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THE CHRISTIAN LAWYER AS A PUBLIC SERVANT

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This paper is concerned with the general topic of the Christian lawyer as a public servant. The paper attempts to describe very briefly the lawyer in his practice of law and in his relation to the legal and political systems, and the relevance of the Church to the law in each of these areas. The topic is a difficult one, for the writer would suggest that the lawyer by his very trade is "a Pharisee" and rarely a Christian.

Yet the lawyer is one of the most important and influential groups in this country. From the days of the pioneer it has often been the lawyer with his volume of Blackstone who has carried with him the bare minimum of the common law. To him has traditionally been delegated the position of representative, administrator, arbitrator and community leader. To him the community has brought its small and large problems. Because of this peculiar position of trust it is important to analyze what difference it makes if a lawyer is a Christian.

The first question then is: What are the characteristics which the lawyer brings from his profession and which affect his efforts as a public servant. What type of professional personality and methodology does he bring to his tasks and what effect do these have on his public work?

THE LAWYER

The lawyer has an interstitial position in our society. His personality is vicarious. His approach is pragmatic. His objective is to represent his clients, keep them out of court if possible and win his case. He has a two-fold responsibility. He must represent the interests of his client, and he must be an officer of the court. Both functions are of crucial importance. He is a national schizophrenic at his worst and a statesman at his best. In his hands rest the developing concept of due process. He can be the social engineer but is always the master of compromise and negotiation. It is this character which the lawyer brings to his public work.

The lawyer's position in our society is interstitial. He is not a member of any economic group such as the worker, the farmer, the business man, the white collar worker, or the financier. His function is to be situated in the interspaces of these different groups. He may leave his profession and become a member of any one of these groups, but as a lawyer he is the representative of the interests of his client.

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On one day he can represent a corporation; and, on the next, he can plead most eloquently the grievances of a labor union. His wares are to be sold to any bidder. There is no one group with which he identifies himself, for his self interests are those of his present client.

One may question this term "interstitial role" when one observes lawyers who have worked for years for the government or in the legal department of a corporation or an insurance company. Such a long association may mean that the lawyer has completely identified himself with his client and assumed the coloring and characteristics of that client. When this has occurred, the lawyer may slowly lose his interstitial role and become for all intent and purposes a member of the group to which his client belongs. Though such a question is valid, the reply is that the well-trained lawyer always understands that he has the right to represent whomever he wishes.

The lawyer who understands his social function will maintain his interstitial role, which is often his strength. When a lawyer has represented all types of clients, he develops a healthy perspective and objectivity towards his trusteeship of the legal system and the type of procedure and substantive law which that system should strive for. He avoids the self-righteousness of the lawyer who has completely identified himself with his client and who is willing to subordinate all (whether procedural or substantive) before that self-righteousness. Indeed, as long as the lawyer maintains this role, the legal system itself benefits; and whenever the lawyer loses this role, both he and the system suffer in the long run.

It is this very interstitial role, so vital to the legal system, which causes the public to regard the lawyer with an air of both awe and irritation. He is the fast talker who gets things done, who can take any set of facts and present them in an intelligent and convincing manner. For many, this ability to argue one side one day and the other side the next day borders on dishonesty.

Such a view is due to a failure to understand the lawyer's role, and it presents a great danger to the public itself. If the public identifies the lawyer with his client, the honest and conscientious lawyer who will defend the unpopular case will suffer. And the basic freedoms which are often at stake in this type of case will equally suffer. It is the public itself and the legal system which are the poorer for this grave misconception.

The lawyer's personality is vicarious. He is always the agent. He represents the interests of his client and submerges his own character. The client approaches the lawyer and presents a problem where the law is clear. However, the demands of the personal ethics of the lawyer may be equally clear and opposed to the demands of the client. Though the lawyer personally would never take such a position or

make such a request, still he may represent his client. The oft-quoted example is an oral contract for the sale of property which a client wishes to ignore in the face of a better offer. The Statute of Frauds is his weapon.

The problem for any lawyer in his relations with his client is to what extent does he remain solely the technician and present only the vicarious personality. Certainly, there are many occasions when a client wants more than mere technical advice, and yet there are many more occasions when the client wants to know what is the law and whether the lawyer can do "it." Clients as a rule are interested primarily either in dollars and cents, or in their personal liberty and in not much more. The lawyer may practice law and never permit his own beliefs and principles to come to the fore. He can be a technician and remain strictly within the requirements of the law.

There are many lawyers who would insist that this is the only proper function of the lawyer, that he has no business in interjecting himself into the case. And there is much to be said for this view since the interjection of self into a case often reduces one's objectivity and blunts one's analysis. Yet this is not the sole answer, for any lawyer knows that there are occasions when he gives personal advice to his client and when the situation is so outrageous that he refuses to proceed any further. These latter occasions are rare and often depend on the type of case and the relationship which exists between the lawyer and the client. However, this conflict of "vicarious" as opposed to "personal" does raise a serious question whether the lawyer should legitimately be expected to minister to the needs of his client, other than legal.

As opposed to this representation of the interests of his client, the lawyer is also an officer of the court. At its most superficial level, this can mean that the lawyer owes the judge a certain respect, that the lawyer is to be honest and to abide by the rules and procedures of the court. At a more fundamental level, however, the lawyer is the custodian of the legal system itself and of the concept of due process. Through his pleadings he can call to the attention of the court that a client has been deprived of his property or liberty without notice of the deprivation or a fair opportunity to be heard. It is he both as advocator and as judge who pleads and decides that certain practices in the enforcement of the law do not conform to our civilized standards or are basically unfair. Through the canons of ethics and the rules laid down by the bar association and the courts much of the procedure and practice of lawyers is determined.

In what way do these lawyers and bar association committees decide that a certain procedure is unfair and a denial of due process of law? Into what philosophical system, if any, do they delve in order

to find criteria for their recommendations? They find criteria in some place. What causes a lawyer to raise the point of due process in the first place?

The lawyer has this unique trusteeship on which the vitality and justice of the legal system depend. If he fails to fulfill his responsibility at this point, the entire legal system suffers. Yet if he loses his interstitial role and vicarious character, he does a grave disservice to his client. The lawyer has this split personality which has demands seemingly incompatible. How does he maintain a delicate balance between the two? How does he withstand the conflicting pressures?

The Legal System

The second major factor to be understood about the lawyer is the system within which he works. It should not be necessary to dwell too much on this topic, but it is important in terms of its effect on the lawyer.

The lawyer lives and works within a system of advocacy. This system presupposes that when two opponents devote their full ability to presenting the interests of their clients, the strongest points of each side will be best presented to the court. The effectiveness of the system often depends on the ability, brilliance and persuasiveness of the lawyer.

This system presupposes that the role of the judge will be to a great extent passive and restraining. The judge listens to the arguments of both sides. He asks questions to clarify his own understanding. He reads the cited cases and analyzes the problem. Then he decides the case and renders judgment. Though he has tremendous freedom within the limits of the case before him, still those limits are set by the factual situation of the case and the issues presented by counsel for both sides. The lawyer assumes impartiality, fairness and neutrality on the part of the judge and attempts to present all the facts and law which the judge will require in rendering a decision.

Within this system, the lawyer assumes that there are certain rules concerning the presentation of evidence. Over the centuries these rules have grown up concerning what evidentiary matter has probative value, relevancy and materiality. The purpose of these rules is to present only the most dependable information in deciding the issue before the court. For example, the hearsay rule, which is known to all laymen, states that witness *A* may testify to what he said and did, but *A* cannot testify concerning what *B* said unless *B's* words and actions fall within certain exceptions. Since *B* is not on the stand, he cannot be put under oath and above all cannot be cross-examined. The court has no safeguard to test the credibilty and veracity of *B's* statement. *A's* testimony about *B's* statement is excluded.

The lawyer learns and almost instinctively applies these rules of evidence. He tends in analyzing a case to eliminate certain facts if he cannot find a way to bring them within the accepted rules of evidence or if they have no probative value. A lawyer may "know" something but be unable to "prove" it. This lifelong training develops a certain perspective and methodology so that the lawyer often forgets the purpose of the rules of evidence and applies them by habit to every problem with which he copes, legal or not.

Within this system and with these rules the lawyer faces only the problem immediately before him. He is essentially a pragmatist. Though he may be a Protestant, Jew, Catholic, liberal humanist or a positivist, he essentially is a pragmatist as a lawyer or judge. As a lawyer, he limits his attention only to those issues which are directly before the court, and he does not bother himself with imaginary issues. As a judge, he will not and usually cannot render advisory opinions. He will render a decision which settles only that case before him. It is true that he will consider to some degree the effect of his decision on other cases, but he will not speak to imaginary situations. This is the province of the law student and professor.

With all this the lawyer works. He listens to the statement of facts by the client. He hunts, searches and probes for more facts. Then he begins to refer to cases where similar factual situations have arisen. He draws from the cases the rules of law. On the basis of these rules he begins to distill the issues which the facts present. Then he goes back to his cases and considers how the rules of law and the reasoning of the courts apply to his case. As he wrestles towards a presentation which will be most favorable to him, he re-analyzes the facts and the law until he has reached the most favorable view of his case. Then he proceeds to a disposition of the case. This may involve negotiation and compromise. Or it may require argument or trial before a judge. Whatever action he deems proper to represent his client's interests, he pursues.

This is only a meager and superficial description of the legal system. At best, the system permits the analytical and brilliant lawyer to develop a precision, breadth of view and decisiveness which is productive of immeasurable good. At worst, it permits a quibbling short-sightedness and blindness in which all types of evils may lurk.

THE OBJECTIVES OF THE LEGAL SYSTEM

It is relevant to ask what are the objectives of this legal system within which the lawyer works. I have suggested above that the client is interested either in dollar and cents or in his personal liberty. The more he acquires of either, the happier he is. Yet, in a larger sense, I would say that the objective of the legal system is justice.

Terms such as law and order for the nation or the protection of the property and personal rights of each citizen and group are merely a paraphrase of justice in terms of a specific situation.

Before proceeding further, it might be asked if an objective of the legal system is love or mercy. The answer, I would suggest, is no. Love and mercy may be either fundamental assumptions underlying the system or by-products of the system but not stated objectives. Some might argue, however, that love and mercy are objectives. For instance, when the lawyer for the plaintiff in a negligence case plays on sympathy and emphasizes all the factors which create sympathy in order to be awarded a larger sum by the jury, one might say the lawyer is asking for mercy and that the jury system serves this objective. Or when a defendant is about to be sentenced for a crime, one might say that his counsel when he throws the defendant on the mercy of the court is asking for mercy. Yet the ready answer must be that the jury verdict merely took into account those factors such as suffering and measured them in terms of monetary value. The plaintiff received his monetary due. In the case of the criminal, the judge took into account all the factors presented by the lawyer in measuring the degree of culpability and thus the type of punishment merited. In neither case was love and mercy an objective. Theoretically, at least, the legal system does not set up love and mercy as an objective.

Assuming this, the Christian asks a number of questions. What do we mean by justice? Of course it is man-made justice. How do we determine what is man-made justice? I would assume that each generation of lawyers would answer this in the same way: one analyzes the cases up to that point, weighs the interests of the opposing parties, considers public policy and considers the future effect of the proposed rule of law. After weighing all these factors, one comes to a decision. Where each generation would perhaps disagree is first, what weight to give to each of these factors in arriving at a decision, and secondly, what are some of the basic assumptions underlying these factors. The weight which one gives to each of these factors often camouflages other assumptions which may or may not be articulated.

The Christian would probably ask finally whether there can be any type of justice apart from God's Love. Assuming that one would answer no, the next question is how God's Love can in any way affect a legal system which makes no pretense at attaining love and mercy.

Political Life

The lawyer is expected, more than any other citizen except possibly the business man and the financier, to participate in the political arena and in public life. Of course, judges, district attorneys, judicial referees

and trial examiners have to be lawyers. However, it is widely assumed that the executive and the legislator will often be lawyers and that legal training is an excellent background for any type of government service. The purpose of this section will be to touch briefly on the problems which any public servant must face, such as power, group relations and conflicting loyalties.

The fundamental purpose of any political system is the organization of power in such a manner as to attain certain objectives. There are a few basic objectives which any political system must accomplish, such as the maintenance of law and order. Whatever other objectives the political system attempts to accomplish are probably peculiar both to the cultural, historical, religious and philosophical heritage and to the economic and social conditions of each country.

This power, arising from many and varied types of groups, has to be organized in such a way as to recognize the legitimate interests of varied groups and through compromise to organize them into a national unity. In this country the legislator and the executive have the responsibility of recognizing, protecting and extending the interests of different groups and constituencies and of effecting necessary compromises between them.

A group has a personality and a behavior pattern which distinguishes it from an individual. One may as an individual sacrifice one's legitimate interests for the purpose of some more important objective. However, such self-sacrifice of one's interests is rarely possible for the group, for each group usually arrives at a policy decision only after the sub-groups have agreed by a unanimous or a majority vote. Once this policy decision has been taken and the legislator assumes the responsibility of representing that group or constituency, he may compromise but not sacrifice its self-interests.

The legislator and the executive usually have a responsibility to a larger entity in addition to their particular constituency. A senator is responsible not only to his state, but also to the legitimate aspirations, objectives and welfare of the entire country. The question is how he is to fulfill his obligations to both. Realistically speaking, if a senator's state has important business interests which are strongly in favor of certain legislation, his stating that such legislation is detrimental to the national interest may well mean his defeat in the next election. His concern for the national interest may be laudable, but his continued service as a senator may be questionable. In reaching his decision, the legislator will have to weigh the objectives of the group as opposed to those of the nation. Then there follows the art of compromise.

This raises the question of what the objectives of a nation are and how they are formulated. Certainly, volumes could be written about

this topic; but let us assume that all objectives, however formulated, could be summarized in the general term "justice." We would also assume that love and mercy are not objectives of the political system, though they may be fundamental assumptions or by-products of that system. The questions are obvious: can there be man-made justice apart from God's Love; and if not, how does God's Love affect the justice which the political system attempts to attain?

In many ways, the problem of the lawyer as the legislator or the executive is similar to that of the practicing lawyer. His personality is vicarious. He must represent all types of interests in his constituency. And yet he has an allegiance to the entire country. He must live in this conflict, and an exclusive identification with either interest can be catastrophic. Usually, however, the lawyer has acquired the skill to live in this conflict as a result of years of practice as a lawyer. The success with which he maintains a balance as an advocate of his client's interests and an officer of the court may well determine his success as a legislator or an executive.

Still there are differences. First, the legislator, having the responsibility for the ultimate decision, has far more power than any lawyer representing his client. This power can and often does have a corrosive effect unless placed within a dedicated and committed framework of reference. Secondly, the national myth and welfare to which the legislator owes an allegiance can be perverted and rationalized in a subtle fashion to further all types of detrimental interests. The lawyer in the courtroom has the judge and legal authority and tradition as a restraining influence. It is true that the legislator has a national tradition, a behavior pattern, a constitution and goverumental checks and balances to restrain him. However, they may take years to be brought into effective focus to counterbalance the legislator. Thirdly, the decision making process is infinitely more complicated and lends itself to subtlety of pressure far more easily than the practise of law. Fourthly, in addition to all the above-stated allegiances, the legislator and the executive have a responsibility to their political party.

It is these differences which cause the question of personal compromise to arise. A practising lawyer can live for years within the system of advocacy and be purely objective, rarely raising questions concerning the justice and ethics of his client's claims and relying on the court to make all the decisions. As a politician, however, he owes much of his success to his political party; his continued election to office he owes to both the party and different interest groups. To be a successful politician he must heed many of the demands of these groups. At this point each man must confront the issue of what he regards as important in his life. How he answers the question will

determine what he is willing to compromise.

Thus, the politician faces not only the same type of problem as the lawyer, but others peculiar to the legislative process. What guidance, if any, does the Christian faith and the Church offer to him?

THE CHRISTIAN LAWYER AND THE CHURCH

In the four preceding parts, I have attempted to describe briefly the problems which the lawyer faces as a practicing attorney and politician and as a trustee of the legal and political system of the country. The final question is what, if anything, the Christian Faith has to say about these problems. Does it make any difference if this vicarious personality is a Christian? Does it matter to the legal and political system if there is or is not a Church?

Before attempting to answer these questions, we might pause for a moment and ask whether a lawyer has a "theology" peculiar to him and his system and, if so, what the characteristics of this "theology" are.

I would suggest that a lawyer does have a "faith and theology." If he were asked to describe it, he might answer as follows: I believe that as a lawyer I have a responsibility for the administration of justice and the maintenance of law and order. I believe that those disputes which arise in our daily and national life can be most justly and wisely resolved within the system of advocacy which prevails in our courts. It is within this system and by means of the rules of evidence that an impartial and learned judge sees most clearly the issues of each case and will render a decision. I believe that a judge's decision should take into account the body of law which has been developed, the facts of the particular case and matters of public policy and interest. Though this system is not perfect, it has slowly changed through the efforts of myself and my fellow lawyers to the point where it does result in a very high degree of justice over a period of time. As a lawyer, I consider myself as the representative of the interests of my client, an officer of the court and a trustee of the legal system.

Likewise, it is suggested that the lawyer has a certain view of man and society. Though it has never been articulated, I have often wondered whether a lawyer might conclude that all men, including himself, are liars. They are liars either in that they unconsciously reform, reshape, slant and color the facts, or in that they deliberately and consciously misrepresent the facts. The lawyer is suspicious of even the most "honest" men when property interests and personal liberty are at stake. When he interviews his client and his witnesses, he is continually probing and assessing the credibilty of each person.

As for society, a lawyer would be likely to view it as a huge arena

where groups and individuals battle for their interests in accordance with certain established rules of procedure. The umpire renders the decisions. Lawyers would probably disagree as to the powers of the umpire and the need for more or fewer rules of procedure.

It is this system and this faith which is the lawyer's world. It is in many respects self-sufficient and self-contained. And when the question of religious faith arises, the lawyer is more than likely to think of the canon of ethics. If one were to ask him about his religious faith, his answers concerning its effect on him and his practice of law would probably vary. One group of lawyers would say that it is irrelevant, and another group would expect the Church to tell them what a lawyer should think and do in every aspect of his practice. The writer would suggest that such answers emanate either from different concepts or misconceptions of the nature of the Christian Faith.

I would assume that a Protestant would state that he believes that God the Almighty has created the world; that He has revealed Himself to His Chosen People, the Jews; that He has and does judge nations and individuals; that He has made man in His own image and endowed him with freedom of choice to follow or deny God's call; that He has revealed Himself in His only Begotten Son, Jesus Christ, who sacrificed Himself on the Cross that all men might through His intercession with the Father know forgiveness of sins and eternal life; that He has revealed Himself through the Holy Spirit, the Body of the Church; that the Church, His Chosen People, is where His Word is spoken and the sacraments administered; that the Church is both the Kingdom of God and the denial of His Kingdom; that Christ will come again on a final day and judge all men and all nations, and all will be perfect in Him; that the Bible is His Word speaking in relevant terms to each age and generation.

To the believers, this faith is a dynamic force; but to the modern day Pharisees and Greeks, Christ crucified is still a stumbling block and folly.

In what way does this faith speak to the problems of the lawyer and politician. Before attempting to answer this question, it might be wise to clear up two misconceptions which appear to exist in the minds of many. First, I do not think that the Holy Spirit speaks out concerning the affairs of men and says: "This is the Christian answer" or "This is the right answer." To suggest that God tells the judge who should win a breach of contract case or whether private or public power is the better policy is absurd. Secondly, the Christian lawyer, as any other lawyer, is under the same obligation to develop his ability to analyze, to do research, to prepare and present his cases with precision, thoroughness, and brilliance. If a lawyer

believes that he is serving God's purpose through his work, it is fitting that his work should be in the best tradition of the profession.

To return to the question of relevance, I would suggest that the Christian Faith is relevant to the work of the lawyer and the public servant in that it provides a framework of reference which influences all basic decisions. In terms of the problems which were raised in the first section of this paper, the Christian Faith and the Church are relevant in resolving the tensions resulting from the vicarious character and interstitial role of the lawyer, in the renewal of one's dedication to the practice of law and in the making of the small but vital decisions concerning law practice.

We have referred to the interstitial role of the lawyer in our society whereby he both belongs to every group of our society and yet is a member of no group. This role gives him a degree of independence and social mobility which only the clergy and the doctor also possess. Yet this role is often sacrificed by the lawyer in order to attain security.

This is indicated by the refusal of some lawyers to be associated with unpopular and controversial issues regardless how meritorious the cause and by the declination of certain types of cases such as criminal and divorce work. Such an attitude is partly due to the failure of the public to understand the proper function of the lawyer and to the tendency to associate the lawyer with the client (e.g., Smith Act and espionage cases). However, this attitude is also partly due to the desire of the lawyer not to antagonize some of his clients. This often results in the making of one's decisions almost totally in terms of the wishes of one's client to the detriment of the interstitial role and the vicarious relationship of the lawyer. (Fortunately, there are many eminent members of the bar who have steadfastly resisted such temptations).

How does any lawyer withstand these temptations and the tension of conflicting loyalties? To live and act responsibly in this type of situation requires tremendous spiritual strength. For the insecure person, such a situation is well nigh impossible, and such a person either succumbs completely to one of the pressures or looks to some authority to direct his every move.

One can only suggest that the answer for the Christian lawyer lies in his membership in the Church and his participation in worship with his fellow Christians. There is no salvation apart from the corporate Body of Christ. It is here that the Christian worships God, participates in the sacraments and hears His Word. As a member of the congregation, he bows down before the one allegiance which has primacy, God the Almighty as revealed through the Lord Jesus Christ. As he listens to the Spoken Word, he is not given the answers but is given a framework of reference within which to work. He is not given

palliatives to ease his weary soul but God's Word in stern judgment against the inadequacies of his life, conduct and attitude. As he participates in the sacraments, he confesses his sins before God and repents; from His forgiveness he takes renewed strength and freedom. It is this membership and participation in the community of the believers which is essential to every Christian in order to know what God calls one to do and in order to draw upon the strength of the congregation to withstand pressures.

We have also stated that the lawyer has a vicarious personality which is essential to his practice of the law. We have referred to the lawyer who remains the pure technician and represents the interests of his client regardless of what they may be and to the lawyer who permits his personal views and beliefs to influence his relationship with his client. The former may be amoral. The latter may be ineffective. The lawyer who recognizes the essential function of the vicarious personality will realize that his acceptance of the lawyer-client relationship is voluntary and the identification does not and cannot be complete, for complete identification would make the client's personality and standards those of the lawyer. Such identification is dangerous.

To sense the true dimensions of this danger, one must have some understanding of the Christian concept of the body. The Christian faith as revealed in the Old Testament has always accepted the Hebraic as opposed to the Greek conception of the body. The Greek dichotomy of body into mind, spirit and flesh is essentially false. The biblical view of man is that flesh, blood and mind are one and inseparable and that man is one total being. In terms of this concept, one cannot fractionalize one's life, applying a different standard of ethics in each area, and assume that the whole is unaffected. The business man who regards his workers as a unit for all purposes also tends to apply in varied degrees the same standard to himself, his friends and his family. Likewise with the lawyer, the vicarious personality and the true self are part and parcel of the same man. The vicarious personality can in the face of weakness in the lawyer's real self become so dominant that the client's interests become those of the lawyer's real self. If this vicarious personality is to serve this valid purpose of objectivity, it is essential that the true self have a form of stability and commitment. Or, to rephrase the idea, it is essential that the true self control, influence and mold the vicarious personality. It is inevitable that the two should react on each other, but one must be subordinate.

The dilemma and temptation of this type of experience is not unknown to the Church, for Christ during His life and at the Cross voluntarily identified Himself with a sinful mankind and through

His crucifixion took their sins upon Himself. This identification was voluntary, but it was not total. Christ understood through His own flesh and blood the weakness and sinfulness of man, but through His faith in God the Father He was true to the essential Sonship which was in Him. His insight into the need of the dispossessed and disinherited, His ability to identify Himself with them and yet His strength to withstand the temptation of total identification and to remain true to His Sonship—all this sprang from His basic commitment to God the Father.

Likewise the Christian lawyer through his faith is called to understand the voluntary nature of his vicarious relationship, the occasions when he should and should not assume it—depending on the needs of his client and the circumstances of each case—the function which it serves and the necessity to limit its function because of his commitment as an officer of the court and a trustee of the legal system. Thus, the ideal lawyer is capable both of immersing himself in his client's affairs almost to the point of self-identification and of drawing back at the proper moment because of the need for objectivity in presenting the case and in serving as an officer of the court. Such ability requires tremendous stability and strength.

Secondly, in the practise of law, the Christian Faith is relevant in terms of the lawyer's rededication of himself to his task. The practise of law can often become a humdrum and monotonous job like any other occupation. The drawing up of wills, the legal research, the preparation of trust and estate matters, the prosecution or defense of a criminal, the preparation of a complicated anti-trust suit—all these matters, however good one's craftsmanship may be, can become monotonous. And, with this monotony, there is always temptation. Again the participation in the worship of the community of the believers is essential.

Thirdly, in the practise of law, the Christian Faith is relevant at the point of the simple but vital decisions; and for the young lawyer there are many such decisions. What kind of practise does one wish to have? Will one shun the criminal and divorce cases because they are unseemly? Where will one locate one's practise? In a large or small city firm? In the government? In a corporation? What standard of living does one wish to maintain, and what does this entail? I would suggest that the Church does not tell any lawyer what his decision should be at this point or that any decision is Christian or non-Christian, but it does provide some factors which he should consider in arriving at these decisions.

I have suggested that the Christian Faith is relevant to the practise of law in the resolution of tensions, the rededication of one's self to the law and the formulation of decisions. Its relevance can be under-

stood only through worship in the congregation, through the repentance and the death which accompanies all prayer and through the sense of rebirth which accompanies forgiveness. To the "Gentile" and the nominal Christian who seeks peace of mind, this power of worship in the Church and this power of the Holy Spirit to shatter and renew one's being must remain a mystery. And, mystery, stumbling-block and foolishness it continues to remain until each man can accept His Call and can understand the meaning of salvation by faith.

At this point we ask how the Christian Faith is relevant to the lawyer and his legal system and to the legislator and his political system. As stated above, I am quite sure that the Christian Faith tells neither the lawyer nor the judge nor the politician what his decision should be concerning the simple and complicated legal and political matters with which each deals. Indeed, there is little reason to assume that two lawyers, judges or legislators, one Christian and the other non-Christian, would arrive at different decisions concerning the same matter. They might and they might not.

However, the major teachings and doctrines of the Church are relevant to the lawyer and legislator in the formulation of decisions. The doctrines of love, sin, history and power cannot be ignored, for they are relevant to almost any decision.

Let us consider the doctrine of love. It is axiomatic that God so loved the world that He gave His only Begotten Son, Jesus Christ, that the world might be saved. Indeed, if one were to define God, He is Love. And this sacrifice of Jesus Christ means to every Christian that each man is a child of God, loved by God and equally precious in His sight, and that Christ died for each man.

One indicates one's love for one's fellow man by the fairness with which one treats him and by the degree to which one is willing to listen to him. Legally, this would be called procedural due process, a right guaranteed by the Constitution to every person. In argument before the court concerning the lack of due process, the lawyer, whether Christian or non-Christian, will articulate his concern for the lack of fairness with which a defendant has been treated in legal terminology. Yet the lawyer's awareness and his raising of the issue and the judge's response to the issue may be due only to the degree of sensitivity which both possess as a result of their attitude towards and conception of the dignity of each man.

Let us consider the doctrine of Sin. The Christian Faith teaches that man through his pride is in continual rebellion against God's Will. Men, impelled by the urge to make themselves little gods, individually and collectively seek security and power at the expense of others. Indeed, men, always painfully aware of their finiteness, seek to extend it into infinity. It is because of this very perverseness in man's

nature that law is necessary—necessary to protect the minority from the majority and equally necessary to protect the former majority, now the minority, from the new majority.

Let us consider the nature of history. The Christian believes that the Kingdom of God is both here and not here. It is here in the world through the presence of the Holy Spirit in the Church; it is not here in that the world is still ruled by force, violence and law. The Kingdom will be revealed in its complete fullness in the Second Coming of Christ on the Day of Judgment.

However much one may wince at this statement, it contains a profound significance in terms of the hopes of any Christian. There can never be complete and full justice for the world until the Second Coming. Yet there can be partial justice. There can be the just solution of many of today's problems, but these solutions will raise new problems and new injustices. The Christian is called to strive for a just solution of today's problems and the ones which will arise tomorrow, but he does not believe that the world gets better and better because of his efforts and that continual progress, however defined, will bring his salvation. Thus, the Christian can work with both the liberal and the conservative in the solution of any political and economic problem, but he parts company with both at the point at which each defines his expectations and hopes. The Christian, seeing man as made in the image of God and thus understanding the tremendous part which the legal system can play in laying the foundation for man's redemption, always has hope for man's future; but knowing of man's perversity and thus never forgetting the necessity for the restraining influence of the law, his hopes for man are always limited.

Let us consider the question of power. In any situation there is the play of power, whether it be between individuals or nations. As for nations, one must accept the existence of power as a fact, the only question being the exercise of that power. This can be exercised in such a manner as to serve and deny God's purpose, at one and the same time. The Christian Faith cannot say either to the legislator or to the diplomat that this exercise is Christian and that, unchristian. Before a decision can be arrived at, there is still the need for rigorous analysis. At this point the doctrines of the Church concerning the role of nations is relevant. The writer would suggest that it is unfortunate that there is such confusion at this point, for many Christians either shy away from the exercise of power or assume that the Second Coming is already here and thus that the world can be ruled not by the balancing of power but by some strange mystical moral order. Here the Christian is often as much confused as the lawyer who equally assumes that the "Second Coming" is here and that the world can be ruled by some strange legal order. This is not to say that the questions

of morality and law are not relevant in the formation of foreign policy, but they are hardly substitutes for the concept of the balance of power. A more thorough understanding of the doctrines of the Church would probably avoid this tendency on the part of the Christian and the lawyer to deify their own systems and see them as the answers to complicated problems of foreign policy.

A lawyer who held the above-stated views would develop certain guideposts in analyzing and trying different types of cases. In criminal cases, regardless of how heinous the crime, a defendant has a constitutional right to be treated fairly and as a person. Regardless of how honest and upright our law-enforcement officials are (and they are, on the whole, a conscientious and dedicated group), still power does corrupt. The exercise of the government's power has to be scrutinized with great care, and safeguards must be maintained to ensure the protection of the defendant. In drawing up legislation, whether liberal or conservative, a legislator would recognize the will to power of different groups, the tendency to deify the interests of these groups and the need to surround such groups with checks and balances which would contain their power and interests within legitimate and reasonable limits.

These doctrines of the Christian Faith are relevant. There is nothing in the Bible or the teachings of the Church which states that a lawyer must adopt a certain position in a case or that a legislator must be either a conservative or a liberal; but there is much which requires the Christian as lawyer and legislator to apply the major insights in his analysis of problems. If one were to consider a question such as desegregation, the writer would suggest that few Christians could legitimately disagree with the Supreme Court decision in 1954[1] which struck down the old interpretation of the equal protection clause; but Christians could easily differ among themselves as to the best method of implementation. At this point no Christian can avoid a critical and honest analysis which is based on the available research data of the social sciences and which considers the interrelationship of objective, method and resources.

In many ways these insights and teachings do limit the Christian as lawyer and legislator. Yet within these limits there is tremendous freedom. God as creator also speaks to us through the medium of all the disciplines, and the Christian lawyer and legislator have this breadth of knowledge which they can use and analyze, depending on the nature of the problem with which they are wrestling. Another aspect of this freedom is an openness to new ideas and new answers. The Christian who understands the meaning of God's Judgment and Redemption is always ready to have his present ideas and methods

1. Brown v. Board of Education, 347 U.S. 483 (1954).

and answers rendered outmoded and to be receptive to new possibilities in every area of life.

To be able to make wise and courageous decisions, to be free and open to new answers and to understand the relevance of the Christian Faith to one's work is merely to emphasize both the necessity of a life of worship in the Church and the importance of a study of the Biblical faith and the thinking of the Church, ancient and modern. Without this type of discipline we merely become hothouse Christians who wither away in the blast of the world and whose sentimentality and wishy-washy thinking is more a danger than a blessing.

Previously, the question was asked whether man's justice could be separated from God's Love and Mercy as revealed through Jesus Christ. For the Christian, the answer must be no. Yet, there is still the question of how God's Love manifests itself in the man-made justice of a system which does not recognize love as an objective.

The answer to this question is an intricate and involved one which is beyond the scope of this writer. However, I would suggest that the Church can be one of the crucial factors in a discussion of this question. For example, it is self-evident that there are unconsciously and consciously incorporated into our legal and political systems certain assumptions which are widely held throughout the country. These assumptions exist concerning our political system itself and concerning topics such as labor unions, the regulation of business, public and private power, etc. The legislative body works on the basis of these assumptions. However, through the workings of many intricate factors, a once accepted assumption may come to be regarded as outmoded. Such a shift in thinking reflects itself in sharp political battles between the two interest groups which are favored by either assumption. Eventually the conflict is resolved. A new or modified assumption is adopted. A new bill is passed. Such a process often takes years.

The same is true concerning the courts. There are often two or three major cases which deal with a particular field of law and lay down the major rationale for an analysis of that area. Future cases then tend to implement and spell out the consequences of the leading cases. However, even here, over a period of time, assumptions become outmoded for various reasons, and eventually the old leading cases are overruled and replaced by other leading cases which incorporate new assumptions. For example, let us consider *Erie v. Tompkins*,[2] which overruled *Swift v. Tyson*.[3] In the latter case, Justice Story assumed that there was a natural law to which the federal common law should conform. During the next century this assumption of a

2. 304 U.S. 64 (1938).
3. 41 U.S. (16 Pet.) 1 (1842).

natural law became outmoded and superseded by a pragmatic approach to the law, articulated ably by Justices Brandeis and Holmes. Once this assumption was undermined, a new assumption grew through the cases and blossomed in *Erie v. Tompkins.* A new line of authority was then established. The writer would not suggest that this was the only factor which brought about *Erie v. Tompkins,* for there were certainly other important policy considerations such as the desirability of uniform results in both the state and federal courts.

Another example is the decision[4] rendered by the Supreme Court in 1954 concerning segregation in public elementary schools. What the court did here, despite the lack of clear direction concerning the original intent of Congress in enacting the fourteenth amendment, was to declare invalid the former assumption underlying the equal protection clause and replace it with a new assumption. Again there were many other factors which led to this major decision, but basically the court incorporated a new assumption into the interpretation of this clause.

The only explanation for changes in the legislature and in the courts is a change both in the economic and social conditions of the country. It would be naive to suggest that the Church alone is responsible for this change, whatever its nature, for there are usually many groups which are fighting for the change. However, if the Church has been preaching God's Word and stating what is His Judgment concerning the injustices in our society, then the Church has been laying some of the groundwork for the change which a decision or statute incorporates.

The Christian lawyer and legislator should take the initiative in laying this groundwork. When they are so working and when God's Love manifests itself in the Church and in other groups, the morality and thinking of the country reflects it. The more dynamic the Church, the more aggressive and more effective are its laymen, including the lawyer and the legislator.

There is no simple answer to the question of how God's Grace manifests itself in man-made justice. Still, from whatever perspective this problem is approached, the Church and its laymen can be vital factors, and the lawyer, because of his unique position in our society, is probably the crucial layman.

Conclusion

In this paper the writer has attempted to suggest the broad outline of the problems of the lawyer in private practice and in public life and the relevance of the Christian Faith to these problems. The writer admits that he does not know the answers, but he does hope

4. See note 1 *supra.*

that the above will at least be some basis for future discussion and thought. The paper is admittedly superficial, for one could write volumes on the questions raised in each section. However, one can only hope that it is not irrelevant.

I have suggested that the lawyer faces, first, the personal problem of withstanding the conflicting pressures of private practice and the ideological problem of bringing the teachings of the Church to bear on his analysis and decisions. The only answers which the writer has been able to formulate have been participation in the life of the Church and a deepening of one's understanding of the biblical faith.

In spelling out these answers, I have tried to proceed with caution. I think that the lawyer is inclined to be hostile initially to the Church when it claims to have answers to some of his problems. The lawyer lives at all times in "the world." He is accustomed to the Church which speaks on Sunday morning, but not to the Church which tries to speak to his work as a lawyer. To do this, humility and limited goals on both sides are necessary.