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CHARITABLE SOLICITATIONS ACT—YOUNG MEN'S CHRISTIAN ASSOCIATIONS—EXEMPT FROM REGISTRATION REQUIREMENTS—CHAPTER 1716., SECTION 1716.03 RC.

SYLLABUS:

Young Men's Christian Associations are exempt, under the provisions of Section 1716.03, Revised Code, from the registration requirement in the charitable solicitations act, Chapter 1716., Revised Code.

Columbus, Ohio, May 12, 1956

Hon. Samuel L. Devine, Prosecuting Attorney
Franklin County, Columbus, Ohio

Dear Sir:

Your request for my opinion reads as follows:

“As you are undoubtedly aware, the late General Assembly passed legislation designed to control professional fund raisers.

This was enacted into Section 1716.01 through 1716.99, inclusive, of the Revised Code of Ohio. The act, to our knowledge, has not been interpreted by any court decision, nor have we been able to discover where you have issued any formal opinion as to the workings of this new provision of the Code.

“Recently, the Young Men’s Christian Association has inquired of us whether or not the kind of campaigns which they conduct in order to run their services is amenable to the provisions of the act. It is our understanding that the Y. M. C. A. and the Y. W. C. A., or Young Women’s Christian Association, are organized and run in virtually the same manner.

“I have been able to obtain from the local Young Men’s Christian Association a copy of their Articles of Incorporation, as well as Constitutions of Y. M. C. A.’s throughout the State of Ohio. This I am enclosing and particularly call your attention to the purpose clause of these articles as well as the constitution. However, I have been unable to determine whether or not the exemption provision, Section 1716.03 of the Revised Code, would apply to this type of organization. I am well aware that the exemption is given to religious organizations (see Sec. 1716.03, R. C.), but whether or not the Y. M. C. A. is such that would come under that exemption is a question which we feel we should not attempt to resolve but should ask your opinion. Your answer would then have a state-wide application. If you desire any further factual information, we would be more than happy to furnish you with the same.”

Section 1716.03, Revised Code, reads in part as follows:

“(A) Sections 1716.01 to 1716.07, inclusive, of the Revised Code shall not apply to *religious agencies and organizations*, and charities, agencies and organizations operated, supervised, or controlled by *a religious organization*.”

(Emphasis added.)

Because there is a presumption against redundancy in statutory language the use of the varying terms “agencies” or “organizations,” as well as the inclusion in the exemption of “charities * * * operated, supervised, or controlled by a religious organization,” a strong presumption arises that it was not the legislative intent to restrict the exemption to such formal denominational organizations commonly thought of as “churches.” Rather this language strongly suggests the intent to include any organization the purpose of which is to promote religious objectives.

Among the additional material submitted with your query I note the following statement in the corporate purpose clause of the Young Men's Christian Association of Columbus, Ohio:

“The purpose for which said corporation is formed is the improvement of the *spiritual*, moral, mental, social and physical condition of young men, and to promote evangelical religion among the young men of Columbus, Ohio.” (Emphasis added.)

The following statement appears in the Constitution of the Young Men's Christian Association of Middletown, Ohio:

“The purpose of this Association is to help individuals to build a philosophy of life, based upon the principles of Jesus Christ, to discover and accept for themselves the full meaning of Christian discipleship for their own lives and for society.

“In accomplishing this purpose, the Association may promote and maintain such activities and services and such other means as contribute to the physical, mental, social and spiritual well-being of the individuals who come under the sphere of its influence.”

In the Constitution of the Ohio-West Virginia Area Council of the National Council of the Young Men's Christian Associations of the United States there is this statement:

“The purpose for which this corporation is formed is to promote and extend the organization of Young Men's Christian Associations in the States of Ohio and West Virginia, to aid in strengthening such Associations in their work, and generally to promote the spiritual, intellectual, physical and social welfare in accordance with the spirit and practice of the Young Men's Christian Associations of the United States of America, as expressed in the following statement:

“The Young Men's Christian Association we regard as being in its essential genius a world-wide fellowship of men and boys united by a common loyalty to Jesus Christ for the purpose of developing Christian personality and building a Christian society.’”

In *Waddell v. The Young Women's Christian Association of Dayton*, 133 Ohio St., 601, the court was concerned with the classification of the defendant as a charitable institution. In the opinion by Judge Gorman the following statement appears, p. 604:

“The constitution of the association provides that ‘the purpose of this organization shall be to associate young women in

personal loyalty to Jesus Christ as Savior and Lord; to promote growth in Christian character and service through physical, social, mental and spiritual training; and to become a social force for the extension of the Kingdom of God.'”

The court in that case concluded that defendant was to be classed as a public charitable institution and although it is not expressly so stated in the opinion one may infer that the court, having in mind that the term “charitable institution,” in its broader sense, includes a religious organization, considered the religious nature of the defendant’s purposes in reaching the conclusion which it did.

In *Goldman v. Friars Club*, 158 Ohio St., 185, Judge Hart quoted with approval the following from Judge Gorman’s opinion in the *Waddell* case, p. 199:

“In order to determine whether the Young Women’s Christian Association is a charitable institution we may look to the charter, constitution, bylaws and such oral evidence as is not inconsistent therewith. * * *”

Quite clearly we may do the same in ascertaining whether a particular organization may be classed as a religious one.

In the *Goldman* case the syllabus is as follows:

“Real property is used exclusively for charitable purposes and is exempt from taxation under Section 5353, General Code, where it is owned and operated without profit by a charitable institution and by it devoted, *as its main objective*, to an overall program of social, religious and educational service to persons in peculiar need thereof, without distinction as to race, color or creed, even though, *as incidental to such objective*, dormitory, dining room and other like services are furnished and a charge made therefor, the income therefrom being devoted to such program.”
(Emphasis added.)

Here it will be seen that the court looked to the “main objective” of the several institutions there involved and held such main objective controlling even though incidental to it certain non-charitable services were provided. In like manner, if the “main objective” of an organization is religious in nature, we may deem that controlling even though, incidental to that objective, certain non-religious services and activities are involved.

Included among the organizations under scrutiny in the Goldman case, *supra*, was the Young Men's Christian Association of Cincinnati.

In view of the plain statements of the aims and purposes of the organizations here in question, and assuming them to be typical of Young Men's Christian Associations generally, I am impelled to conclude that the main objective of such organizations is religious in nature, and that their classification as religious organizations is not lost by reason of certain non-religious activities incident to such main objective.

For these reasons, in specific answer to your question, it is my opinion that Young Men's Christian Associations are exempt, under the provisions of Section 1716.03, Revised Code, from the registration requirement in the charitable solicitations act, Chapter 1716., Revised Code.

Respectfully,

C. WILLIAM O'NEILL
Attorney General