

Homily given by The Reverend G.R. Bush, Chaplain to the Worshipful Company of Arbitrators at the Annual Service at St Mary-le-Bow, 8 July 2004

There is a cast of mind which presumes that you have only to look in the Bible for a formula, convert it a little into a modern idiom, and you then *hey presto* you have what God requires about this or that. The story is told in the first reading of how Jethro, the father-in-law of Moses persuaded his son in law to share some of his authority lest he become exhausted and the people be frustrated in their search for justice. That this appears before the giving of the Ten Commandments, feels like a very primitive search for a juridical order – although there are notorious problems about assuming historical order from the way the text is actually set out. But you could be forgiven for thinking that the Judicial Appointments Commission in its approach is a model of biblical good practice, sharing authority and reserving the setting of precedents to some and not all – although I fancy the Commission may not see it that way.

After all justice appears indivisible; the justice administered in my churchyard by an ecclesiastical judge is enforceable in the High Court and that of the Court of Arches beneath our feet is presumed to be a court of ultimate appeal – but still The Queen's justice. In truth the Church has not brought vast credit upon herself by seeking certain exemptions from Human Rights legislation, but it was hardly to be expected otherwise. And in another jurisdiction the Church has waved the usual test of proof, 'beyond reasonable doubt' for 'the balance of probabilities'. Notably the awards of arbitrators are themselves enforceable, from what I take to be voluntary renunciation of other rights, and thereby part of the legal inheritance. What people rail against is seeming inconsistencies between different jurisdictions – to being able to get justice in one place, rather than another; even from the seeming triviality that a hooligan can get off in Portugal, but be pursued when he gets home; or more significantly that a dictator can be extradited and then die in his bed.

In Western practice justice is depicted as blind; as if all that needs to happen, is the dispassionate application of immutable principles – as if justice lay out there somewhere, waiting for us simply to tap into her wisdom. In fact we know that the innocent are

punished and the guilty go undisturbed; and equally that what may seem wholly criminal in one age is excoriated in the next.

We should not minimize how difficult judgement is. In suggesting that we should avoid judging, lest we also are judged – Jesus is characteristically setting the ethic at such a distance from our feeble natures, that it cannot be otherwise than that we all fall short; we are therefore to be merciful to one another. I recall that when I was first a parish priest – not here, and I mean when I assumed a mantle of leadership rather than co-operated with a superior - I recall finding the matter of making judgements acutely exposing. Not that I had not made judgements of people and situations before; too many and too hastily; but suddenly my highly personally conditioned sense of judging had an impact on others – would I favour this project or that person; did I wholly trust the energy or integrity of this person or that group; could I believe a certain interpretation of events or should I look elsewhere for help? The prayer for Whitsun, for the coming of the Holy Spirit asks, ‘for right judgement in all things.’ It is perhaps that which we come to pray for here this evening.

The blindness of justice is a mythical convenience which we do well to question, lest it blind us to injustice. Indeed in the Bible justice is frankly partial, and there are a number of tales of judges to whom people had recourse either for their strictness or their reputation for mercy; for the judge was there to rescue the innocent and to punish the wicked, not purely to administer a law which had usually been crafted by the powerful.

In Christian canonical practice the first law is always the ‘salvation of souls’; the responsibility to ensure that whatever the demands of custom, practice or ethic – there should be an expectation that what is promoted is not love for the letter of the law, but love for the persons whose whole health must be promoted. Those prisoners of war who continued to celebrate the Eucharist in Changi jail in Singapore during the Second World War with rice and water, rather than bread and wine, were well outside the Canon Law, and yet they were acting with the justice and goodwill of sane persons of reasonable faith and gracious good sense.

What impresses me about the discipline of arbitration as I only glancingly understand it (and I’m sure your chaplain should be more versed in the Arbitration Act 1996) is that it acknowledges that law and the settlement of disputes includes much

about first principles – about common sense, reasonableness and good faith – and not just victory or defeat in the heady arena of a Court.

When I was a chaplain to students one of the most popular disciplines to read was Law; so much so that students would change to it after a first or two years in some other faculty. I believe that many of them had an eye to lucrative careers. The tutor to lawyers once took me aside and said, ‘The trouble with this College is that there is a great deal of law, and not much interest in justice’. Arbitration and the Gospel may well be yeast with which to leaven the law.