Legal Service: Bristol Cathedral 19 October 2014

It was a tax case. The Prosecuting Counsel admitted the sincerity of the defendant and indeed his fairness and impartiality. But there was a deceptively simple question about tax liability and the law. The accused was defending himself, not a procedure usually liked by the judiciary. He *shouldn't* have been asked for his *opinion* about tax law, but there it was. He was silent for a moment and then asked for a coin of the realm. Pointing to the head on one side of the coin he asked (rhetorically) 'whose was it?' You know the answer: give to the 'Crown' the things that are due to the 'crown' and to God the things that are God's. It wasn't of course a formal court with judge and jury – that came later, less a jury. But the Lord's answer shows he would have made a good Barrister. 'When they heard this, they were dumbfounded, and left him and went away.'

When I was a young curate there was some popular interpretation of Jesus as a revolutionary figure. Jesus and Che Guevara were compared! But there are deep strands of New Testament teaching which point to a Christian duty of lawfulness: not least St Matthew for whom 'no jot or tittle of the law shall pass away'; St Paul telling us that Christians should pray for rulers as instruments of God's peace and justice; St Peter's teaching was the same even when the Emperor was Nero, under whom both Peter and Paul were martyred. Law and its enforcement are, in such teaching, the instrumentalities of a stable, flourishing society. They make society and community possible. Our law *makers* in Parliament and *you* in your courts both make and administer the law. Whatever faith or none people hold, practitioners of the law are, in this view, agencies of the righteousness, the just-dealing, of God. Those of you who come to the Cathedral this morning acknowledge such awesome trust.

Yet there is a *major* party in the Church of England – or at least a conviction amongst many clergy – who think Law and Gospel have nothing to do with each other. And lawyers, in any case, do not have a sympathetic press, either today or in St Luke's 'Woe to you lawyers'! The Legal Service is a proper way to redress that. I will not go into the detail of how a particular way of understanding Paul's Epistle to the Romans, especially since Martin Luther, has skewed the Law and Gospel debate. But the Law, the Torah, in Romans is not so much a forensic concept as a question of ethnic identity; identity as an orthodox, law-observant Jew. Against this ceremonial law-observant Jewish identity Paul says nothing: he was an observant Pharisee himself, or at least *most* of the time. But he argues that you do not have to be a Jew to be part of God's new people, to receive the wholeness and salvation of Jesus Christ, to be a member of the Church.

But this Legal Service is not just an affirmation of the proper role of law and lawyers. There *is* a view that public law and religion should be entirely separate concerns. The one about public life, the other entirely a private matter or even a private 'hobby', for those that like that kind of 'religious' thing. A Cathedral service does not fit such privatization of religion. Cases until recently have somewhat painstakingly avoided being drawn into the religious sphere. When Rowan Williams controversially noted that aspects of Sharia law were already an understood part of arbitration law there were protests not only from secularists *and* potential supporters of UKIP. But the churches and most 'faith communities' not least the Established Church of England (whatever that may mean) are concerned with the

Common Good. There will therefore *necessarily* be some overlap between law and religion. Charity law, for example, rightly asks about the *public* benefit of charitable status, including that of Churches. And, notoriously, the Methodist Church, the Church of Scotland and the Church of England have all been challenged in appeal to the Supreme Court on questions relating to the employment of their ministers. Last year's Supreme Court decision expanding the legal understanding of the meaning of religion – overturning a definition of Lord Denning – together with the Supreme Court decisions relating to the wearing of religious symbols in the work place, demonstrate that the interface of law and religion in the public forum is likely to continue. Certainly, the three monotheistic faiths are unlikely to succumb to relegation to the private sphere. Our Cathedral Legal Service this morning epitomises this.

Given this, what should the attitude of the Christian (or Jewish or Muslim) lawyer be? It is said that Viscount Hailsham, when Lord Chancellor, was asked what he would do when he at last came before the Heavenly Assize, without hesitation he replied: 'I would throw myself on the mercy of the Court'. As a bishop I think I will need to do the same and I commend Lord Hailsham's attitude to you too. There is a true sense in which justice does require mercy – albeit in the old days of capital punishment the sentencing judges left the mercy to God in their final words to the condemned prisoner. But the freedom of the judiciary to sentence according to case and context – now infringed by statutory sentencing tariffs – that remaining freedom *is* to allow mercy and justice to embrace each other in a manner *not* understood by the exponents of legal positivism. The defence plea in *mitigation* is *also* an essential part of our understanding of law and justice. Cathedral choirs are accustomed to that very long Psalm 78. Halfway through it after an account of all Israel's infidelity to God, God himself mitigates:

> For he considered that they were but flesh:
> and that they were even (as) a wind that passeth away and cometh not again.

I will end with a parable which has some bearing on all these things. Some time ago I read a novel written in the 50ies but only more recently translated into English. It is set in Nazi occupied Prague and has the intriguing title: *Mendelssohn is on the Roof*. The author Jiří Weil was in hiding in Prague during that time and he saw the whole Jewish population of Bohemia and thousands of other *untermenschen* dispatched in the transports East to what their SS guards occasionally unguardedly called 'going up the chimney in smoke'. The *Mendelssohn on the Roof* was a statue ordered to be removed from the façade of the Prague Academy of Music by Reich Protector Reinhard Heydrich because Mendelssohn could not stand with the *German* Composers Bach, Beethoven, Mozart and Brahms because Mendelssohn was a Jew.

Towards the end of the story a 'learned Jew' Dr Rabinovich is on one of these transports to the East. He has collaborated by curating the stolen artefacts of his own community, especially the holy objects of the destroyed Synagogues, destined for a planned Nazi Museum about the obliterated race, this collection *can* be seen in Prague today in what is now the Holocaust Museum. At the end of the novel Dr Rabinovich is now himself on a prison train bound for the extermination camps with other leaders of the community who were, of course, the final witnesses of the 'final solution', and whom the Nazis needed to finalise as witnesses.

The gentle old learned Jew knew he had been blaspheming God by so handling sacred things. He tried to pray the psalms he knew by heart in Hebrew. But he knew they would be of no avail to himself as a blasphemer. All the others too, in the locked train, the Elders as well as he had made a pact with the devil and now the devil had come to claim his own.

Though the novel is a novel – its history is accurate, it is the same genre as *Schindler's List* – the author's sense of the mentality of central European Judaism is a true one. The old Rabbi could only think of God's righteousness and justice, not his mercy.

Poor old Dr Rabinovch couldn't even dream of mercy. There is however light at the end of this grim story. An extra prisoner is thrown into the train in chains: a photographer who has been caught with false papers. In fact he has been doing something much worse – forging papers to help people, including Jewish children escape (though he was a Gentile) – and there were historically such Czech partisans. The old Rabbi suddenly thinks *here* is a Just Man like the Just Men of the old Maccabean Rebellion against the Greeks. I quote:

> All the others, as well as he, he thought, were rightly going to their death. But that man was good, he was like the legendary thirty-six Just Men and he would share their fate with them It was good that a Just Man would be in their midst. He would speak for them at the hour of their death.

The Christian Gospel tells us that God's Justice and Mercy are one. Though they have to be kept distinct in law God, is not a legal positivist. And when *we* stand before the Great Assize we need not feel as fearful as the gentle, learned Jew, because we too have our Just Man before whom we can throw ourselves on the mercy of the court – and our Just Man is both our Judge *and* (paradoxically but mercifully) our Advocate and Mediator, Jesus Christ.