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SELECT STATE AND LEGISLATIVE DEVELOPMENTS

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In New York we have, of course, many of the same problems that have been described to you from Pennsylvania and Massachusetts. As the last man of our group I think it would be helpful if I would select a particular legislative problem which has recently arisen in New York and which may serve for you as a caution; as a way in which you may be of service to the Church in identifying similar problems in your states and taking effective action early.

In my presentation I have been benefited by the cooperation of the staff of the United States Catholic Conference in making available to you some of the basic documents that form the basis for the problem which I describe. I also wish at the outset to express appreciation to some of my confreres in New York and to ask their indulgence in my effort to describe the problem. John Kearney and Kevin Kearney of Brooklyn have been deeply involved in the problem that I will describe and I am fearful that I will understate some of the concerns and some of the details.

In 1981, the New York legislature enacted a brief statute that authorized localities to provide, by regulation, restrictions deemed to be for the protection of buildings and areas within the localities that "have special character or special historical or esthetic interest." The power so exercised is required to be "reasonable" and "appropriate"; words of great trouble. In addition, the statute states that "in taking of private property, compensation shall be provided under the law." While statewide in its coverage, the principal use of this statute has been in New York City up to the present time. The New York City Legislature enacted a detailed local law that establishes a Landmark Preservation Commission to administer the complex process by which property can be landmarked without the consent of the owner and thereby perpetually restricted in its use and in its maintenance and disposition.

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Under the city ordinance the Landmark Preservation Commission has designated many church buildings as landmarks and has designated many such areas in the city in which there are church buildings. These designations have had serious consequences for the church organizations owning the properties.

A common experience of churches and synagogues which have had substantial dealings with the Landmark Commission is that the law and the Commission's implementation of it constitute an interference with the ministry of the Church. When there is need to alter, sell, or demolish a building, all kinds of problems arise. Thousands of dollars are expended in each instance to go through the regular administrative processes which are required to take any one of those steps.

The kind of problem which has arisen in New York may be illustrated by a popularly known site in the city. Many of you have been to the Waldorf Astoria. Next to the Waldorf Astoria is a large Protestant church, St. Bartholomew's, which also has a substantial hall and school building attached to it.

To the east of the property is a tall, modern office building which is immediately adjacent to the church property. St. Bartholomew's Church is attempting to dispose of a portion of the property on which the church hall is located. There is, of course, a real concern by the owners of the adjacent 40-story office building that a building of similar size might eventually be erected on the site which St. Bartholomew's hopes to sell.

Out of those facts arises a confrontation between the people supportive of the Church in New York and the people concerned with preserving the status quo. We are all aware that green spaces, or empty spaces, are advantageous to the use of adjacent property. This case illustrates in a popular way a problem which we will read about in the future as we face the implementation locally of the statutes of the type which I have described.

In order to provide protection for religious buildings in the city, an Interfaith Study Commission was formed in 1981. A major recommendation of the study was a proposal that an amendment be made to the state law which would exempt properties under religious ownership unless the religious organization gave consent to the landmarking.

In 1982, a bill to implement this recommendation was drafted and introduced in both houses of the legislature. The bill evoked a prompt and vociferous negative reaction from many community groups in the City of New York because neighborhood associations in the city have strongly supported landmark preservation as a means of preventing development of buildings and land. For example, as I stated before, tenants of apartment buildings wish to preserve their views and their air spaces resulting from the adjacency to a church or a school. The threat of highrise buildings on the church site has been a strong incentive for this

form of community pressure. The legislative issue now has been drawn between the religious organizations and the neighborhood organizations. It will be a long and difficult confrontation, and it is my hope that we will see that the position taken by the churches on this issue will override the special interests of the groups who would try to prevent the change in the law.