
Opening of the Legal Year Address

At the request of a Law Society Alice Springs Member, the Law Society has published the address by Reverend Tracy Spencer of the Uniting Church at the Alice Springs Opening of the Legal Year.

I came across an amazing word while I was researching for this address. Antinomianism. Can I just get a straw poll on who here has heard of that before? It means lawlessness, and within the church has been a charge of heresy against those who seek freedom from religious laws, and in wider society has been used to describe those who cite their own interpretation of their religious obligations, as a reason for disobeying secular law.

I hadn't heard the word before, but I suspect I have strayed into its state from time to time. And perhaps Jesus did, too. But more of that later.

I must confess that my closest brush with the law, apart from speeding tickets (no longer possible in my 1983 Toyota), has been through the deliberations of the Magistrate of the Court at Pearl Bay. I'm a SeaChange fan, as I'm sure are some of you, but I won't ask you to raise your hands and identify yourselves right now.

There's a scene from the third series, where the Magistrate of the small coastal town, Laura Gibson, is talking to her clerk of Court, Angus Cabiri, about the impending legal presentation he is to give to Year 9 and 10 students at the local high school.

Laura says to Angus: what are you talking about?

Angus (offhand): I don't know

Laura: Its very important to get this right Angus: there are a lot of issues to cover. Number 1: what is justice? The delicate balance between the two conflicting ideals, freedom and order...

Angus: No, I was just going to tell them about the time Bucket took



Reverend Tracy Spencer

off his trousers in court and Grey and I had to hose him down with a fire extinguisher. Kids love that stuff...

Laura cannot help herself but take the presentation out of Angus' hands, and prepares the speech herself. The episode ends with her delivering her lecture to a courtroom full of teenagers rolling their eyes and drooping off their chairs...until she gives in, changes tack, and immediately gets their rapt attention:

"Well there was this one time when Bucket took off his trousers in court..."

Dispensing justice through the law certainly is about the balance between freedom and order, but more than that, the work of the law in our society is about people. And people, as you know all too well, come in all shapes and sizes, and God's law asks us to love each and every one of them.

Last Sunday was Transfiguration Sunday, when Jesus' own experience of God's presence on a mountain top is likened to Moses earlier trek up Mt Sinai in order to receive from Yahweh two slabs of stone with 10 commandments for right living engraved upon

them. The penalties for breaking a commandment were severe: generally, with all the creativity of many ancient societies and indeed some western contemporary ones, the death penalty came readily to hand. As well as outlining commandments and penalties for breaches, in the following chapters to the passage from Exodus we heard, God instructed Moses in the details of right and proper temple building, religious art execution and occupational health and safety standards for food handling of approved food items. Moses brought back from the mountain top hundreds of rules about all sorts of things. Which shouldn't surprise us.

In the story of Exodus, out of a bunch of homeless slaves, Yahweh was trying to make a nation that could repurchase its original homelands. They had to find sustainable ways to live together to achieve this aim. They had to be organised. They needed order. And so these commandments, laws, edicts, instructions, by-laws were put in place to achieve a robust social fabric that ensured social cohesion, economic stability, ethical relationships, and a security net for widows, orphans, immigrants and others whose wellbeing was not otherwise assured by the social systems of the society.

In fact, once Moses was down the mountain, Yahweh realised there were yet more instructions the people needed, more laws to be written down, and so the book of Leviticus follows the book of Exodus, like a collection of office memos, 'Oh, and can you add in something about sacrifices, cleanliness, dietary regulations, festival observance, ethics, sexual relations, blasphemy,

jubilee years, sabbath observance, blessing for obedience and curses for disobedience and how to make holy objects available for common use again,

Of course this is all familiar to us. For many of us, this is our cultural heritage, coded away in our cultural DNA. We make laws and rules and write them down and try to live by them.

Or do we? I've always been fascinated by the idea that law proceeds by precedent, as well. That we try to make determinations taking into account what others in similar situations have decided was appropriate, and then amending these a little to suit the current situation. In the reading from Matthew's Gospel, we hear Jesus reaching back into precedent, to answer the question put to him.

He knew Jewish law, as any good Jewish man did, but he was not an expert in the Jewish law, like the man who asked him, 'Teacher, what is the most important commandment in the law?' Rather like any of you asking me to give some consummate definition of a point of law. As you have seen, the best precedent I can come up with is from a TV show.

Jesus went back to the common cultural stories he knew, and came up with that one liner from Leviticus ch 19, in the second part of the verse 'You shall love your neighbour as yourself.' It's spliced between reminders not to gossip about your neighbour, or to profit by killing them, and is followed by a reminder not to let your animals breed with a different kind: in other words, this pearl of wisdom that we grandly now recognise as at the heart of Christianity and a number of world religions, is buried as a quick summation in the midst of a grand set of by-laws. But Jesus, searching his tradition and experience, finds it and elevates it to the second greatest law of all, second only to love of God. Love your neighbour as yourself. In other gospels, this declaration is illustrated by the story

of the Good Samaritan, to make it blatantly clear that the ones you are required to love even include those you are religiously, culturally, socially, and economically likely to see as other, different to yourself, not the persons that you would consider your 'mob' to care for. And that's the surprise.

You see, the magistrates bench, like a pulpit, can become a great place from which to tell others how they should live their lives. 'Hey you, sinners, you should love each other, not cause each other harm!' And as we've seen, there's a place for that. Some people need a stern reminder.

But Jesus commandments are more challenging than that. He says to the one delivering the sentence, to the one delivering judgements – divine and otherwise – on others, YOU must show love to this one, these ones, that you are addressing. And he says to the defendant, to the victim, to the counsel, to the lawyers, YOU are the one who must show love to those that you are engaged with, in your personal, public, and work lives. All of them. Even the ones you don't like, even the ones who are separated from you by culture, class, professional distance, language, gender, age... who ever is next to you in this building. They are your neighbours. Love them, as you love yourself.

Without love, you are nothing. Tho you speak with tongues of angels, without love you are just a clanging bell.

Which leads us back to antinomianism. There is no doubt that Jesus broke the law. He broke the religious law of his day when he picked grain to eat and healed a cripple on the Sabbath. It was one of the ten commandments, one of those things you could be put to death for breaking: honour the Sabbath and keep it holy. The subsequent by-laws written about it made it quite explicit what this required: no, you could not harvest

in any form, nor could you practise medicine or any other art. That is why the Pharisees watched Jesus so closely in the reading from Mark. They knew the law. And they became eyewitnesses for the prosecution that he had broken it.

First off, Jesus looks to precedent again. 'Come off it, we only did it because we were hungry, like the time King David let his soldiers eat the holy bread.' Not a strong case. And his innovation, to claim that the Sabbath was made to serve humankind, not humankind to serve the sabbath, was almost blasphemy in a society that had almost forgotten the reason for the creation of laws in the first place.

To help a community find sustainable ways to live together. To balance freedom and order in order that all might have their needs met. By the time he committed the same offence again, this time by healing a man's crippled hand on the sabbath, Jesus was so angry that application of the law took precedent over human need that he didn't even try any clever arguments. He just said it plainly: on the Sabbath, should we do good, or should we do evil? Should we save a life or destroy it? Should I worry about keeping the law when it denies human need? In such matters, even one of the ten commandments is irrelevant. In the face of hunger, in the face of affliction, in the face of life or death, there is only one law to be followed. The law of love.

And so Jesus broke the religious law, and his prosecutors handed him over to the secular authorities for punishment, and in the process he broke secular law as well, by claiming allegiance to an alternative ruler to the government of the day. Treason, I think we would call it. He was tried in a court, found guilty, and as a criminal received his penalty, death by torture on a cross. For the next 300 years, his followers were persecuted as

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an outlawed sect, breaking the law every time they met together, accused of cannibalism, sedition, and licentious practises. After all, they preached free love, they gave their allegiance to God alone, and they ate the body and blood of Jesus. It was only a death bed conversion of the Roman emperor Constantine - or better, his superstitious decision to have a bet each way when a vision of a Christian symbol was received as a portent of a successful battle - that finally Christianity became adopted as a State endorsed religion, and its observance no longer a criminal offence. Throughout the world, and throughout the ages, Christian martyrs and statesmen have stood against the laws of their day in their obedience to God's law of love. But don't be fooled into thinking such decisions come easily to the Christian community, then or now. When my church gave office space and some support to the Pine Gap four last year, we did it with mixed feelings. While we affirmed their stand against warfare in all its forms and guises, we struggled with their methods of opposition which broke secular laws. It is a struggle Christians have had from earliest

times.

St Paul's letters in the new testament endlessly wrestle with a Christians' responsibility to the law: religious law and secular law. 'Become all things to all people', he advises an outlawed church, in order not to draw attention and condemnation. Fit in, observe the laws of your government and culture, don't provoke persecution. It is in this light that we should read his affirmations of slavery, and his refusal to let women act or dress differently to community standards within the church community. But he was not completely happy with such wholesale accommodation to the social norms of the day. That after all, was not what Christianity was about. It proclaimed a new order, the reign of God, where peace, justice and compassion ruled instead of war, oppression and legalism. And so he also wrote about Christian freedom: freedom to become slaves to one another, freedom to 'love your neighbour as yourself,' freedom to act out love like Jesus did, even when it was illegal. And finally, after much torturous first century roman and semitic legalese, he hit on the

perfect balance between the order of the law, and the freedom to love. Jesus' law of love, he proclaimed, was the fulfilment of the law. Not a replacement for it, but its ultimate goal. Love for one another was what all laws aimed at. Jesus showed how it could be done.

By holding the worth and dignity of the human person as paramount in every case: the worth and dignity of the victim, the worth and dignity of the offender, the worth and dignity of the magistrate, the worth and dignity of the prosecutor, the worth and dignity of every worker, every member of the public, every family member, everyone who will come through the doors of this courthouse this year.

Jesus forgave the dying criminal hanging next to him on the cross, as he conferred blessing on the Roman soldier standing guard at his execution. We are called to love every neighbour we rub shoulders with here in this court. That is the fulfilment of the law: you shall love your neighbour as yourself. Amen.

CONFERENCES

12 – 14 May 2008
Australian Winter School
"Seen & Unseen Harms"
Brisbane
Families & AOD
Workplace AOD
Social Exclusion

Brings together
professionals addressing
alcohol and other drugs
across health, education,
law enforcement,
corrections, policy and
research.
www.winterschool.info

26-27 June 2008
4th AIJA Law & Technology Conference
Sydney
Australian Institute of

Judicial Administration,
AustLII, University of
NSW
www.lawtech2008.org

9-11 July 2008
10th Australian Institute of Family Studies Conference 'Families Through Life'
Australian Government,
Australian Institute of Family Studies
Melbourne Exhibition Centre
Email: info@aifsconference08.com

13 – 16 July 2008
Third International Legal Ethics Conference
Host: UQ and Griffith

University
Venue: Sheraton Mirage,
Gold Coast
Email: legalethics@griffith.edu.au

26-27 July 2008
LAWASIA IT Seminar
(Host: LAWASIA, LAWASIA India Chapter)
Hyderabad, India (details tbc)

3 - 5 August 2008
International Conference on Child Labour and Child Exploitation
Host: Children's Rights International
Venue: Cairns Convention

Centre, Qld, Australia
www.childjustice.org/wsecl/default.htm

8-10 October 2008
ANZELA 17th Annual Conference
Lawyers and educators working together.
Christchurch, New Zealand
www.anzela.edu.au
cle@lawyers.org.nz

29 October - 1 November 2008
21st LAWASIA Conference
(Host: LAWASIA and Malaysian Bar Council)
Kuala Lumpur, Malaysia