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*Peace without Justice:
Not Only Possible but Necessary!*

Archbishop Edmond J. Fitzmaurice Fall Lecture

12 November 1998

St. Thomas More Society

Wilmington, Delaware

I am, indeed, grateful for the opportunity to address this St. Thomas More Society. But you may be wondering what credentials I have to be giving this important lecture. Well, so am I! The only answer I can give is that someone here must have heard that I am one of those rare individuals who has seen every single episode of *Law & Order* on television at least twice! (And, besides learning constitutional law there, I can now check out *The Practice* for another angle on your profession!)

Now, before you dismiss that comment, and perhaps this whole lecture, as frivolous, please let me explain. Both shows that I've mentioned are popular and award-winning television dramas. While this may be neither the best nor even a desired venue for learning about the law,¹ it cannot be denied that these portrayals affect deeply our cultural understanding. Just look at the popularity of your profession in home viewing: from regular updates to court cases presented on the evening news to an entire *Court TV* channel; from analytical talk shows on CNN to actual litigation on *The People's Court*. Like it or not, television enjoys a widespread appeal and, as

¹ Cf. A. Bartlett Giamatti, *The Law and the Public*, in George H. Williams and Kathleen M. Sampson (eds.), *Handbook for Judges: An Anthology of Inspirational and Educational Readings* (American Judicature Society, 1984) 195-202 (arguing that the academy, the legal profession, and the press should take responsibility for teaching society about the law).

such, exercises a profound influence on public consciousness. Not even the law can escape the grasp of those tubular tentacles.

Even more to the point, the title for my lecture derives from the treatment of law on TV. It's a thought I've had ever since watching the reactions to the Rodney King trial and its verdict. In the midst of the chaotic aftermath of that event, television newscasts showed people in Los Angeles proudly marching behind a banner that proclaimed "No Peace Without Justice!" Apparently, this was their rallying cry -- and it seemed to provide ample justification for any riotous behavior. As I watched this scene, I found myself yelling at the television: "NO ... that's not right. You've got it backwards!" Tonight, without the yelling or a TV set, I'd like to present this thesis to you. Hopefully, no riots will follow.

Admittedly, this notion of "peace without justice" may seem like an anomaly. In fact, nowhere in my research did I find support for this idea! I came across numerous articles on ethical issues and the law, and even a list of "ten commandments" for the judiciary,² but none of them mentioned my topic. I suppose, then, I'm going out on a limb here!

I'd like to talk briefly about peace and justice in four realms: those of *society*, *court*, *spirit*, and *life*. I offer you this simple outline not only so that you can follow along, but, more importantly, so you can tell when I'm near the end!

The Realm of Society

In our contemporary society, law is certainly associated with justice. As the backbone to any system of social interaction, law provides for justice in as much as it gives protection to our civil rights. The long-admired symbol of the "scales of justice" suggests this. Our courts seek to balance competing interests (between persons or in relation to the state) as a means of guaranteeing equal opportunity to all persons under the law. In this symbolic vision, "peace" is to be a consequence of justice and the result of law justly enforced.

However, while the scales of justice represent a worthy vision of law for society, I see two potential problems, one inherent in the system and one emerging in its practice. The inherent problem has to do with the definition. What exactly is meant here by "*justice*"? The difficulty in answering that question has recently been posed by judge Joseph Bellacosa:

From countless additional sources, I could assemble lessons about law as a measurement of an ordered state; equity as a fair, individualized application of the principles of law; and justice as the blend of the two, and the key benchmark of a good society. If we search

² Edward J. Devitt, *Ten Commandments for the New Judge*, in Handbook for Judges (*sopra*, note 1), 33-40.

for justice, then, as though through a prism, it often seems to be a kaleidoscope of oscillating dots, shimmering and shifting from Aristotle's lofty idealism to St. Thomas's ever-ready balancing act and then on to Holmes' frank realism. Quite a sweeping spectrum! The rub with idealized justice, however, is its administration and delivery by fallible human ministers, inescapably through human institutions and instrumentalities. It is, thus, very hard to catch, connect and pin down those elusive, bouncing dots.³

Even beyond definitions is the problem emerging from a relatively recent disassociation of peace and justice. How is peace to prevail as a natural consequence of law when the justice that is supposedly rendered by judge or jury is not accepted? How many times have you seen press conferences where someone decries a supposedly misguided ruling, or news reports where opinion polls are cited as counter-arguments to an unpopular sentence? Worse yet, I've just read an advertisement for a soon to be published book, called *Getting Even*,⁴ which, as you might guess, argues that revenge can be morally justified as a form of justice and, thus, should be permitted within the framework of our legal system. (God forbid!)

It seems, then, that in the realm of society, the connection between justice and peace is tenuous, at best. Justice itself has become a rather ambiguous term, and peace can no longer be guaranteed as its practical outcome. Perhaps the two find a better home not in society at large but in the process of your work.

The Realm of the Court

At this point, you might readily conclude that, if peace does not follow from justice out there on the streets, at least the connection between the two can be promoted in the courtroom. After all, the very actions of the participants at court, both lawyers and judges, are meant to ensure justice and promote peace. Is not justice the very first of your professional values,⁵ and fairness the cardinal virtue of an ethical system of law? Is not this cornerstone to your code of ethics what rightly can make each of you a "wise counselor" or "lawyer-statesman" in a potentially peaceful world?⁶

While I hope you answer "yes" to these questions, I cannot help but notice a glaring irony. And that has to do with the fact that our legal system, the realm of the court, is one which operates by means of an *adversarial* process! We might even go so far as to say that the protection of justice sought in a court of law actually assumes a lack of peace in our midst. On either side of the bar

³ Joseph W. Bellacosa, *A Shared Spirit of Justice*, 37 *Catholic Lawyer* 269-293 (1997) at 270.

⁴ Charles K.B. Barton, *Getting Even: Revenge as a Form of Justice* (Open Court Publishing, 1999).

⁵ American Bar Association, Commission on Professionalism, "... *In the Spirit of Public Service: A Blueprint for the Rekindling of Lawyer Professionalism*, 112 *F.R.D.* 265 (1986): "1. Preserve and develop within the profession integrity, competence, fairness, independence, courage and a devotion to the public interest."

⁶ Cf. James W. Perkins, *Virtues and the Lawyer*, 38 *Catholic Lawyer* 185-209 (1998).

are opposing factions, warriors for justice engaged in an adversarial battle over individual or collective "rights," the possession of which is to be defended in opposition to a real or potential intrusion and conflict on the part of another.

To work successfully in this kind of system, some in the legal profession assume that it is necessary to set aside one's "personal values" -- as if these are totally subjective and, therefore, dangerous beliefs that impede the process of justice. To avoid this danger, agents of the law are to become, in the words of Richard Wasserstrom, "amoral technicians" who passionately pursue what is best for one's client.⁷ (Justice, in this schema, seems to be of even higher value than Truth!)

But, as has been rightly argued elsewhere,⁸ neither the adversarial system nor the basic principle of non-accountability can be validly held to excuse agents of the law from acting morally. The ethical responsibility that accrues to all persons in society by virtue of being human is not set aside when one enters the courtroom. Nevertheless, the fact that the legal process in which you work is essentially an adversarial one suggests, to me at least, that true peace does not necessarily follow from justice, neither in the system itself nor in how it is practiced. Thus, I think there needs be something more.

The Realm of the Spirit

I am inclined to think that peace is not a guaranteed outcome of justice precisely because neither peace nor justice are systematic. By that I mean that peace and justice are not elements of a legal system as much as they are elements of life, dual realities that begin from, and reside in, the interior dimension of human beings -- that is, in the realm of the spirit. Perhaps even more so than justice, peace is the approach that one brings to life, an attitude issuing from the spiritual core of each individual person more so than a quality characterizing the interaction of persons. And so, if we are to have true peace in our society, the justice of a law that is external to us does not suffice to guarantee it; rather, *forgiveness* is what is really needed.

On its surface, a call for forgiveness may seem to run counter to the legendary values upheld by **St. Thomas More (1478-1535)**. I cannot claim to be keenly aware of the life of this saintly patron of yours, but I do know that he was, and is, highly regarded as one who would stand fast for what is true and right, a heroic figure who would be loathe to cave in to the "soft" stance implied by piteous mercy. In words attributed to this man for all seasons:

⁷ R. Wasserstrom, *Lawyers as Professionals: Some Moral Issues*, 5 Hum. Rts. 1, 2-15 (1975).

⁸ Patricia L. Rizzo, *Morals for Home, Morals for Office: The Double Ethical Life of a Civil Litigator*, 35 Catholic Lawyer 79-96 (1992).

if we lived in a State where virtue was profitable, common sense would make us good, and greed would make us saintly. And we'd live like animals or angels in the happy land that *needs* no heroes. But since in fact we see that avarice, anger, envy, pride, sloth, lust and stupidity commonly profit far beyond humility, chastity, fortitude, justice and thought, and have to choose, to be human at all ... why then perhaps we *must* stand fast a little -- even at the risk of being heroes.⁹

Heroic steadfastness aside, I seek to support my thesis that forgiveness makes peace possible and that this peace is more necessary than justice, by appealing instead to the thought of another holy lawyer -- **St. Francis de Sales (1567-1622)**. By virtue of his education at the University of Padua, Francis de Sales himself developed into a first-rate lawyer. One biographer notes the stunning conclusion to Francis' comprehensive law examination by some forty-eight doctors, including the renowned Guido Pancirolo: "Those who judged him more devout than learned were astonished that he was as learned as he was devout."¹⁰ By virtue of his learning, Francis also became a sought-after judge, of sorts. The story is told of how the pope at the time (Paul V) consulted him on how to deal with the public and pernicious feud between the Jesuits and Dominicans with regard to the question of nature and grace; Francis suggested, rather judiciously, that the pope just tell both sides to keep quiet, since the disputed question could not be answered and continuing debate over it would bring no good -- no peace! -- to the Christian republic!¹¹ And, by virtue of his faith, Francis de Sales viewed the order and beauty of the Trinity as the basis of all human law, for God is "the infallible, most just, first and eternal rule for all good and all justice."¹²

Notwithstanding the acuity of his legal mind, the holiness of his spirit often led Francis to counsel the practice of mercy and forgiveness, over and above the need for justice. A few examples from his many letters of spiritual direction should suffice:

He once received correspondence from Jane de Chantal, who commented on how her blood was boiling toward the man whose gun had killed her husband while they were both out hunting. (Now there's a lawsuit in the making!) Francis gently replies to her that "God makes us see in these emotions how much we are of flesh, bone and spirit." And he urges the need for quiet remorse, saying "I am overwhelmed [*passioné*] when I see the graces God gives me, considering the offences I have committed."¹³

⁹ Robert Bolt, *A Man for All Seasons* (Vintage International, 1990) (1960) at 140-141.

¹⁰ Andre Ravier, *Francis de Sales: Sage & Saint* (translated by Joseph Bowler) (Ignatius Press, 1988) at 42.

¹¹ Ravier at 158-161.

¹² E. Lajeunie, *St. Francis de Sales: the Man, the Thinker, his Influence* (translated by Rory O'Sullivan) (S.F.S. Publications, 1986) I/116.

¹³ *Lettres* CCXCVII (to Baronne de Chantal, July 3, 1605), *Oeuvres de Saint François de Sales, évêque de Genève et docteur de l'Église, édition complète* (Annecy, 1892-1964), tome XIII, 67-68 (hereafter OEA).

In a letter to an unnamed cleric, who longed for redress against a calumniator, Francis writes: "I prefer taking no notice [*dissimulation*] to resentment." And he makes reference to the thought of Tacitus, who wisely notes how "Such things that one scorns fall away into [the realm of] the forgotten; only if one is irritated by it, does it acquire importance."¹⁴

To a governor in service of the Duke de Nemurs, who asked whether it is just to forgive someone who had been disloyal, Francis writes: "It is in this action [of forgiveness] that lies the greatest effort of strength and constancy of spirit, and that draws the greater favor from heaven."¹⁵

Finally, in a letter to a local abbess, Francis offers this counsel on how to appease a malcontented heart: "There is no (measure) of dishonor in forgiving, or if there is, it is only before the world."¹⁶

Beyond these realistic and practical bits of advice, Francis de Sales grounds his appeal to forgiveness over justice in a theological worldview that incorporates both the human and the divine. Contrary to the philosophical claim of the Stoics that wise men cannot show passion, Francis upholds the wisdom of pity or mercy as a "virtuous sorrow," one which "enters our hearts in order to bring us to a desire to deliver our neighbor from the evil he endures."¹⁷ As in all things merciful, "Compassion derives its great power from the love producing it."¹⁸

Ultimately, the compassionate love that undergirds the practice of showing mercy and granting forgiveness reveals the power of a supernatural grace. Francis rightly claims, in a sermon on the miracle of Jesus' raising to life the dead son of the widow of Naim,¹⁹ that "There can be neither justice nor mercy where there is no goodness."²⁰ And there is no greater demonstration of God's goodness and mercy toward us than the Incarnation, when, according to Francis, God "willed in this manner to make himself companion of our miseries so as afterwards to make us companions of his glory."²¹

Thus, every act of human forgiveness emulates, and redounds to, the glory of God. Francis explains this theological concept in this way: "(The) glory of God, in effect, consists of his mercy and justice; everything therefore by one or the other of these attributes contributes to his

¹⁴ *Lettres* MDCCCLXXVI (1621 or 1622), OEA, tome XX, 229-230.

¹⁵ *Lettres* CCX (to M. Antoine des Hayes), OEA tome XII, 251-254.

¹⁶ *Lettres* MCDXLIII (to Madame de la Forest, religieuse de l'abbaye de Bons), OEA tome XVIII, 242-243.

¹⁷ *Treatise on the Love of God*, book 1, chapter 5 (OEA tome IV at 36).

¹⁸ *Treatise on the Love of God*, book 5, chapter 4 (OEA tome IV at 268).

¹⁹ *Luke* 7:11-17.

²⁰ *Sermons for Lent* (OEA tome X at 312).

²¹ *Treatise on the Love of God*, book 2, chapter 4 (OEA tome IV at 101).

glory."²² It would seem, then, that our faith in a God who is characterized not only by justice but also by mercy leads us to the conclusion that peace *is* possible for the human spirit -- whenever and wherever we practice the art of forgiveness.

The Realm of Life

As a final thought, the question arises concerning this possibility for a peace without justice: can you in the legal profession really practice forgiveness? My answer, speaking to you as persons of faith and not merely as agents of the law, is a qualified YES -- or at least I certainly hope so.

Obviously, you are bound by your professional ethics to pursue justice for those you represent; it would be ludicrous to think that you could simply forgive every injustice in our society. (Besides, that would put most of you out of work!) But, thinking beyond the walls of the courtroom out into the realm of life, law should be construed as promoting the mutual progress of citizens. Speaking of this "teleology" of the law, Professor Robert Araujo urges that, "As our citizenship in the communities in which we live prompts us to exercise more and more our mutual need for one another, our recognition for interdependence over independence, the bond between the morality we practice and the future we enter together, becomes stronger."²³

And this bond -- what we might call the link between peace and justice -- is sealed by forgiveness. This lost art -- the ability simply to forgive one another -- holds the key to real peace in our society, a peace that actually *precedes* and *supercedes* justice. Perhaps it is not so easily practiced in a courtroom or boardroom, where the first concern is for the plight of the one you represent. But when you are you -- that is, not when you are representing someone else -- when you are father or mother, teacher, neighbor, friend ... in all these "extra-judicial" areas of your life, when you might otherwise be tempted to revert to the actions of the litigator that you have been trained to be, there is where you can practice forgiveness.

That such peace through forgiveness is possible is the gift we have been given in our Christian tradition. As Pope John Paul II explains in his apostolic exhortation on *Reconciliation and Penance*:

... the new commandment of love of neighbor; the yearning for and commitment to unity; the beatitudes of mercy and patience in persecution for the sake of justice; the repaying of evil with good; the forgiveness of offences; the love of enemies. In these words and ideas

²² *Sermons for Lent* (OEA tome VIII at 204).

²³ Robert J. Araujo, SJ, *The Teleology of Law: Responsible Citizenship and Discipleship*, 35 *Catholic Lawyer* 57-78 (1992) at 78.

is the original and transcendent synthesis of the Christian ethic, or more accurately and more profoundly, of the spirituality of the New Covenant in Jesus Christ.²⁴

That such peace through forgiveness is necessary is now something each of you needs to decide. Recall, if you will, the beautiful parable of the Prodigal Son -- more aptly described as the tale of the Merciful Father.²⁵ In that story, you may be inclined to see yourself as the younger son who finally returned home; in some respect that contrite child is somewhere inside each of us. As our Holy Father notes, "*to recognize oneself as being a sinner, capable of sin and inclined to commit sin, is the essential first step in returning to God.*"²⁶ Or you might wish to align yourself with the older son, who makes a really good case for having suffered a familial and workplace injustice; in some respect, this self-defense is natural to each of us. But only when both father and brother forgive, can the celebration of renewed life and family love begin.

So, too, with each of you. Continue to strive mightily for justice. But at the end of the day, and now at the end of this lecture, go home and hug your children. Show them what it means to forgive. Then will God's peace be with you.

²⁴ John Paul II, *Reconciliatio et paenitentia* (apostolic exhortation on reconciliation and penance in the mission of the Church today, 1984), at #35.

²⁵ *Luke* 15:11-32.

²⁶ *Reconciliatio et paenitentia* at #13.