

Sermon  
Law Day  
The Cathedral of St. John  
April 29, 1983  
10:00 a.m.

Micah 4:1-4  
Psalm 72:2,3-4,7-8,12-13,17  
John 15:9-12

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

Micah 4:2

My brothers and sisters: I greet you today with profound respect and loving concern. I respect you for the high office that you hold--there is no one of you here today before me who does not deserve the greatest reverence and esteem from your fellow citizens. You are all ministers of the law and guardians of that spirit by which all of us live together as a people. You have an office and you exercise its great power by a righteous authority. This authority is yours--by appointment and confirmation, or by popular election, or even by your commitment to learning and your membership in the bar of your peers. But just as truly, your authority in office derives also by the sacred oath that you took in the sight of God and man when you assumed the duties of your state.

I respect you--men and women of the law--as your fellow citizen. But, as a bishop and pastor within the Church, I exercise a pastoral role in your

behalf and in behalf of the civic community. You speak to us all--you men and women, ministers of law and guardians of spirit--by reason of your office established by constitution and legal enactments, sanctioned by custom. But you speak as well--as men and women of your word: that is, by the power and the majesty of your oath.

By oath--by your very word--you are called to be true. An oath indeed is the deepest and most sacred of laws. For from this bar--of your conscience and your God--there is no appeal from judgment! For you, the context of law, ~~and~~ the majesty of your oath, is the locus in which you hear and follow the voice of the Lord and work for the restoration of His people. It is in this context that the Lord speaks directly to you:

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

It might seem the easier course to follow, to object: "but we are not the consciences of mankind. We are not social architects, or philosophers or theologians. In a society like ours--so vast and rich, so varied in its peoples, and complex beyond

~~imagination,~~ <sup>imagination,</sup> reason itself is scarcely capable of governing the rage of private interests and pursuits. In a society established and constituted for no other purpose than for the free pursuit of happiness--we legal professionals can at best hope to keep a kind of order in chaos. Ours is a very limited function in a free society. We must limit our concerns to simply knowing the evolving meaning of the legislation--such as it is. We must simply apply the legal enactments in an orderly fashion, and settle litigations according to acceptable canons of procedure. We legal professionals are not prophets, poets or priests."

It might be the easier course to follow--to be functionaries of a system. The system might very well be generally equitable, efficient--and fair--to most. Indeed such a system--and the natural patriotic pride we take in it--can lull us all into a complacent non-involvement, even to the point of personal indifference.

But conscience does not permit you to be indifferent to the common good. Our founding fathers had indeed a realistic fear of tyranny, and a certain humility in assessing the native altruism of human nature, when they deliberately limited the competence of legal structures. Goodness cannot be dictated and enforced by an all-competent benevolent State--

no matter how wise and caring are her officers. But our founders were by no means nihilists or indifferentists. Because we do not permit the State to dictate to us what is the good and what is the true--does not mean that we hold that there is no such thing as the good or the true, or that we believe that the good and the true cannot be found or achieved.

Quite the contrary. The State established by our constitution, does solemnly affirm that there is a goodness and a truth worthy of pursuit, and that it can be attained only in a society where freedom abounds for all. The State itself cannot do all good--to be sure--but it is far from indifferent to the good and the true. Indeed, it is the solemn duty of the State and her officers to be ever vigilant to see that citizens are truly set free of every impediment to the pursuit of truth and the enjoyment of the abundance of goodness. This is not indifferentism--but a call to you, my brothers and sisters, and a challenge, to pursue the deepest meaning of the law, the very purpose of law itself--in the daily exercise of your responsibilities.

Do not be afraid, my brothers and sisters. It is well that you have a humble respect for the limitations of your office. But do not let diffidence

in your own powers, or the limited possibilities of your present situation, make you timid in your pursuit of what is right. We speak of the "majesty of the law." This respect is no dead memory of the letter of yesterday's wisdom. This majesty of the law--its great dignity--is to be found in the courageous and conscientious living judgments that you make, in the precedences that you establish and develop, in the ongoing discernment that must enliven your argumentation, in the weighing and the determining of equity. The majesty of the law derives from God--but resides in living and judging men and women of conscience and committed concern.

Do not be afraid to be men and women of conscience, not just creatures of order and procedure. Why do we call the law "majestic" and why do we call you "honorable" and treat you servants of the law with such reverence? It is not because the law derives from your judgments--but because we who honor and respect you are a people of faith. We believe that God made us not as individual islands of rationality cast into a sea of chaotic impulses and conflicting private interests--but as beings who must live together in mutual dependence in order to prosper--yes even to survive. Our faith at the very least teaches

us that we are all one people bound together. Law then does not derive from you--who are legal professionals--but it derives from ourselves--and from the God who made us the way we are--intimately bound to each other. Indeed the very word "law"--in Latin, "lex"--from "ligo, ligare"--means to bind, to be bound.

We are bound together, committed together, not on account of historical accident and deeds of violent ancestors, nor because we accumulate and protect for ourselves the most material goods when we cooperate. We are not simply an historical culture or economic order of free enterprise. But we are bound together, committed together because God made us to need each other, to depend upon each other, to support, educate, nourish, heal, enrich and promote one another. The blessings of life are common, and can be secured for any one, only when commonly pursued for all. They are secure for one only when and to the degree that they are secure for all.

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

Man-made enactments are always incomplete, and judicial procedures imperfect--and you know this better than I. The State does not create nor infallibly

confirm the common good. But neither is our whole legal system and structure a static congealment of imperfection. The State--and you who serve the law of the State--do guarantee the pursuit of that common good. You are not merely functionaries of a system, however humane and servicedable it generally is. Rather it is your constant duty to examine the law and pursue justice as you exercise the procedures proper to your different roles in the offices you serve. As ministers of law and guardians of spirit, you serve the law best when you pursue justice in conscience and in faith.

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

Your oath--made before the bar of your conscience--is your faith-bond with us all. You guarantee to us a higher order--for you who hold us to our bonds to one another, by your service<sup>Y<sub>o</sub>v</sup> also pledge that justice and peace to us that the prophet Micah so eloquently promises.

Your oath must be made in faith. For this peace that you promise, you know that you cannot give--for it must come, not from you--nor from any human enactment--but from the One who made us all, and who

has bound us all inextricably with each other.

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

Note well, my friends, that you who are called and gifted to uphold civil law worship a God who insisted on a higher law and, for those of us who are Christians, worship the Son of God, who was crucified as a criminal--as a breaker of man-made laws. The Son of God gave us only one law: "This command I give you is this, 'Love one another as I have loved you.'"

Indeed, many of the heroes and heroines of our faith reached the heights of sanctity because in obeying a higher law, they had to disavow the man-made laws of the church, synagogue, and society. I think of people who helped shape my own life and thinking: Francis of Assisi, Martin L. King, and Dorothy Day.

This fact tells us that those of us who are experts in the civil law cannot accept unquestioningly laws enacted by human persons and confirmed by civil authority. We cannot always presume that the common good is fostered by human law, that the educative function of law promotes the good of the person, that the directive function of law is not discriminatory,



that the intent of the law builds up rather than tears down, in short, that the supreme commandment of love-- "love one another as I have loved you" is reflected in the content of the law and that justice flows from the application of law, and that peace is more the fruit of justice rather than a mere tranquility of order. Law that is not examined, exercised, and executed in the context of the higher commandment will mean justice delayed or denied to our citizens, especially our poor and minorities.

Your word then is based on faith. This faith must be living, for your service cannot long endure or bear much fruit unless it is based on faith. Finally, this faith and service must be nourished by prayer.

How important is your prayer--daily, reflective communication with the Lord--for the judge or lawyer who is a believer, whose conscience is formed through the biblical message and religious tradition, whose mind is illuminated through the collective wisdom of sacred teaching, and whose action is guided by the example of the heroes and heroines of our religious faiths!

The youthful Solomon feared to rule so great a people--because he knew that he was only a man and that the demands of justice required such energy of

the human spirit that could be found only in the very Source of Life itself, so he prayed "for an understanding heart to judge the people and to discern between good and evil [I Kings 3:9 1]." I pray today that the prayer of Solomon may find a true echo in your hearts. And may the gift of Wisdom which can only come from God and which can only flourish and grow in hearts humble enough to ask for it, to listen and to learn--may be yours in great abundance.

Come, let us climb the mount of the Lord,  
to the house of the God of Jacob,  
That he may instruct us in his ways,  
that we may walk in his paths.

May God bless you!

memo *from the desk of*  
Bishop James P. Lyke

+ *J. P. Lyke*

March 31, 1983

Andre,

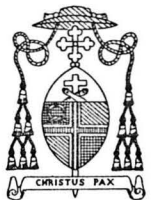
This will be the last bit of information I shall send you on the Law Day sermon! However, I resurrected this article by Franky Sshaeffer (his book should be interesting, by the way); the last page - "Everyone has faith" - makes a good point. From the "Everyone has faith" perspective, the Christian or Jewish lawyer or judge need not apologize for letting his/her religious beliefs enter his/her reflection and the application of the law - or work in framing the law.

May I also suggest that you begin the sermon with some affirmation of the persons and roles of judges and lawyers.

My Law Day sermon is to be given on April 29, at 10:00 a.m., at St. John Cathedral.

Will be in touch!

° Peace.



Red Mass, Sacred Heart Church

(so-called after the red garments traditionally worn by judges, jurists and canonists, etc. of the Roman Congregations for whom this Mass was first offered some 7 centuries ago.)

Homily preached by Archbishop James P. Lyke, O.F.M.

August 10, 1991

Readings: Proverbs 2:1-12  
Romans 13:1-7  
Matthew 25:31-40

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In the great play, *A Man For All Seasons*, by Robert Bolt, there is a moment when a rather hot-headed young man, bent on winning Thomas More's daughter, proclaims that in order to extirpate heresy and get to the Devil, he would cut down every law in England. With uncharacteristic wrath, More turns on the young man with the following words:

And when the last law was down, and the Devil turned round on you - where would you hide, the laws all being flat? This country's planted thick with laws from coast to coast - man's laws, not God's - and if you cut them down - and you're just the man to do it - do you really think you could stand upright in the winds that would blow then? Yes, I'd give the Devil benefit of the law, for my own safety's sake. Whoever hunts for me, God or Devil, will find me hiding in the thickets of the law!<sup>1</sup>

In similar but less dramatic fashion in Paul's epistle to the Romans, we hear the apostle speak of those laws which strengthen society, and which, in his belief, do not contradict or undermine the law of the Gospel.

In Paul's mind, no man or woman can sever the ties which bind them to the society in which they live. No one can really "opt out of the Nation."<sup>2</sup> Observance of the secular law was no burden, but in fact, a boon. I am reminded of the words carved over one of the doors of the courthouse in Cleveland: "Obedience to Law is Liberty." This axiom can be explained in several ways.

First, as citizens, we enjoy rights and privileges, services and conveniences, which would not be available to us as disenfranchised individuals. Likewise, we cannot enjoy the privileges of citizenship without respecting our commensurate duties.

<sup>1</sup> Robert Bolt, *A Man For All Seasons*, Vintage Books, p.66-67.

<sup>2</sup> William Barclay, *Commentary on Romans*, Westminster Pres. p.173.

Second, we owe our protection to the benevolence of the state. Without the proverbial wall behind which we herd in order to be safe, all would be at the mercy of the strong and the tyrannical, and the law of the jungle would hold sway. Every ordinary citizen owes his or her security to the state, and is therefore under obligation to the state.

Third, in Paul's time, it was the law of Rome which kept the world from chaos, and despite later official persecutions, it was the order and peace of the Roman Empire which was ultimately so conducive to the spread of the Gospel. In the words of the scripture commentator, William Barclay:

It was in fact the *pax Romana*, the Roman peace, which gave the Christian missionary the chance to do his work. Ideally men [and women] should be bound together by Christian love; but they are not; and the cement which keeps them together is the state.<sup>3</sup>

Like Paul, the defense of the citizen and the elimination of injustice are important ideals for all of us, a part of our legacy from what was best about Roman civilization. So, like Paul, we analyze with interest the ability of law to bring about these goals. Like Paul, we still desire to enjoy the peace and prosperity of a nation well cemented by its laws. We still retire to the secure boundaries of our hearth and home. We are proud to be the brightest beacon of order in a world that oftentimes seems to be rife with discord and anarchy.

But to return to the story of Thomas More for a moment, we note with interest that he speaks of the ground of England being "planted thick" with laws. These were the statutes of the Common Law, generally outlined in the Magna Carta, but actually forged under the pressure of custom, which Canon 27 calls "the best interpreter of laws." Our understanding is much the same - our laws should not be a system of arbitrary or theoretical rules, floating indiscriminately in the aether of theory and speculation - our laws should be planted in the soil of human experience, we might even say, human love, and nurtured with the waters of compassionate justice. In his introduction to the play, Robert Bolt says:

If "society" is the name we give to human behavior when it is patterned and orderly, then the Law is the very pattern of society. More's trust in the law was his trust in his society; his desperate sheltering beneath the forms of the law was his determination to remain within the shelter of society.<sup>4</sup>

Here we encounter the meeting place of the Gospel and the Courts, the intersection of compassion and justice, the wedding of law and love. Like the reeds which take firm anchor in

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<sup>3</sup> Barclay, *op.cit.*, p.174.

<sup>4</sup> Bolt, *op.cit.*, p.xvi.

the soil, preserving the integrity of the earth even as the find support and sustenance from that very ground, so too the law and love are concepts which are healthiest when they cling to one another. In reality, law and love are not only compatible but complementary. The simplicity of this notion undercuts the complexity of Paul's arguments, just as the clarity of Christ's words makes all other human speech seem like so much babble.

Love the Lord your God with all your heart, with all your soul, and with all your mind. . . Love your neighbor as you love yourself. The whole Law of Moses and the teaching of the prophets depend on these two commandments. (Matthew 22:37-40)

In terms of practical behavior and its rewards, Christ offers us this promise as well:

Come, you that are blessed by my Father! Come and possess the kingdom. . . I was hungry and you fed me, thirsty and you gave me a drink; I was a stranger and you received me in your homes, naked and you clothed me; I was sick and you took care of me, in prison and you visited me. (Matthew 25:34-36)

The best thing we can note today is this: the laws that we author, promote, and defend, let these laws be like a vast carpet of protection for our lives, our values, our future; but let that carpet spring from the law of love which was so central to the mission of Christ on earth, that same law of love in which we have been baptized and confirmed.

My friends, we have gathered here today because we share something in common. We share an interest and an involvement in the formation and execution of just laws. We gather here to publicly reaffirm our belief, found in the Gospel, that at the heart of every just law is to be found that compassion which finds its full expression in God. The earliest contract between the One God and His Chosen People was, in its essence, a charter of laws, by which men and women might live in reasonable harmony, and by which human failing might be dealt with both justly and compassionately. This original covenant between God and Humankind made provision for judges and advocates, for compensation and punitive damages, for appeal and review, and for all the other inevitable consequences of people's conflict-ridden attempts to live with other people. Today we still go about this necessary business with the dedication of those who know that their enterprise rests ultimately on divine principles and that behind their calling stands the compelling presence of God.

As stewards of the law, we easily encounter the forces at work in all areas of human conduct, and as history well records, there are many temptations along the path. Two things, in particular suggest themselves in terms of our practical conduct and the challenges we face together:

First, we must vigilantly engage our consciences on the priority that money and power might hold in our lives. Whether our income is upscale or downscale, whether our checks come from

the abundance of the well-to-do or the scarcity of those on the edge of poverty, we must never surrender the sanctuary of our ideals to the pursuit of financial gain or political advantage. We who serve others must constantly recall the virtues of charity and generosity; our actions must always be equitable.

A second challenge is to be as personally involved with the misfortune of others as possible. The law in its application finds numerous opportunities where agents of the law and victims may interact to bring about social and domestic healing. We must discover the all too often invisible poor in our midst. There is poverty among us when the old and the weak are neglected and their standard of living constantly declines. There is poverty when death takes away the wage earner from a family or when catastrophic illness wipes out a family's savings. There is material need and suffering in those areas or groups where unemployment risks becoming endemic. For those that cannot obtain the benefits of basic education there is the threat of being locked into that cycle of poverty of a permanent underclass of American citizens who will never be able to share the American dream. Apathy and indifference among too many of us encourages this frightening possibility. Again, Saint Thomas More, the foremost lawyer, judge, and legal writer of his day said this:

I would rather be the victim of a rogue, than to have anyone be the victim of my indifference to his suffering.

Our forum is the great ongoing debate which underlies the vitality and adaptability of our country. Our tool is the law, compassionately and reasonably conceived, executed in justice and fairness. Let us not forget, that in the history of the world, any civilization that persists does so because God allows it.

In closing, and to put things in perspective, I would like to quote these thoughts from a talk given by Justice Antonin Scalia at Catholic University in 1986. This is, so to speak, the other side of the coin:

... we should not disregard the insight that the law is a concession to our frailty; that to the extent we are virtuous we have less need of laws; and that to the extent we have fewer laws we are happier. . . the institutions in which the legal principle is least present. . . are those institutions that men and women treasure most: the family and the Church. That is why the law courts are of such little use when something goes wrong there. To bring in the law to any significant degree is to alter the institution itself. Another American lawyer and legal philosopher, Grant Gilmore, put it this way: "In Heaven, there will be no law, and the lion will lie

down with the lamb. . . In Hell there will be nothing but law, and due process will be meticulously observed."<sup>5</sup>

My sisters and brothers, these are fanciful words, no doubt; but under their whimsical disguise is to be seen the truth. It is the same truth to be heard in our reading from Proverbs, where God, in the disguise of wisdom, calls out in the streets and the marketplaces, calls loudly at the city gates and wherever people come together, and says:

Listen. . . learn what I teach you and never forget what I tell you to do. . .  
If you listen to me, you will know what is right, just, and fair. You will  
know what you should do. (Proverbs 1:20, 2:1-9)

Let us continue this Eucharistic celebration, asking for the grace to listen, so that in this wonderful banquet which we share, we may discern what is right, just, and fair. And let us remember that our bail has been paid by Jesus Christ, the Divine Legislator, and the Author of the Law of Love.

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<sup>5</sup> Antonin Scalia, *Teaching the Law*, USCC Committee on Education, 1986.



The Red Mass  
Saint Thomas More Cathedral  
Tallahassee, Florida  
April 12, 1989



My Sisters and Brothers:

We have gathered here this morning because we share something in common. We share an interest and an involvement in the formation and execution of just laws. We gather here to publicly reaffirm our belief, found in the Gospel, that at the heart of every just law is to be found that compassion which finds its full expression in God. The earliest contract between the One God and His Chosen People was, in its essence, a charter of laws, by which men and women might live in reasonable harmony, and by which human failing might be dealt with both justly and compassionately. This original covenant between God and Humankind made provision for judges and advocates, for compensation and punitive damages, for appeal and review, and for all the other inevitable consequences of people's conflict ridden attempts to live with other people. Today we still go about this necessary business with the dedication of those who know that their enterprise rests ultimately on divine principles and that behind their calling stands the compelling presence of God.

In the code of law which is promulgated by the Catholic Church, there is a well-known dictum concerning the nature of laws, namely, that Custom is the best interpreter of law. This statement has one obvious meaning, that laws work if the people let them work. But at a deeper level, it seems to suggest that just laws have a double nature. Not only does the human agent fashion the law, but the human agent is in some sense fashioned by the law. If we base our laws on the great fundamental realities of peace, truth, freedom, justice and respect for all life and human dignity, fundamental realities which find their fullest expression in God, then our laws will ultimately strengthen and preserve the country and all its people. Through our efforts the Spirit of Truth will abide.

From this broad perspective of law as rooted in God and in the dignity of the human person, let me now turn to specific challenges we face as agents and officers of the law.

First, we must vigilantly engage our consciences on the priority that money and power might hold in our lives. Whether our income is upscale or downscale, whether our checks come from the abundance of the well-to-do or the scarcity of those on the edge of poverty, we must never surrender the sanctuary of our ideals to the pursuit of financial gain or political advantage. We who serve others must constantly recall the virtues of charity and generosity; our actions must always be equitable.

A second challenge is to be as personally involved with the misfortune of others as possible. The law in its application finds numerous opportunities where agents of the law and victims may interact to bring about social and domestic healing. We must discover the all too often invisible poor in our midst. There is poverty among us when the old and the weak are neglected and their standard of living constantly declines. There is poverty when death takes away the wage earner from a family or when catastrophic illness wipes out a family's savings. There is material need and suffering in those areas or groups where unemployment risks becoming endemic. For those that cannot obtain the benefits of basic education there is the threat of being locked into that cycle of poverty of a permanent underclass of American citizens who will never be able to share the American dream. Apathy and indifference among too many of us encourages this frightening possibility. Saint Thomas More, the patron of this Cathedral Parish, the foremost lawyer, judge, and legal writer of his day said this:

I would rather be the victim of a rogue, than to have anyone be the victim of my indifference to his suffering.

A third challenge we must continue to struggle with is the notion that life is ever expedient, or that enforced death is ever a just and salutary remedy. We have gathered in God's House, in the Name of Jesus Christ, and therefore in the conviction that He is present with us. Jesus Christ came that all might have life and have it abundantly. In permitting abortion, or in surrendering to the supposed need for capital punishment we deal in death, on the one hand the death of the most innocent and helpless among us; on the other, the death of one perhaps most to be pitied. As long as we allow this genera-

tion to be at peace with the unjust death of the unborn, as long as we are comfortable with the notion that the death of the criminal sociopath contributes to the solution of our problem of crime, is it any wonder that we are so ineffective in challenging this generation to respond to the poor, the hungry and the homeless? Let us consider soberly the ominous words of the prophet: "Today I have set before you life and death, the blessing and the curse; choose life, then, that you and your descendants may live."(Deuteronomy 30:19)

Our forum is the great ongoing debate which underlies the vitality and adaptability of our country. Our tool is the law, compassionately and reasonably conceived, executed in justice and fairness. Let us not forget, that in the history of the world, any civilization that persists does so because God allows it. We can choose no better mandate than those words which concluded our Gospel today:

When the Advocate comes whom I will send you from the Father, the Spirit of Truth that proceeds from the Father, he will testify to me. And you also testify, because you have been with me from the beginning. (John 15:26)

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