

Westminster Church

July 1, 2007

Paul and the Law

Today's reading is taken from the Lectionary for this Sunday. Any quotations are from the new English Version of the Bible. I let the Lectionary do the selecting to avoid giving you the impression that I had any ax to grind or personal message to deliver or that I was more of a scholar than I am. I was hoping for something dramatic and attention getting—remember last week, we had legions of demons driving a herd of swine over a cliff into the sea— what I found was a text fit, I guess, for an old lawyer. However, examination of Paul's thought on law generally reveals issues and ideas that are worth thinking about today; and the Supreme Court decision last Thursday regarding race and our public schools (which I will not discuss further this morning) provides a relevant and poignant background for our reflection.

Paul – Jew, Roman citizen, preacher, poet, advisor and saint (and polemicist—preached passionately to the struggling branches of early Christianity the great commandment which is the foundation of Christian ethics. To the Romans he wrote: “Owe no one anything, except to love one another, for one who loves another has fulfilled the law”, and that theme is repeated in today's reading.

Paul also thought and wrote a good deal about the origins and effect of the enterprise of subjecting human conduct to the governance of rules. That is what I mean by “law”, and I think that is what Paul meant, too. His references to law are numerous. By the way, his ability to argue opposite sides of a proposition depending on the context suggests that he would have made a good modern day litigator—but that's another story.

In response to questions from converted gentiles in the church at Galatia as to whether they were to be subject to circumcision as well as dietary and calendar rules established by Jewish law, Paul writes “if you are led by the spirit you are subject to the law (5:16) He goes on to refer to pre-Christian Jews as “imprisoned and guarded under the law”, stating “now that faith has

come we are no longer subject to a disciplinarian.” (5:25) to the Corinthians he writes “the letter kills but the Spirit gives life.”

On the other hand to the Romans, addressing issues apparently not so clearly drawn, he proclaims: “Do we then overthrow the law by this faith? By no means! On the contrary we uphold the law.” (3:31)...”So the law is holy and the commandment is holy, just and good.” (7:12)... it is...doers of the law who will be justified (2:12). Then again in the same letter we read “no human being will be justified by deed prescribed by the law, for through the law comes the knowledge of sin.” In several places in his letter to the Galatians he refers to the “curse” of the law. And to the Romans he writes that “The law brings wrath.”

These various utterances are not easy to reconcile.

We can make historical and modern sense of Paul’s writings on the law if we recognize that his focus on law was two-fold. First, he asked “What then was the purpose of the law?” It was, he writes, “added because of transgressions.” In other words as Colin Kruse has pointed out in his book *Paul, the Law and Justification*, the purpose of Jewish law was to stem moral decline in Israel. More broadly, I think, Paul’s statements to the Galatians include the idea that law is aimed at minimizing misconduct generally.

Secondly, Paul raised interesting questions about self conscious or slavish adherence to rules. He asserts that reliance on law as a guide for behavior can bring a curse—clearly meaning not some supernatural threat but practical difficulty or trouble. One such curse is that mere observance of the law’s prohibitions becomes the occasion for boasting. In his letter to the Romans, Paul reminds his readers how far they fall short when they confuse the adherence to minimum legal duties with the aspiration toward a life directed by love of neighbor and self. How many times over the last half century have we heard politicians—or others— vindicate with pride the shoddiest of conduct by claiming that they violated no law?

Another difficulty with legalism, Paul observes in his letter to the Romans is that “I would not have known what sin was except through the law.” At first blush, this seemed to me a little harsh, or maybe a little self

indulgent, but Paul receives convincing support from Justice Oliver Wendell Holmes, a life long agnostic, in “The Path of the Law” in an address he delivered in 1907:

“When I emphasize the difference between law and morals I do so with reference to a single end, that of learning and understanding the law.... If you want to know that and nothing else you must look at it as a bad man, who cares only for the material consequences which such knowledge enables him to predict, not as a good one, who finds his reasons for conduct, whether inside the law or outside of it, in the vaguer sanctions of conscience.”

There’s not much question that application of the law all too often invokes wrath. Retribution is an integral part of any system of criminal justice. That capital punishment is a deterrent has been disproven in study after study; it is institutionalized revenge. Modern litigation is war... and so on.

What is it about the law as an institution that prevents it from being more instrumental in bringing about the fulfillment of the one great commandment, that makes it part of, rather than a solution to, the human predicament? The irony is that the very characteristics which make law useful and worthwhile are also those which impose limitations on it. Paul was quite right in pointing out the unavoidable pitfalls of law and at the same time upholding law as good and even holy.

An essential characteristic of law- so obvious that it’s easy to overlook- is that it consists of rules. If rules are going to be useful—in our families or our nation they have to meet some minimum standards:

They have to be generally applicable

They have to be known to those who are required to obey them

They have to be clear enough to permit determination of when they have been broken

Compliance must be reasonably possible

(These four briefly stated rule requirements summarize endless volumes of jurisprudence, but I think you get the idea)

One consequence of efforts to achieve these basic desiderata is that almost all legal rules are expressed as “thou shalt not” commands.

In his book *The Morality of the Law* Lon Fuller describes a moral scale:

“As we consider the whole range of moral issues, we may conveniently imagine a kind of scale or yardstick which begins at the bottom with the most obvious demands of social living and extends upward to the highest reaches of human aspiration. Somewhere along this scale there is an invisible pointer that marks the dividing line where the pressure of duty leaves off and the challenge of excellence begins.”

Elsewhere Fuller observes, as an example - appealing to older sports fans like me - of the duty- aspiration spectrum:

“In baseball errors are formally judged by experts and publicly announced, while brilliant fielding plays—the Willie Mays catch, for example, depend on informal opinion of fans and newspaper reporters. This practice may, of course, distort the pitcher’s earned run average, but we accept this distortion as a small price to pay for escaping the obligation to measure with precision what cannot be so measured.”

In 1954 our Supreme Court recognized that inescapably our common sense of humanity and decency forbade the continuance of racial segregation in public schools, and practice of racial segregation became a violation of a legal duty, a “thou shalt not.” Over time we have developed higher and higher minimum standards—that is, legal duties—governing, for example, child labor, pollution, as well as various forms of discrimination. But examples also abound of the difficulties involved in attempts to adjudicate or legislate our aspirations: affirmative action programs remain controversial and difficult to implement; our zoning ordinances can restrict nuisance and blight but cannot make our towns and cities clean and beautiful; so-called good Samaritan laws have proved very difficult to enforce and largely ineffective in most cases. Law cannot accomplish immediately the warm welcome of African-American children into predominantly white schools.

Only the most ardent libertarian would argue that the vast majority of our statutes and court-made standards of conduct do not have immense value in setting and enforcing standards of conduct which are recognized as the minimum necessary to preserve community security and basic human dignity. Our legal system does have the value recognized by Paul. That same system is subject inherently to many of the limitations and misuses pointed up in Paul’s letters. In a civilization more complex and complicated than

Paul confronted, law is called upon daily to deal with the most poignant and intractable of human problems, in the face of knowledge that as indispensable as the law may be, it will fail in almost every situation to provide clear and lasting answers to the deepest of human questions, longings and desires. Add up all the frustrations and limitations with the law today, and Paul's frustration will resonate for many, both inside and outside of the legal profession.

And if he were here today Paul would remind us, more poetically and eloquently than I can, that as the Christian Church, and as individuals and citizens we are called to aspire. In *Moby Dick*, Ishmael refers to Paul as the great Pilot and observes: "... the world's a ship on its passage out, and not a voyage complete; and the pulpit is its prow." The law is the pitch and caulk with which we seal our vessel as we voyage out, but it cannot set the course. Our calling is to excellence, to vision, to inspiration, to the more human, beautiful, lovely, tender and merciful. The law will follow if we persist in our pursuit. At the end of Mark's gospel, when Mary Magdalene and her friends sought Jesus, who was missing from the tomb, the angels did not predict that Jesus would re-appear with stone tablets to give everyone definitive, certain and sufficient answers...They simply said that he was going on ahead of them into Galilee.

Amen

D.G.K.