

The Church *Does* Need a Law School

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5

A group of Seventh-day Adventist lawyers recently took the position that the church does not need its own law school, because its young people can study law in existing schools without encountering insurmountable problems of Sabbath observance or ideological and philosophical problems that threaten their religious beliefs. But such factors are not the primary reasons why Seventh-day Adventists operate various professional and graduate schools. Some of the major reasons a Seventh-day Adventist school of law should be established are as follows.

I

More Adventist lawyers are needed, not only to add financial strength to the church, but primarily to give status to the church in thousands of cities and towns across the United States. In the eyes of millions of people in this country, Adventists are considered to be uninformed, narrow-minded sectarians and obscurantists. Ministers preach and laymen witness to their faith in a setting of outright hostility or deadening indifference, because so many people look on Adventists either as fanatical or as so far out of touch with the times that they are unworthy of a hearing.

The presence of a skilled, hardworking, dedicated physician in a community can offset prejudice against the church and create a favorable climate in which ministers may get a hearing and laymen may witness effectively to their neighbors. In exactly the same way, a respected Seventh-day Adventist lawyer — or a judge — can offset prejudice and create a favorable impression. His influence in a community is fully as great as that of a medical doctor.

In order to obtain an adequate number of physicians to exert this leaven-

ing influence in the communities of America, many decades ago the church established a school of medicine. Without it, we would have some Adventist doctors, but not nearly enough. Indeed, we are still far short of an adequate number, but the shortage would be much greater if there had been no Adventist medical school.

Likewise, the church will never have the needed large number of lawyers and judges unless we establish a law school. We may continue to have a scattering of Adventist lawyers — in California and in a few other areas with extremely favorable climatic and economic conditions. But this is not enough. The counties and communities of the fifty states of America will not have Adventist lawyers and judges even within the next century unless the church establishes a school of law that will encourage far larger numbers of Adventist youth to enter the legal profession.

6

For decades it has been possible for Adventist students to undertake graduate studies and earn graduate degrees in dozens of disciplines without encountering unsolvable Sabbath-observance problems or undergoing undue philosophical or ideological tension. Yet for a long time Adventist schools, both in the United States and abroad, were able to obtain the services of only a minute fraction of the needed number of teachers with advanced degrees. I used to sit week after week with the appointees committee of the General Conference of Seventh-day Adventists as it struggled to fill positions in overseas secondary schools and colleges in countries where resident visas are not granted to American teachers unless they have graduate degrees. The members of this committee regularly clamored at the doors of the General Conference department of education for names of degreed young Adventists who could fill these positions. But they clamored in vain, because such people did not exist. Until recent years even in this country, Adventist secondary schools had few teachers with advanced degrees.

In order to meet this desperate need, the church began offering various programs of graduate education. There was an immediate response by Adventist students. They were not students of low ability who could not get into other graduate schools; they were students who had not been interested in or challenged to undertake graduate education. The initiation of Adventist graduate programs clearly had a pump-priming effect, causing hundreds of young people, who would never have done so otherwise, to go on to graduate education not only in Adventist graduate schools but also in public universities.

In other words, the development of Adventist graduate programs helped to effect a change in attitude and expectancy toward graduate education on

the part of the young people, their parents, and employing organizations of the church. As a result, Adventist elementary and secondary schools in this country and overseas now have hundreds of teachers with graduate degrees. Moreover, dozens of those who took advanced study at Adventist graduate schools, and who would have done no graduate work at all if these schools had not been in existence, learned to enjoy graduate study and proceeded to universities that offer the doctor of philosophy degree and professional doctoral degrees. This trend has helped Adventist colleges to alleviate the shortage of teachers with doctoral degrees.

One reason why I believe the Seventh-day Adventist church needs a law school, therefore, is that I think it will create among hundreds of students great interest in preparing for a career in law, with the result that there will be lawyers and judges to create a favorable climate of opinion toward the Seventh-day Adventist church in communities across the country.

7

II

Another reason for establishing an Adventist law school is that the members, educators, and ministers of the church need to have full explication of the place of law in Adventist religious philosophy. Confusion about this permeates all levels of the church. Great educational benefit would accrue from the presence of a body of Adventist legal practitioners, scholars, and researchers who could engage in dialogue with Adventist theologians involved in the preparation of future ministers and with Adventist professional educators preparing future teachers. From this dialogue the educators and ministers of the church could gain a more adequate view of the place law holds in all areas of life — including religion.

I do not mean to imply religious legalism. The Adventist message to the world is a message of grace — a message of a God who is rich in mercy, always ready to forgive, whose love and compassion are great enough to encompass all men. However, God whose love is everlasting has a program for the world that can be achieved only as men become willing to live, and learn to live, in harmony with his moral and ethical plans for men. Pervading the religious and intellectual world today is a sort of antinomian, generalistic, amorphous outlook that leads people to rely on subjective impressions for their understanding of how they ought to live, and to trust in ecstatic or impulsive feelings as a measure of the validity of their religious experience.

In this setting it is important that the law of God be correctly understood. Adventist theologians have struggled with this problem, but they have en-

gaged in their inquiry without the benefit of specialists who understand the place of law in the fabric of man's life. This search for broader understanding of the place of law in theology, this effort to relate law and Christianity, must reach both ways. Professors of law in an Adventist law school, legal experts, and legal researchers can help theologians understand the function of law in religious life. Conversely, the benefit of dialogue and interaction with theologians will broaden the view of Adventist lawyers in regard to the function of religion in the day-by-day practice of law.

Too many lawyers approach law in a completely secular framework. The place of law in society can be understood in a more realistic manner in the light of Christian doctrine and the divine claim upon man. The church can give relevance to its teachings by a clear understanding of law as it pertains to vital areas of life and society. The Christian lawyer should be able to study his discipline in a setting that will help him see the basic relationship between law and Christianity. This will help him achieve integrity and avoid a devitalizing split between his personal and his professional life.

8

III

Dialogue and interaction among church theologians and legal educators would help also to clarify and rectify basic legal-ethical philosophy, much of which is inconsistent with Christianity. Most law schools are pervaded by one of two basic legal philosophies. The first and perhaps the more widespread is that of *legal positivism*, which attempts to insulate law from morality; the second is *ethical relativism*, which reduces morality to a matter of personal opinion and cultural history. The Christian lawyer rejects these viewpoints because he believes that law is neither merely a means by which the powerful impose their will on the remainder of the community nor merely an expression of majority opinion or the morality of the largest group.

The Christian lawyer will believe that criticism of rules of law may be necessary and that such criticism is not merely an expression of subjective preference. He will seek to relate Christianity and law, and in doing so he will seek for a Christian philosophy of law or "for a Christian basis for discriminating among philosophies of law." He will try to find a Christian ethical standard for criticizing particular laws and a Christian understanding of the process of criticism. He will be unwilling to accept any statute uncritically, because he knows that there are just laws and unjust laws. He will not be willing to accept the idea that "law is law," because his conscience tells him that at times there is lawlessness in statutory form.

The Christian is not willing to accept Chief Justice Holmes' definition of law as simply a "prophecy of what the courts will do," for this says in effect that legal theory is not obliged to provide any basis for determining the justice or injustice of a law. This concept, however, has become a fundamental concept in modern jurisprudence. One of the most influential legal theorists of our day argues in his major treatise that "the concept of law has no moral connotations whatsoever."¹

This separation obscures the very nature of law, since law, the means by which human conduct is controlled, involves ethics and morality. "An adequate theory of law must be broad enough to deal with all the facts relating to the phenomenon of law including the fact of value."² Christian theologians and Christian lawyers have always sought to broaden the context within which law is studied, so that justice and morality can be a part of law.

If law is defined as "a consciously formulated norm of behavior enforced by the power of the state, and directed toward achieving certain ends," several crucial questions arise.³ The first of these is the *source* of law. From where did law come? is there a source of law prior even to the legislator or the judge? what is the nature of law? The Christian brings to this first question his understanding that the source of law, like the source of man, is God. Law is an extension of God's will and of God's order; it "has the effect of fashioning man by ordering his conduct."⁴

For theology holds that the original justice is man's spontaneous right relation to man and things as well as to God. Thus, the first edition of the law lies in God's creative act wherein he forms man to live the life of love. The second edition of the law is the decalogue which is a more specific (but less dynamic) elaboration of the life man ought to live. Whereas the life of love would lead man to relate himself properly to his fellow man, his actual prideful life obscures his duty and the specific instructions of the commandments become necessary. Subsequently, the "secular" law follows the general direction of these commandments, though now deprived of their theological basis. For example, "Thou shalt not steal" is expanded into the more intricate Law of Property; "Thou shalt not bear false witness" lurks behind the Law of Contracts; "Thou shalt not kill" lies behind part of the Criminal Law; "Thou shalt not commit adultery" still represents a fundamental element of the Law of Domestic Relations. That is, law as we know it in the actual legal system is involved in the process of creating the kind of relations God intended in his creative act. The law is misconceived, however, if it is seen simply as force; its essential nature is involved in working toward relations consonant with man's essential nature. To be sure, the coercive aspect of law cannot create the life of love, but its function is chiefly to bring to bear those conditions which will make love possible *and at least to restrain behavior which would obstruct the possibility of mutuality and love.*

The second question is the *nature* of law. Is its essence force, inasmuch as law is enforced by the coercive power of the state? This position is held

in many countries by famous legal theoreticians.⁵ But this would mean that all laws — communist laws, fascist laws, and laws calling for trial by ordeal — are equally valid in that they all possess the element of force. In some systems of government, rights are not actual rights of private persons but rights established by the state. This understanding of the nature of law may result in laws that are flagrantly unjust.

The Seventh-day Adventist church needs a school of law that will educate Adventist lawyers who look upon the essence of law not as force, not as the will of the majority, but as formulations of required conduct that protect the rights and dignity of all human beings. The church needs a law school that will teach practitioners that laws exist to provide for justice.

These are days that have been described by the prophet as a time when justice has fallen in the street. God looks for men who are committed to the upholding of justice. This commitment is even more necessary now than it was in the days of Jeremiah, when the Lord tried to impress the prophet with the value of doing justice and seeking truth. Jeremiah was commanded: "Run to and fro through the streets of Jerusalem; look and take note; search her squares to see if you can find a man, one who does justice and seeks truth, that I may pardon her." Jeremiah did as he was told, but he could not find in the whole city a person who was intent on doing justice and seeking truth. Disappointed, he said to the Lord: "These are only the poor, they have no sense; for they do not know the way of the Lord, the law of their God. I will go to the great, and will speak to them; for they know the way of the Lord, the law of their God."⁶ But even when Jeremiah looked diligently among the educated, the leaders and the great men of Jerusalem, he could not find a person of whom he could conscientiously say, This man *does* justice and *searches* for truth. That tragedy illustrates how rare are the attributes of *doing justice* and *seeking truth*.

The world is full of people who are crying out to *receive* their just rights. There are few people, however, who are concerned that they themselves *do* justice. The distinction between receiving and doing is important: if we do not *receive* justice, that may be someone else's fault; if we do not *do* it, that is our own fault.

IV

No, I would not agree with those who say there is no need for an Adventist law school. We need a school of law that will prepare large numbers of Adventist lawyers and judges to practice in thousands of communities throughout the United States. We need a school of law to help our

church clarify its thinking on the place of law in the fabric of society and in the theology we preach.

We need a school of law to serve as an additional means of helping us realize the importance of a continuing search for truth. The Adventist church, like others, faces the peril of placing value on standardized thought instead of on a continuing, lifelong pursuit of truth. Above all, we need a school of law in which lawyers come to recognize that the function of all law is to produce justice for human beings. We need a school of law that will help impress not only the lawyers among us, but the whole church, that God values persons who are deeply concerned that they themselves do justice.

II

Jeremiah could not find in all the kingdom of Judah, either among the poor or the great, the learned or the illiterate, a single man who was devoted to doing justice and seeking truth. How much better would Jeremiah have fared if he were to conduct his search in our churches, our colleges, our universities? Are the universities known for sensitivity or courage in matters of justice, or in the earnest search for truth, despite lip service? The silence of the German universities and churches during the rise of nazism has been termed one of the "enigmas" of contemporary history.

The church can never fulfill its high destiny unless by means of its educational institutions it can develop ministers, teachers, and laymen who have a full understanding of the importance of doing justice and seeking truth even though this may bring pain and require breaking with tradition. It is not adequate for the church to be interested in foreign missions and forget its responsibilities to the neighbor next door. The cries of neglected children in the slums, the despair of unemployed fathers who live only a few blocks from our comfortable homes and campuses, cry out for us to do justice and to seek truth. The church should develop every means possible to teach us this need and to help us meet it.

REFERENCES AND NOTES

- 1 Hans Kelsen, *The General Theory of Law and State* (translated by Anders Wedberg, Cambridge, Massachusetts: Harvard University Press, 1945), p. 5.
- 2 Samuel Enoch Stumpf, Theology and Jurisprudence, *The Christian Scholar* 40, 171 (1957).
- 3 Ibid.
- 4 Ibid., 185.
- 5 Kelsen, p. 26.
- 6 Jeremiah 5:1-4.