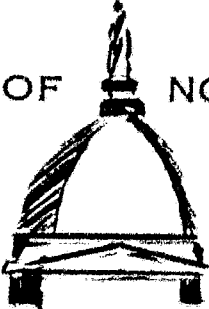


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REV. LLOYD W. TESKE, C.S.C.,
UNIVERSITY CHAPLAIN - EDITOR

LAW AND MORALS

In a speech at the annual Louis Marshall Award Dinner of the Jewish Theological Seminary in New York, Justice William J. Brennan of the U. S. Supreme Court recently undertook a defense of the court's decisions on school prayers and on obscenity laws. The premise of his defense, according to press reports, was that the jurist is concerned above all with the good of society, while the moralist is primarily interested in the good of the individual.

*You may eat meat on Friday,
February 12.
Bishop Pursley has granted
a dispensation.*

By coincidence, his fellow justice, Arthur J. Goldberg, appeared on a television program two days later and took exception to the ancient adage: "You can't legislate morality." Nonsense, said Justice Goldberg; since all laws involve right and wrong, and consequently legislate morality, it would be pointless to have any legislation if the adage were sound.

"If you adopt this thesis, which I think is a very unfortunate thesis, then why adopt any law?" Justice Goldberg asked. "The idea that you cannot legislate morality - civilized behavior - is a foolish, nonsensical idea."

The truth is, of course, that morality is not merely individual. Since the individual has moral obligations toward his fellow men and toward society, there is also a public, social morality. Law is a clumsy instrument and so is of limited effectiveness in enforcing moral obligations. But it can, should and does enforce at least the basic prescriptions of public morality.

Justice Brennan is well aware of this. At a later point in his speech he said: "Judges in fact daily administer innumerable laws

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CILA COUNCIL FOR INTERNATIONAL LAY APOSTOLATE

A Program for the Students of the University of Notre Dame

Freshmen who are interested in knowing more about CILA are invited to an orientation program in the Library Auditorium at 7:00 this evening. Speakers will be Father Lawrence Murphy, CILA chaplain, Dr. William D'Antonio of the Sociology Department and Mr. Thomas Lorch of the English Department.

IN GOD MAN ATTAINS THE IMPOSSIBLE "Life," Schopenhauer once observed, "is a sham, an annoying and useless interruption of the steady calm of eternal nothingness." Cynicisms such as this were very common in the writings of the ancient pagans, for whom the mystery of life and death was an unresolvable riddle. Horace, as a faithful disciple of Epicurus, for example, warned his readers to expect very little from life. "Think every day your last," he said, "and then every hour will seem a gift." For the best of the ancient pagans, Gustav Staehlin says, "the thought of eternal life was scarcely more than a comforting metaphysical hypothesis." And, as Fr. George T. Montague points out in Maturing in Christ*, this hypothesis was powerless to lift the great shroud of despair and pessimism that cloaked the ancient world. The saying of Theogenes was often repeated: "It is best for mortals never to be born, and for those already born to die as soon as possible."

The intellectuals of ancient Greece, of course, abhorred the thought of a divine intervention in this world, and this abhorrence is re-echoed in the writings of our intellectuals today. To the modern, as to the ancient pagan, this world "is a neat order, a self-contained unit. Man moves ahead by a kind of law of inward necessity. Man's history is totally self-made and its product is in no sense a gift. There is no 'otherness' to man's strivings. He never sins, he only makes mistakes. He never repents, he only readjusts. He is the creator, the sole creator of his inevitable destiny. Man is his own God.

The acute consolation-shortage suffered by the ancient pagans contrasts sharply with what we find, say, in the writings of St. Paul, who makes a constant reference to the "divine strengthening" to be found in Christ. In Christianity, he says, we have a new dispensation in which all comforting will be consummated in an eternal reign with God. From Christ, he says, one receives a divine comfort, which far from being merely a sentimental sedative, is a courageous conviction of the reality of the good things of God, and of the certainty of attaining them with His help. God has intervened in man's affairs to make possible the attainment of the impossible.

For the Christian, on the other hand, history is a love story. There most certainly exists some one "Other" than man -- and history is made by the dialogue between the two: God who invites and man who responds. Because the Christian believes in the intervention of a Divine Person in this world's affairs, and in the kindling of a love that is divine, the Christian ideal (as the very Christian existence itself) is outside of self, in a lover that is creative, a love that is creative of the future, because it is a sharing in the very creative love of God.

-- Claude L. Boehm

which enact moral standards fashioned by theologians. But there are constitutional limits to the legislative power even in the area of religion and morality."

Agreed. Is this not the real point at issue? It is not whether the law may uphold moral standards. It is rather a question of the limits imposed upon legislative power by sound legal philosophy and by the Constitution.

Let us leave aside the question of religion in public education and address ourselves to the power of law to restrain obscene publications. What law can accomplish here is minimal. It cannot satisfy all the demands of concerned parents and citizens. But is it true that the law can do nothing? That is the impression that the Supreme Court has given to legislatures and public officials as it has struck down one obscenity law after another, often for reasons that seemed strained and doctrinaire.

Yet obscenity surely is a social problem. What an adult reads in the privacy of his home may be nobody's business but his own. But the publication and sale of obscenity are no such purely private matter, as a glance at most newsstands will assure any passer-by. Obscenity today is a big business that makes its profits by constantly and publicly appealing to prurient interest. It systematically exploits and thereby debases sexual desire. The degraded view of sex and the contempt of marriage that it propagates are contrary not only to individual moral standards. They are a public and social evil, which the New York Academy of Medicine has petitioned President Johnson to investigate.

There are constitutional limits to what law can do to remedy this evil. We accept them. Now we should like the Supreme Court to accept the power of the law to enforce elementary standards of public morality - of "civilized behavior," as Justice Goldberg called it - in the field of publication as it does elsewhere.

-- from America (Dec. 5, 1964)

In a subsequent issue Justice Brennan explained in a letter to the America editor that "the idea that the jurist is concerned with social good above all and the moralist with individual good is not mine. The statement is a quotation from Canon Leclercq, writing in the Natural Law Forum (1957). Following the quotation I suggested that 'it is not necessary to accept the proposition as invariably true to recognize its validity in some cases.' I do not think, therefore, that Justice Goldberg and I are in any disagreement."

To this America commented: We stand corrected about Justice Brennan's general premise regarding law and morals. In this respect, the press reports did him less than justice. But we see no reason to modify our criticism of the Court's obscenity decisions.

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The Feast of Our Lady of Lourdes is Thursday, February 11. Here at Notre Dame it should be a day of special significance since the heart of Marian devotion on the campus is the replica of the Lourdes Grotto.

CONFESSORS assigned for the second semester to Sacred Heart Church throughout the week and to Stanford-Keenan and Farley Chapels on Sunday are listed here to help you choose a regular confessor.

Sacred Heart Church: (Monday through Saturday)

<u>Main Door, East</u>	<u>Main Door, West</u>	<u>Sacristy Door</u>	<u>Memorial Door</u>
11:15 Fr. Langdon a.m.	Fr. Broestl		
4:45 Fr. Langdon (MT) p.m. Fr. Buckley (WTh) Fr. Garvin (FS)	Fr. Riehle (MTW) Fr. Dupuis (ThFS)	Fr. Teske	Fr. Barrosse (MT) Fr. Heppen (WTh) Fr. Kuhns (F) Fr. Roche (S)
6:45 Fr. Whelan (MTW) p.m. Fr. Langdon (ThF)			

(Saturday evening only)

6:45 Fr. Scheberle	Fr. Teske	Fr. Callahan	Fr. Burrell
7:30 Fr. T. McAvoy	Fr. Dupuis	Fr. Crumley	Fr. Sherrer

(Sundays and Holy Days)

7:15			Fr. Hund
8:15 Fr. Keller	Fr. Wendel	Fr. Fitzgerald	Fr. Eichorn
9:30 Fr. Walter	Fr. Poorman	Fr. Hager	Fr. Kramer
10:45 Fr. Shea	Fr. Gavin	Fr. Riehle	Fr. Kramer
12:00 Fr. Wilson	Fr. Dupuis	Fr. Riehle	Fr. Wallen

Stanford-Keenan Chapel: (Sundays and Holy Days)

8:15 Fr. Sowala	9:30 Fr. Wilsey	10:45 Fr. Weiher	12:00 Fr. Neidhart
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Farley Hall Chapel: (Sundays and Holy Days)

12:00 Fr. Ware

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IN YOUR CHARITY please continue to remember in your prayers Dennis O'Fallon, Ron Rusko, Jim Chapman, and Paul Davis, the four Cavanaugh Hall freshmen who were struck by a car last Friday evening on the road leading into St. Mary's. The worst is past for them, but they are still suffering and the period of recuperation is likely to be long for at least three of them.

Please remember also the following: Deceased -- father of Robert Luetkemeyer of Pangborn; grandfather of Jim Chapman of Cavanaugh; Robert L. Jackson, '27; Tom Dupret, the San Carlos, California, high school student who died from injuries suffered in an automobile accident. Ill -- grandfather of Mike Falvey of Howard.

Next Sunday, February 14, the 8:30 Mass in Sacred Heart Church will be moved ahead to 8:15 to accommodate the Juniors and their parents who have a Communion Breakfast scheduled immediately following the Mass. The entire center section of the church will be reserved.