

Catholic University Law Review

Volume 16 | Issue 3

Article 2

1967

Law and Peace

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Recommended Citation

Earl Warren, *Law and Peace*, 16 Cath. U. L. Rev. 249 (1967).

Available at: <https://scholarship.law.edu/lawreview/vol16/iss3/2>

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CHIEF JUSTICE EARL WARREN

THERE IS AN OLD FRENCH saying that the company makes the feast. The soundness of this observation could receive no more convincing demonstration than this homecoming celebration tonight. Being able to share this occasion in the presence of the faculty, alumni, and friends of Catholic University has given added lustre to an already impressive banquet.

The dictionary definition of "homecoming" somehow seems to lack some of the special quality which this kind of event enjoys, for an academic homecoming is something *sui generis*. It provides alumni a chance not only to renew old friendships with each other but it affords them the all too infrequent opportunity to get back in touch with matters academic and to learn what has been going on at their alma mater. The alumni, of course, hold a very special relationship to the university.

Many years ago Will Rogers, the late cowboy humorist and philosopher—whose wise comments are not as familiar to the younger generation today as they should be—alluded to this special status of alumni. He had been asked to address an impressive group which had been assembled by the President of Columbia University and which included many alumni of that institution. First, to soften up his audience for his stiletto, he observed that there were more students in that university than in any other. "There are thirty-two hundred courses," he added. "You spend your first two years in deciding what courses to take, the next two years in finding the building that these courses are given in, and the rest of your life wishing you had taken another course." Within the more manageable confines of Catholic University, I am sure that a similar problem would not exist. Having driven this point home, Mr. Rogers turned his attention to the alumni who were present on that occasion. He said: "And they have this wonderful society called the Alumni

* An address delivered at the Homecoming Dinner by Chief Justice Warren on the occasion of the dedication of the new law school facility, Catholic University Law School.

Association, a bunch of men who have gone to school and after they have come out, formed a society to tell the school how to run it.”

Tonight's homecoming is particularly meaningful to the alumni and friends of Catholic University's Columbus School of Law. For tonight we take note of a returning home in a very special sense. About twelve years ago when the Columbus School of Law merged with the Catholic University School of Law, the law school left its campus home to occupy the old Columbus properties on Eighteenth Street in downtown Washington. When those quarters proved inadequate for the expanding needs of your law school, the decision was made to build a new structure on the university campus. The attractive and functional law school building which opened its doors last September was the happy result. Not only does your new building have the most modern facilities, but the planners have allowed for development and expansion over the years ahead. And as these years go by I have no doubt that the progress which we celebrate tonight will continue to manifest itself in many different ways at the Catholic University Law School.

But the full significance of this move from the downtown site back to the university campus does not lie in mere transposition. As your distinguished Rector, Bishop McDonald, recently observed, the return of the law school to the university campus involves far more than a mere physical change. It means that your law students now take a more pertinent place in the university's community of education and play their rightful parts in the varied scholarly associations available in campus life.

The location of a law school like yours in the Nation's capital provides the members of the faculty and students with a unique opportunity for the study of law. Here at close range you can observe laws being made by our Congress. You can attend the hearings at which the need for legislation is established. You can hear the debates on the floor of Congress where the pro's and con's are discussed from all angles. And by listening to appellate arguments in the Court over which I am privileged to preside, as well as attending sessions of other courts and government agencies in the District of Columbia, you have, in effect, front-row seats to observe still other aspects of our legal and governmental system. Being able to behold these multifarious processes of government at such close range affords those at law schools here in Washington a chance to see our democracy in action which does not ordinarily come to those pursuing their legal studies elsewhere. It was considerations such as these that prompted the late Justice Robert H. Jackson to conclude, as your Rector has reminded us, that “no place in the country can compete with the Nation's capital as a training ground for lawyers.” So a new law school building, which is located in the capital city of our great country, provides a happy combination for both those who teach at Catholic University's Columbus School of Law and their students.

Law is the basic ingredient of civilization. It is the foundation—the very bedrock—on which all of the advances of mankind have been based. It is the principle without which no people can hope to achieve progress. Law is a part of the very fibre of mankind; it is part of the instinctive nature of all of us, and without it progress is beyond attainment.

Fortunately, this fact of life has been recognized by every nation that can lay any claim to being civilized. No country with a recorded history is without law of some kind. By the same token, no country can be said to have a monopoly on justice which is the guiding spirit of the law. Each of us pre-occupied with the law may have a predilection for the law of his own land. That is only natural. It is also proper, since a country's domestic law has emerged from its history and culture. Such factors as geographical considerations, climate, and the like, have played their important roles in shaping the development of law.

At the same time, the differences which have emerged between legal systems sometimes have a tendency to keep us apart from each other. We sometimes tend to think of what we have as exclusively ours. But, as far as the law is concerned, nothing could be further from the truth. For there is no system of law today with which I am familiar that has not derived, at least in part, from other civilizations. The debt which we owe to the past is immeasurable. It should also be humbling. I have often thought that it was this very need for the law which brought civilization into being. Wherever any ancient civilization has been revealed—no matter how remote it may have seemed to be from other civilizations—its very existence has been shown to have depended upon a system of law.

Against this background of law which each country has developed over the centuries, it does seem strange, if not ironical, that the world is still in such ferment today. Despite the progress which we like to think we have made, disorder persists within our own society as well as within the society of nations. It must, however, be abundantly clear that until this disorder is eradicated, law cannot fulfill its proper function and man cannot realize his true destiny.

So what do we search for as we pursue the study of law? What is the overriding, the paramount objective? There can be but one answer.

Our search is for peace.

Realizing as we must today what consequences would attend the failure to attain this goal, it is all the more vital that we ask ourselves—and answer—some vital questions. No setting could be more suitable for such an inquiry than the dedication of a new law school structure such as we celebrate tonight.

Is it sufficient for us to become acquainted with the law as it has developed through the centuries? Is it adequate to know what the law is today? Since

we know that the system has not achieved its true fulfillment, we must all acknowledge that the answer is No. Men and women of the law—be they scholars, teachers, practitioners, or judges—must therefore commit themselves to exploration of the conditions which have contributed to the law's failures both at home and abroad. We must research every phase of the law which has heretofore been found wanting. We must probe the social shortcomings, the societal defects, which have flouted the attainment of that peace which is the essence of true law, both domestic and international.

I believe that no person has made a more impressive contribution in the pursuit of this quest for peace than your great spiritual leader, the late Pope John XXIII. He was able as perhaps no one else within our memory to appraise intuitively the hopes and the needs of mankind. He was a man of singular endowments, not the least of which was humility. He was a simple man and among his other great attributes he possessed a great sense of humor. If I may digress for a moment, I should like to recall one example. A visitor once asked Pope John how many men worked in the Vatican. "Half of them," the Pontiff replied.

Of the many accomplishments of Pope John's all too brief reign, one of the most outstanding was the encyclical which he published in April 1963 entitled "Pacem in Terris."

The annals of civilization include certain great documents, both ancient and modern, which are of what I would term a seminal character. They have germinated the principles of freedom and justice which have formed the basis for the civilized world. They have served not only the immediate needs of the time—the special occasions for which they were issued—but constitute legacies for ages to come. Twenty centuries before Christ, Hammurabi grounded the first recorded code of law upon the principle that it was "to prevent the strong from oppressing the weak." The great Magna Carta possessed a lasting vitality in the development of individual liberties which far transcends its role in the dispute between King John and the barons, which it resolved at Runnymede over 750 years ago. Its timeless words, "To no one will we sell, to no one will we deny, or delay right or justice," remain the shining beacon light by which our footsteps in the law are guided to this very day.

Some seminal charters are scarcely known to us any more but, nevertheless, have played impressive roles in the cause of freedom and justice. The great Northwest Ordinance of 1787, for example, is an amazingly vital instrument but is now a stranger to most of us. The *Confirmatio Cartarum*, issued almost five hundred years before that, is now virtually unheard of, yet it served as confirmation by Edward I that the terms of the Magna Carta "shall be kept in every point without breach."

Students of the law are conversant with such documents as the Code of

Justinian and the Code of Napoleon. And familiar to us all are the Declaration of Independence, the Constitution with its Bill of Rights, and the Universal Declaration of Human Rights. Many other kindred documents will come to mind. I have no hesitancy in including in the category of these seminal charters, these almost timeless instruments of the civilized world, Pope John's encyclical "Pacem in Terris."

It is acknowledged in all quarters that "Pacem in Terris," though a papal encyclical, belongs to all people, to non-Catholics and Catholics alike. In fact, it is the first encyclical in history ever addressed to "all men of good will." This historic papal proclamation is premised on the realization of the uniqueness of man and that his very survival depends upon resolution of differences to achieve the common cause of peace. It has been observed that it is not primarily Christian, Jewish or Hindu civilizations or any other civilizations which are in jeopardy, but the civilization or life of man which is threatened with extinction. As one commentator has expressed it, "It is not man's particularized beliefs but his own uniqueness that counts. For what threatens him is the loss of the basic conditions that make life meaningful and purposeful." The premise for this underlying postulate is made clear at the very outset of Pope John's encyclical when he said:

First of all, it is necessary to speak of the order which should exist between men. Any human society, if it is to be well ordered and productive, must lay down as a foundation this principle, namely, that every human being is a person, that is, his nature is endowed with intelligence and free will. By virtue of this, he has rights and duties of his own, flowing directly and simultaneously from his very nature, which are therefore universal, inviolable and inalienable.

A few passages later he said:

By the natural law every human being has the right to respect for his person, to his good reputation; the right to freedom in searching for truth and in expressing and communicating his opinions, and in pursuit of art, within the limits laid down by the moral order and the common good; and he has the right to be informed truthfully about public events.

And then:

Every human being has the right to honor God according to the dictates of an upright conscience, and therefore the right to worship God privately and publicly.

Later on in the encyclical Pope John addressed himself to the right of assembly and association and the right to take an active part in public affairs—rights which we Americans have cherished over the years.

But his eloquent espousal of these and other precious rights did not diminish the need for a reminder that obligations exist as well as privileges. It is also clear in human society, the Pontiff was careful to note, that all per-

sons have a duty to respect the rights of others. He minced no words when he declared:

Those, therefore, who claim their own rights, yet altogether forget or neglect to carry out their respective duties, are people who build with one hand and destroy with the other.

We—all of us—would do well to bear these strictures in mind today. We are a people who value our rights and liberties. We acknowledge today, in partial atonement for the errors of the past, our failure to accord these rights to our minority groups. Yet, without diminishing our commitment to the meaningful vindication of those rights, we must see to it that they are realized consistently with the law and order that are the very bulwark of our society.

And just as is true in the area of domestic affairs, so in the relations of nations to one another, the rule of law and order must prevail. We are painfully aware of the conditions in various parts of the world which require solution. Pope John gave full attention to these in his encyclical—problems of poverty, of unequal distribution of the resources of the earth, of the oppression of minority groups, of political persecution, and countless other conditions which can lead to dissension, unrest, and, ultimately, outright violence. But, however many are the causes of differences between peoples, the recourse to violence cannot be used to resolve disputes. Negotiation between the peoples of the world and the rule of law which must result from such negotiation must be used to settle disputes. As Pope John put it:

It is true that on historical grounds this conviction is based chiefly on the terrible destructive force of modern arms. And it is nourished by the horror aroused in the mind by the very thought of the cruel destruction and the immense suffering which the use of those armaments would bring to the human family. And for this reason it is hardly possible to imagine that in the atomic era war could be used as an instrument of justice.

Nevertheless, unfortunately, the law of fear still reigns among peoples, and it forces them to spend fabulous sums for armaments: not for aggression, they affirm—and there is no reason for not believing them—but to dissuade others from aggression.

There is reason to hope, however, that by meeting and negotiating men may come to discover better the bonds—deriving from the human nature which they have in common—that unite them, and that they may also come to discover that one of the most profound requirements of their common nature is this: that between them and their respective peoples it is not fear which should reign but love, a love which tends to express itself in a collaboration that is loyal, manifold in form and productive of many benefits.

The Pope went on to stress the importance of a public authority with worldwide power and instituted by common consent. He expressed the hope that

the United Nations Organization "may become ever more equal to the magnitude and nobility of its tasks, and that the day will come when every human being will find therein an effective safeguard for the rights which derive directly from his dignity as a person."

Within the compass of these few moments, I have not been able to do adequate justice to the "Pacem in Terris" encyclical; indeed, I have not been able to probe more than the surface of its vast treasures. But as we dedicate your new law school building, I can think of no worthier commitment for those of you who are teachers at the Catholic University School of Law and those of you who are privileged to be their students than to pledge yourselves to fulfilling as best you can the great promise which this document holds for mankind. I make these remarks to you in no parochial sense. "Pacem in Terris" belongs to us all, regardless of individual religion or creed. It was addressed to men of good will, and to men of good will throughout the world it belongs.