

The Law and the Gospel.

It is not only a very great privilege to be asked to preach in this series on the Law and the Gospel, but it is also a joy to have been asked back to preach at the House a second time. By the end of this address, you too might share my surprise. I find myself in illustrious company, most notably that of Nathan Paine Davey. He and I were undergraduates reading Law at the City of Birmingham Polytechnic in the mid-80s. For those of you who don't know it, it resembles a darker-coloured Wolfson College, without the intricate and pleasing architectural features. In those balmy, sunny, heady days, just weeks after the Handsworth Riots, we began our study of one of the most tedious academic subjects there is. Criminal Law with its concepts of penetration, be it of bodies or buildings, could at least keep one awake, which is more than can be said for consideration of the notice periods required to terminate a protected short-hold tenancy, or the rights of a beneficiary on a trust for sale of a fee simple absolute in possession. It is said that it was Otto von Bismark who mused that the law is like sausage: it is best to see neither being made. I have spent little time watching laws being made, but I have spent years in the practice of it, firstly a mixture of civil, family and criminal law, then concentrating on criminal law, and then more recently as a judge sitting solely in crime. I am often asked whether it is anything like the programme, *Judge John Deed*. The sad truth is that it's not: except for all the sex.

So it is from that criminal law perspective that I'd like to reflect a little on the law and the gospel, especially from a practical perspective.

You might recently have heard some of Ed Stourton's programmes marking the anniversary of the Authorised Version of the bible. In it, he reminded us that the Tudors and the Stuarts saw the nation state with the sovereign at its head as the source of law and the fountain of justice as reflecting the role of God within the whole of creation: God at its head as its source of all law and the fountain of justice. They saw themselves as like God, the law maker, from whom the laws of the realm descended, and as the just judge from whom all justice derived. No doubt this morning's gospel passage will have fortified those absolute monarchs in that belief: "Do not imagine that I have come to abolish the Law."

But if they were lawmakers and judges, then surely they were also punishers too. It would seem that it is in the area of punishment that the model breaks down, and that in part I would

suggest is because of the role of Jesus. That monarchical image is pyrimidical, with the monarch at the head, and the peers and the judges and the squires and the landowners and the serfs and the prisoners beneath him, a top-down way ordering society. But that is skewed by Jesus: He came to fulfil the law, not abolish it; He said to give Caesar what was his due, not to diminish him; He said that the stone should be cast by the one who has not sinned; He said to turn your cheek, and to give away your cloak.

In the Judicial Oath, every Judge, from a justice of the peace to the President of the Supreme Court swears “to do right to all manner of people after the laws and usages of this realm, without fear or favour, affection or ill will”, and there was one judge I knew, a wily old devil, who would remind himself of that oath every time he walked from his room into court. I try to, but sadly often forget. But what I often do remember as I sit there are other words: judge not lest you be judged.

What is actually happening within our criminal justice system? How is it compatible with the Christian gospel? Is it simply an Old Testament construct?

As much as my colleagues and I would wish that the good burghers of Wood Green and Enfield and Tottenham and Stamford Hill and Haringey, the members of the “N9” gang, or the “Dem Africans” gang, would render to Caesar what was due to him, would turn the other cheek, would not steal and covet and kill, the sad reality is that they do. As much as you and I would wish that they had heard the gospel, and were living in love and charity with their neighbours, they are not, so of course as a society we are faced with the dilemma of how to deal with it. As we all recognise, the rule of law prevents lawlessness. It prevents – or at least discourages – revenge. It provides a way by which society can regulate itself.

And so it is that I sit there trying cases, acting as a cross between an umpire and a minutes secretary, watching, with twelve other people, selected at random, from all walks of life – and believe me in North London, with a catchment area that includes Hampstead and Highgate on the one extreme and the estate where Baby Peter Donnelly lived his short sad life on the other – they really are from all walks of life. An average Wood Green jury will contain at least one person for whom English is not their first language, and there will be an affirmation or two, and amongst the others, oaths on the New Testament, on the Old, and on the Koran.

And as I do sit there, watching the drama unfold, it often occurs to me that what is unfolding is based on Christian principles, for we are innocent until we are proved guilty; the might of the state must prove the guilt of the subject; the subject is entitled to remain silent; there is a judge independent of the state to oversee proceedings, and to do justice to all manner of people, both prosecution and defence. So, when I sentence, I do so in the knowledge that I am sentencing only those who have admitted their guilt, or who have been found guilty by their peers, ordinary people, who have been made sure of their guilt. In that system, the weak are protected and given a voice. It is no wonder then that this is a sign of a civilised society.

But before you conclude that I have simply come here to pat the system and myself on the back, there is an area where, it seems to me, that it fails.

One of the lovely things that happens when one is appointed a judge is that people find out and write letters. One of the letters that I received, and you'll forgive me, I hope if I name drop, was from the mother of the comedian Julian Clary. Brenda Clary was for many years a probation officer at Swindon Crown Court which is how I met her, and she wrote a lovely letter telling me that she was sure that my mother would be very proud – she was right – because mothers are usually proud of their sons, and she was proud of hers. But that's not what I'm telling you this for. Why I am mentioning it is she said this: "Of course some people have to go to prison. But it seldom does any good."

She's right. And yet we are in a society which clamours for people to go to prison. When I started in the law 20 years ago, the maximum sentence for causing death by reckless driving, it was then called, was 2 years. Now it is 14 years, and that is probably right. But now, thanks in no small part to a tabloid campaign, someone causing death by careless driving – so just driving carelessly, and not even dangerously – is liable to go to prison. Is that right? Is that proportionate? Of course it is right that people should be deterred from driving dangerously. But can we deter anyone from causing accidents? How should we punish a careless act, an act that is not deliberate, but which can have devastating tragic consequences? We are all careless. Will the threat of a prison stop us?

Of course we need deterrents. And in that regard, we can understand why there are minimum terms for those who burgle persistently, and for those who carry guns. "Of course, some people have to go to prison, but it seldom does any good."

So there should be deterrence, but how does that fit with the message of the gospel? Deterrence speaks more of *lex talionis*: eyes for eyes and teeth for teeth. And if prison seldom does any good, what should we take from the gospel? One of the aspects of my job which people rarely see are the monthly reviews. One man is my age. A man with few previous convictions, he has a long-standing drug addiction, and he sold some drugs to undercover officers. The other is younger. He has a list as long as your arm, and he robbed someone. Once a month, I see them in court for a review. The older knows that if he fails, he will go inside for 18 months, and the younger for 2 ½ years. Twice a week their urine is tested. There's a monthly report which sets out the results, and how they are doing with their group work. And in open court, with them in the witness box, we discuss how it's going, entering into a dialogue. Sometimes they need to be threatened; sometimes they need to be praised. It is worth it, trying to break that cycle of addiction; trying to find the root of the offending.

If you are a regular reader of the Daily Mail, well then you may think that this is being soft on crime, but to me, it seems entirely consistent with the Christ who hated the sin but loved the sinner. Anything that can help an offender to face up to the consequences of their offending, will help to limit it, and that certainly is the view of those who have experience of restorative justice. Bringing face to face offenders with their victims brings an offender face to face with the effect of their actions. Most of course are mad and sad, very few are bad, and in any event, most offences are committed by men under the age of 35 or 40: almost all of them grow out of their offending.

The call of Christ is for us all to build up the Kingdom of God. That there is crime and injustice is in part our fault, for we have not done enough to show Christ to a waiting world. The Kingdom of God is at hand, yet its fullness is not yet here. Until *kerygma*, until we cast off our humanity, until we all judge ourselves more harshly than we judge one another, then we will need a law that deters more than it rehabilitates. It is the conversion of hearts and lives that the Lord calls for. That's the business we are in. That's what we are called to do: to show what it means fulfil the law. That's the good news.