events have in some measure damaged the laity's trust in these procedures. Such demoralization is precisely the sort of harm scandal involves. We trust however in your goodwill. As victims of the grave and spreading scandal now in progress we look forward to a prompt reply consistent with the urgent obligation to curtail the damage it does to us and to the community of the faithful throughout the world.

With Trust and Respect,

Alan L. Keyes

And Other Injured Parties, including:

Daniel LaFree
Mishawaka, IN

Karen Mack
South Bend, IN

Karol Pasierbowicz
South Bend, IN

Mary Claire Chabot
Walkerton, IN

Bob Bramer
South Bend, IN

Missy Smith
Washington D.C.

Andrew Beacham
Elkhart, IN

Dr. Gregory Thompson
Humansville, MO

Gale Dodd
Granger, IN

Joyce Dodd
Granger, IN

Patrick Flynn
Pickney, MI

William Kee
Grand Prairie, TX

Jeanne Kee
Grand Prairie, TX

Steve Tucker
Milford, IN

Jane Brennan
Centennial, CO

Laura Rholing
Denver, CO

Ed Schaub
Buckhorn, NM

David Templeton
Huntington, IN

Tom Chanteloup
Cincinnati, OH

Ron Brock
San Diego, CA

Randall Terry
Falls Church, VA

Tui Bombeck
Washington, D.C.

Cindy Vorhees
South Bend, IN