

St. James Cathedral, Toronto
January 5, 2005
Interfaith Divine Service
to mark
The Opening of Her Majesty's Courts in Ontario

A sermon by

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It is a privilege, as the 12th Primate of the Anglican Church of Canada, to be invited to address you on behalf of the faith communities of the society you serve. We are here to invoke the blessings of the Holy One on the courts – those who preside, and those who appear before them – that divine justice may be served in their judgments.

Sir Francis Bacon, 17th century philosopher, and sometime Lord Chancellor of England, referred to the four pillars of government as “religion, justice, counsel and treasure.” It is an affirmation based upon a clear understanding that the whole Creation is ordered by laws which reflect the divine wisdom and purpose. And it is an affirmation that ultimately all our efforts towards the establishment of justice submit to the judgment of God.

The Creation is no accident of chaos, but is divinely ordered, and we discover increasingly the complexity of the laws that govern an ordered universe. When God called into being a people – a community – his first gift to Israel was the Ten Commandments. They served as a Charter of Freedom for God's people, a guarantor of an ordered society of justice and peace.

Christians have come to treasure the summary of the Law by Jesus:

Thou shalt love the Lord thy God with all thy heart, with all thy soul, with all thy mind, and with all thy strength

AND

Thou shalt love thy neighbour as thyself. On these two commandments hang all the law and the prophets.

The promotion of justice, then, is the promotion of right relationships with the source of all life, and with one another. And in that quest the legal profession and the courts have a leading role to play. Foundational to the evolution of codes of law and the establishment of precedent is a conviction that there is a natural law that governs human relationships, as reliable as those that govern the cosmos. Jesus refers to the law and the prophets, which have always gone hand in hand. It is the role of the prophet to assure that the law serves the cause of justice. That is, to quote my friend Marcel Gervais, the Archbishop of Ottawa:

“... that it vindicate the rights of the weak and the poor, that it insist on truth and integrity, that it strive to heal what is broken, and that, however imperfectly, it represent for us some vision of what we hope our society might be, and of how we ourselves should act toward one another.”

In that sense your role, and particularly that of judges, is prophetic in some of the precedent-setting decisions you are called upon to render. The same prophetic consideration calls upon lawyers to advocate for change in laws that do not promote the cause of justice in particular circumstances.

There is a long tradition of lawyer-saints in the Christian tradition, including such well known names as Cyprian (258), Gregory (270), Hilary (368), Ambrose (397), Jerome (430), Benedict (547), and Thomas à Becket (1170). Since the 14th Century, however, the patron saint of advocates, attorneys, barristers, judges, jurists, lawyers and notaries has been St. Ives, himself a judge, advocate and priest. A contemporary of Danté and Louis IX of France, he was born in Brittany in 1253, and counted among his teachers St. Thomas Aquinas. Following his theological formation, he studied civil and canon law, and became the ecclesiastical judge of Rennes. He became famous for his impartiality and wisdom in matters both civil and ecclesiastical. He was well known for his charity and austerity. Ultimately he followed the example of St. Francis by giving all his possessions, including his judicial robes, to the poor. He was ordained at age 38 and continued to advocate before the courts, while serving two parishes. Four years before his untimely death at age 50, his efforts resulted in the building of a hospital and chapel beside his family's chateau near Tréguier.

While there have been many great jurists who might have been chosen as a suitable patron, the choice of Ives puts a particular focus on a passion for justice for the poor, and for a realization of the divine law of right relationships – surely an example worth emulation.

The Muslim concern for justice before God is reflected in teaching from the Qu'raan:

“O true believers observe justice when ye appear as witnesses before God, and let not hatred towards any induce you to do wrong: but act justly; this will approach unto piety; and fear God, for God is fully acquainted with what you do.”

The Hebrew prophet Micah tells us:

“You have heard, O man, what is good; and what does the Lord require of you but to do justice, to love mercy, and to walk humbly with your God.”

And Christians in their baptism promise to “strive for justice and peace among all people and to respect the dignity of every human being.” In that promise is the recognition that justice is not always self-evident, or easily achieved. It is rather the goal for which we strive in all human behaviour, and chiefly through the administration of the rule of law.

When I became Bishop of Montreal, what came with the office was the role of Visitor to Bishop's University. I came to realize that the Visitor has a judicial role parallel to that of the Superior Court of Quebec. On two occasions I was called upon to hear a case that would have been before the Superior Court had the University not had a Visitor. The process leading to my decision and written judgment in each case was a powerful experience. It gave me an insight into the tools of discernment available to a judge, and the limits of those tools. In time the University conferred upon me the degree of Doctor of Civil Law, honoris causa. Would that the degree conveyed the wisdom and the competence in suggests!

Another learning for me in that situation is that in a court of law one is not simply dealing with problems, but with human lives, each one created to reflect the image and likeness of God. Judge Joan B. Carey, who oversees New York's mammoth court system with 550 judges and a calendar of over 167,000 cases in civil courts alone, said in an interview that she tried to follow in her own career the religious principles instilled in her by her parents. I quote:

“It’s all premised on seeing everyone – jurors, defendants, litigators, attorneys – as my brother and sister.”

As much as faith communities will rejoice to see their values reflected in the laws of the land, it may be that on occasion they will be at variance with one another. Such an incident is the recent decision of the Supreme Court of Canada to permit provinces to authorize the Marriage of persons of the same gender to one another. Many faith communities find that to be inconsistent with their inherited teaching and tradition. They are of course at liberty to maintain their own standards as faith communities. To quote Dr. Reginald Stackhouse, Principal Emeritus and Research Professor of Wycliffe College, and sometime Progressive Conservative Member of Parliament:

“There is still a place for the sacred, but it is entered by personal choice. The secular is where all members of a society can live together. Accepting that distinction is fundamental to what Canadians have always prized – the “peace, order and good government” that have been part of our Constitution since 1867.”

Laws in a pluralistic society such as ours must embrace everyone. That accommodation of inclusion and respect for one another across all distinctions, religious and secular, is not incidental to Canada being a destination of choice for those who seek justice, freedom and peace.

I was a prison chaplain long enough to understand that historically the criminal justice system has been able to do little to reduce the rate of recidivism. That may be because our principal focus has been on retribution, which has a limited positive effect on human behaviour. Of more hope is a growing emphasis on restorative justice, which recognizes three key parties to crime – the offender, the victim and the community. It is a dedication to restoration, healing, responsibility and prevention. My glimpse into the potential of this approach was when, following the murder of one of my priests, I visited his killer in prison, his parents and his faith community offering counsel and support. There are community groups dedicated to the reintegration of offenders into society following their release. A wise jurist will recognize those who could most likely benefit from a restorative justice approach that leads to healing of the victim, the offender, and the well being of society.

The first reading from the Prophet Isaiah speaks of the Lord’s love of justice; the second from the letter of St. James cautions us that judgment shall be without mercy for those who have shown no mercy and asserts that mercy triumphs over judgment. So may God guide all the members of Her Majesty’s Courts in Ontario that justice may be served for the benefit of all and in accord with the Divine Law.