

A New Law, and a New Order?

By Thomas R. Heath, O.P.

"Would you write an article on the New Law and somehow tie that in with the 'law and order' everybody is talking about today?" I'll try.

My first thought: by the time the article is written and printed the phrase "law and order" may have run its course through the mass media and like clothes in a washing machine have come out limp and damp. But if I could get to the reality behind the phrase I might be able to say something intelligent. No society can function without that minimum order that arises from due regard for law. Is that the reality? Liberal distinction: no *just* society can function without due regard for *just* law, yes. Conservative response: no society, just or unjust, can even hope to achieve the status of justice without regard for the due process of law, even in changing an unjust law. Liberal repartee: some laws cannot be changed except by disobeying them, by causing a raucous, a riot and a rampage. Conservative volley: the raucous will entrench the injustice all the more, it will not eliminate it. And so on.

In the spring of 1968 I was working part-time and living in the Washington inner city. I kept a haphazard journal during those days. The following is what I entered into the diary on April 13:

"I finished Claude Brown's *Manchild in the Promised Land* last night. A very explicit account of his boyhood and young manhood in Harlem during the '50's. Reflections on various things: the dope trade, Black Muslims, violence, etc. He exaggerates everything, e.g., *everybody* was taking dope, *everybody* was a Black Muslim, *everybody* he knew except Turk, who became a successful heavyweight boxer and himself either died of OD (overdose of drugs) or ended in jail. The overall message is still clear, honest, compelling. The Negroes in Harlem of the '50's by and large didn't have a chance to make it out of the ghetto. Whose fault? Their's? The children who hadn't yet learned the alphabet in the fourth grade? *Their* fault?

"On April 4th Martin Luther King, Jr. was shot. On April 5th, 6th, 7th riots. On Wednesday, April 10th Congress passed the new legislation with the open housing clause. That may be a beginning.

"At 1231 we worked during the days of the rioting as a food distribution and a neighborhood legal aid center. Al² was at the courthouse almost around the clock defending the accused or arguing for a mitigation of their sentence.

"Here is my parable for the riots: Joe comes home and finds Charlie in bed with his (Joe's) wife. Joe goes over and burns Charlie's house down. Amen.

"It is that simple. The Negro community through the education of some of its members has come in the past 10 or 20 years to realize the extent of the enormity perpetrated on it by white society (Charlie), and through men like Martin Luther King, has protested for their rights as Americans, and more fundamentally as human beings. They saw how unjust Charlie has been all along, beginning with slavery, then the breaking up of the slave's family for money. They even saw how literally Charlie has gone to bed with their women. And they see their own poverty today, their serious need for education, housing, and just plain respect from the whole community.

"King was shot. Non-violent protest seemed to have died with him that day. On came the riots. What else? Retaliation, retaliation at least from the militants. Probably 80 or 90 percent of the looting was unplanned. But the fires were planned. Get the fires going and run. Hit and run. And then let the resentment which to a greater or less degree is in *every* Negro's heart take over.

"The police handled the riots magnificently. They acted with enormous restraint, probably out of pragmatic motives learned from Detroit and Newark last summer. If they shot there would have been as escalation and an intensification of resentment. But it looked almost as if they too recognized the fact that the white community had been found in bed with the black man's wife and that they, as custodians of justice for the white community, were ashamed. No matter how much the white man's property was destroyed they simply would not shoot the black man down.

"The restraint of the police was the best thing to come from the whole awful business, I think."

My judgment on these words in the light of what has happened since, e.g., the student take over of Columbia University later in the spring, the assassination of Robert Kennedy in June, the August demonstrations in Chicago, the frequent heckling of Hubert Humphrey during the Presidential campaign (I write this before the election which seems certainly to be going to Nixon)—my judgment now is this: I still stand by my words.

The April riots to some degree came from the emotional shock of Dr. King's death. The Negro Community was filled with such

immense sadness that their sudden flare-up of anger was entirely predictable. To have tried seriously to halt that release of sadness, frustration and rage then would have been stupid and disastrous. The police were right in what they did.

It is true that one extreme set of circumstances ought not to determine our theology of law and order, of violence and non-violence; one still cannot construct such a theology without admitting the possibility of those circumstances recurring again.

Where does one begin a theology of law and order? Maybe with these words: "At that time the Pharisees approached Jesus and one of of them, a lawyer, in an attempt to trip him up asked him, 'Master, which commandment in the Law is the greatest?'" (Mt. 22:34) We note that the question is put by a lawyer from the Pharisees (among whom were many honorable men like the early St. Paul and Nicodemus) who in general thought that strict observance of the Mosaic Law was necessary for salvation. Was the greatest command then the law of the Sabbath? the dietary laws? the religious ritual? Christ answers: None of them. It is rather the command which gives meaning to all those laws that have to do with the service of worship: love God totally. And the second is the command which gives meaning to all the laws that have to do with the service of man: love your neighbor totally. In these two is contained the whole Law and the Prophets.

The accent is not on the literal fulfilling of any one law but on the spirit behind all law, namely the spirit of love. Law and order in this context of *Heilsgeschichte* would mean: if you love God and your neighbor seriously then what you do will in the deepest sense be lawful, and it will help create order in its deepest sense. Not law and order with love, but love with law and order. You do not exhort the convinced followers of Christ: get some love in your law and order; you say, as the Holy See said to the early Franciscans, get some law and order into your love.

In a secular society the parallel is there. A principle is or should be behind the whole structure of law, and which is or should be constantly creating order. That principle is not love, it is justice. Justice, when it is clearly distinct from love, regards the other "as other"; love regards the other "as self". Justice looks at another man as he is "endowed with certain inalienable rights"; with rights that do not depend on my regarding him as part of me, or part of my group. Justice says: even though you are not my sort, even though I cannot understand your ways and your philosophy and even

though I find it humanly impossible to love you, I still must respect you. Because you are a man I cannot reduce you to a thing, I cannot liquidate you. Liquidation as Josef Pieper remarks, is the process that says: he is not our kind, let's get rid of him.

The Negro is not our kind, thinks certain white men. The white man is not our kind, thinks certain Negros. But justice thinks: my kind or not, he has a right to life, a right to freedom, a right to pursue happiness.

In society where many people of different kinds are thrown together the tensions are extreme. Such a society lies always under the threat of rage and violence. What then is the greatest commandment in that society? Justice. Not law and order, not even law and order with justice, but justice with law and order. We should not be saying to such a society: get some justice into your law and order. We should be saying, get some law and order into your justice. The justice should be there first, visibly, pervading the whole society. Even the policeman in such a society should be upset first, not by the breaking of peace, but the breaking of justice. The slum landlord ought to bother him more than the tenant who shouts and curses.

But what of the cursing tenant, i.e., the militant Negro? the demonstrators? the revolutionaries? the violent men? Père Lacordaire said something valuable on this subject a hundred years ago. He was a French liberal who supported the claims for the republic against the royalists. The legend is that on his death bed he said: I die a repentant sinner but an unrepentant liberal. Yet he wrote at the end of his life that there was a "grave difference between the *spirit* which founded the United States of America and that which since 1789 has been animating the majority of European liberals and democrats . . . the *spirit* is the great point; it is the anti-religious levelling, civil-centralizing spirit which has rendered abortive the great revolution of 1789, and has always prevented it from producing the results we had a right to expect from it. So long as this spirit exists liberalism will be vanquished by an oppressive democracy, or by unbridled autocracy" (his italics).

In the same letter Lacordaire praises Chateaubriand, O'Connell, Ozanam and Tocqueville as "our fathers and guides" because they espoused the true democratic spirit without an oppressive and imperious democracy.

Law and order, the great conservative cry today is being met with the new left chants for violent overthrow of outdated institutions. The police interpretation of the first is generally wrong because it is

excessively autocratic, even fascist; but the new left interpretation of freedom is also wrong because it is oppressively democratic, and even in its way, fascist. It is anarchy. And anarchy, it has been said before, is the breeding ground for the totalitarian state. If the new left succeeds in drowning out the sober voice of justice to *all* men, even to the conservative members of society, then we are in for a very hard time.

What has this to do with the New Law? The New Law is nothing other than the grace of the Holy Spirit dwelling within the Christian and calling him to a life of Christian love. It does not consist in external negative prohibitions but the interior impulse to love. The emphasis is on freedom. "Where the Spirit of the Lord is, there is freedom." (2 Cor. 3:17) "What the Spirit brings is: love, joy, peace, patience, kindness, goodness, trustfulness, gentleness, and self-control." (Gal. 5:22) The inner directed man knows where he is going sees that there are many ways of getting there and chooses freely among them. So the man directed by the grace of the Holy Spirit having tasted of the joy of union with God desires the fullness of that union intensely and chooses his way in an atmosphere of love, joy, peace, trustfulness, gentleness.

The inner impulse of a pluralistic society ought to be the inner thirst for justice in the men who make it up. The thesis I have been holding is that if the desire for justice were rooted deeply enough law and order would not be a problem. I find now that I must qualify my thought. Why? Because life frequently is a mess. Injustices can happen when no one is at fault. Unexpected bad fortune in business often leave many people bereft with no one really to blame. And no matter how efficient government can be, no matter how highly motivated the civil servants are, they cannot get to every case of hardship immediately. The people who suffer must have some higher impulse than justice to sustain them. What I am saying then is that justice cannot make it alone as the adhesive social virtue. It needs love. It needs the willingness to overlook many unfortunate things in our society and sometimes to wait patiently for the long slow wheels of "due process" to turn in one's favor.

Justice is not enough. Love has got to be there too. I said earlier that justice regards the other "as other"; but the other is not just "other"; he *is* part of me. He and I are men together, and we are in a sea threatened always by unexpected and wild squalls. The natural fulfillment then of society's law of justice is love. Our formula "law and order with justice", which we have changed to "justice, with law and

order", now must be qualified again, "justice and love with law and order".

Now let us go back to the Washington riots in April 1968. I have said in the light of Martin Luther King's assassination, and the long frustration of the Negro community that they were understandable and that the police did in fact seem to understand. It was an instance where the justice of the police was, or seemed to be, tempered by the higher directive of love.

But this instance is not my rule. The continual violence of the black community against the whites would be a disastrous policy. *Violence usually begets violence.* If the rage in the Negro community is not tempered, is not again translated into non-violent protest for attainable goals, utilizing all the white support available, then there is no doubt we are in for a blood bath. It is also obvious that if the whites do not respond more generously they will deserve it. If we cannot be black and white together then we shall be black and blue together.

Just as violence in our land will not solve anything, so neither will a policy of law and order. The United States needs more than ever, especially among the white suburbanites who put up the greatest resistance to the Negro, a new infusion of justice as their inner impulse. I think *that* is more imperative than an infusion, let us say of patience and forgiveness in the Negro.

I should like to quote again from my journal. This entry was made on Friday, June 6, 1968:

"On Tuesday night (early Wednesday morning) Robert Kennedy was shot. He died 25 hours later, Thursday morning, June 5th in Los Angeles. His body is in state now in St. Patrick's Cathedral in New York City. Burial tomorrow at Arlington. I have been watching the T-V.

"I am filled with emotion. Sadness mostly and numb shock, anger and regret, and fear for America. He was a brave and a good man.

"I criticized him. I thought he was too evangelical, almost messianic in his speeches; that he would not have been able to unite the country, but would have divided it all the more. I thought he had confused politics with religion, especially because he wanted the clergy, Protestant and Catholic clergy, to endorse him publically.

"I regret the sharpness of my judgment. It had no nuances whatsoever, no understanding of his single-mindedness, his total dedication. I see now that an article stating my doubts might have done some good to clarify my own mind and to help some of the Kennedy supporters whom I know to see the necessity of keeping the two activities,

religion and politics, professionally distinct. They are not distinct in the individual heart and mind. But they should be kept *professionally* distinct otherwise every political program would have to be endorsed by the church as a holy crusade, or damned by it.

"Harold Macmillan, England's former Prime Minister in a T-V interview said he saw in the Kennedy family the same spirit that was in the Allies during World War I: the idealism, the willingness to sacrifice to the limit, the nobility, the "spirit of crusade" (his words). He also said that even with all their wealth the Kennedys had absolutely no pomposity.

"That spirit of crusade so evident in JFK's inaugural address—'God's work must truly be our own'—was taken up even more explicitly by Robert. In his speeches Bobby tended to leave the impression that his work was definitely God's work and that one had to join *him* in order to accomplish God's work, implying that if you did not join him you could not be doing God's work. This was my criticism. But with so many friends of the Kennedy's saying now that Bobby was a shy man I see that this insistence of his—if it was there at all—may have been partly in compensation for his natural reserve. The shy person tends to overstate when finally worked up.

"In any case his voice should have continued to accuse us, to accuse me. His genuine compassion for the poor, his intensity, his love and courage should have continued to give witness. He is silent now and he joins his brother in history as a man cut off before his prime.

"I saw an article in *Listening* by Moltmann on eternity. His point was that eternity was not a negation of time but a fulfillment, i.e., perfect life and love, and we cannot appreciate it except by participating fully in life here on earth, not by escaping life. I thought of Robert Kennedy—his wife, his ten children (expecting the 11th), his Hickory Hill place with all the animals and the stream of visitors, especially the poor children from D.C. I thought of all those people standing vigil at the casket, the high and the low, the rich and the poor, the educated and the not-so-educated. He loved life. He did not escape life.

"What a mystery his death. If anyone could throw light on it, and on the other tragedies which have come to his family, that man would be the sage of all time. The meaning is lost. The meaning is lost in a great tangled field. Lost in the invisible almost unknowable field who is Christ. Lost in the far reaches of the Incarnation that began in love and ended in brutal violence.

"Someday we shall touch the glory. But now we stumble through the field turning up this rock and that rock wondering if the truth is there; rather wondering what truth is there."

Is it the truth that violence in our country will only end in the irrational cutting down of the best we have? Is it the truth that we can

only be healed by this man's double spirit of intense compassion for the exploited as well as his firmness on law and order?

Christ went on to glory. So, we hope and pray and believe, has his servant Robert. May others with his passion for justice as well as his deep respect for law and order follow. Only another Robert Kennedy, or about ten of them, can lead this country and the world away from violence into justice and love with law and order.

FOOTNOTES

¹ 123 11th Street N.E.

² Albert Broderick, O.P.

Fr. Thomas R. Heath, O.P. is currently Professor of Moral Theology at the Dominican House of Studies in Washington. He is the author of In Face of Anguish, and recently completed a year of inner city work at the Dominican inner city residence at 123 11th St., N.E. in Washington, D.C.