

24th Annual Red Mass
Diocese of Wilmington

October 3, 2011

Bishop Malooley,
brother priests,
deacons,
honorable members of the judiciary,
distinguished members of the bar,
honored guests,
brothers and sisters in Christ Jesus,

The great Prophet and lawgiver of the Old Testament, Moses, declares to the people in the Book of Deuteronomy: "Justice, and only justice, you shall follow, that you may live and inherit the land that the Lord your God is giving to you." (Deuteronomy 16:20).

We gather today on this special occasion, for the celebration of this Red Mass, to pray for justice, to pray for those who administer justice, and to pray that our Church and country will always remain true to the principles of justice at the heart of both their missions.

And it is right that we in particular should pray for this significant cause. In one fashion or another, we have all dedicated our lives to fulfilling the command of the Lord to follow justice, and only justice. You have done so in a very particular and significant way: by serving the administration of justice in our church or in our country for the common good, for the well-being of each individual, and the good of society itself.

As the front line in our country's fulfillment of the Prophet's call: to follow justice always, and only justice, you have been entrusted with an especially noble and even sacred charge. At the beginning of the Emperor Justinian's *Digest*, the Roman jurist Ulpian refers famously to those dedicated to the law as priests of justice: "We jurists," he writes, "are called priests because we promote justice, and we profess to know the good and the equitable. We distinguish between what is fair and unfair and determine what is licit and illicit."

Through the centuries, this notion of jurists as devoting their actions to the triumph of the good and the equitable, in each case, every decision, and in the law itself, has rightly held fast, although we may no longer express it by use of this particular phrase.

Yet, Moses was not a priest. He was a prophet, the greatest of the prophets and a prophet of the law. He gave to the people an enduring law, one revealed by God to establish a covenant, a foundation for the chosen people, for their faith, their worship and their lives. It was not always an easy task for Moses to keep the people focused on and committed to the importance of the

law, its ultimate source and purpose, and the consequences that ensue when the law is disregarded or weakened.

But that is precisely the task of any prophet of the law of any age. To remind us, to challenge us, to call us back to the basics, and even to warn us of the outcome, for the individual and for society, when we turn carelessly aside.

I have had the welcome opportunity and honor to serve the bishops of this country at the United States Conference of Catholic Bishops for the past eight years, first as a special legal consultant, then as associate general secretary, and now as the general secretary. Throughout that time, on a regular basis and in various venues, I have witnessed the growing alarm that the bishops of our nation have expressed concerning the ever increasing threats we face to religious liberty in our great land.

These threats stem from all branches of government and they strike at fundamental issues to the exercise of our faith, including conscience protections for charitable workers, the right of churches to employ ministers of their own choosing, and the redefinition of ancient institutions revered by all religions, such as marriage. Yet, perhaps of even more concern than the immediate result of any legislative, executive or judicial act, is the long term effect that awaits this country's proud and remarkable history of religious freedom, not merely as a right to worship, but also a right (and we would add obligation) to take an active and proper place in the public square of our country, to embody faith and worship in active participation as citizens of this nation.

Last week, Archbishop Timothy Dolan, the President of the Bishops Conference, announced publically the creation of a special committee of bishops who will devote all their efforts to the protection of religious liberty, in close collaboration with other denominations and religions, charitable organizations, including health care providers, and Catholic universities.

Archbishop Dolan expressed the urgency of the need to promote religious liberty in these words to his brother bishops:

“This basic right, in its many and varied applications for Christians and people of faith, is now increasingly and in unprecedented ways under assault in America. This is most particularly so in an increasing number of federal government programs or policies that would infringe upon the right of conscience of people of faith or otherwise harm the foundational principle of religious liberty. As shepherds of over 70 million U.S. citizens we share a common and compelling responsibility to proclaim the truth of religious freedom for all, and so to protect our people from this assault which now appears to grow at an ever accelerating pace in ways most of us could never have imagined.”

My brothers and sisters, dear friends, the bishops of the United States have now chosen a prophetic role, to be prophets of the law, to call us to join the effort in support of the right to

religious liberty, that is founded on the dignity of each man and woman, enshrined in the foundational laws of our nation, and held dear by our Church as a right due all people of all faiths and religions and of all times and places. We, too, can take part in this important moment. We can be prophets of the law, and you in a particular way, as administrators of the law, are able to make an especially significant contribution.

When visiting the White House during his first Apostolic Journey to the United States in October 1979, Blessed John Paul II spoke these words:

“I salute the people of this land also in the members of the Judiciary, who are servants of humanity in the application of justice, and who thus hold in their hands the awesome power of profoundly affecting, by their decisions, the lives of every individual.” (Oct 6, 1979)

What the Holy Father spoke of your impact on the individual is true also of your impact on society, not only on the part of the judiciary, but also the contribution of all jurists and administrators of justice. This might lead us to ask what in particular is it about a prophet of the law, about Christians in the field of law, that is critical for an effective outcome, not only with regard to religious liberty, but in your daily tasks and duties as well.

There are, I would suggest, three qualities we can keep in mind, many more could be mentioned, but these three I would offer briefly for your further consideration in the judicial year ahead.

The first is quite simple, yet exceptionally critical: the prophet of the law, the dedicated and true jurist, will never remain indifferent to the cause of justice and, in the present circumstances, to the protection of religious liberty.

Sacred Scripture is not shy about calling us to make a decision, take a stand for or against, to choose a blessing or a curse, the light of the darkness, the good or the evil. The one choice not permitted is to remain complacent or undecided. The well-known admonition to the Church in Laodicea, from the Book of Revelation, serves as a reminder: “I know your deeds,” the angel says, “that you are neither cold nor hot. I wish you were either one or the other! So, because you are lukewarm—neither hot nor cold—I am about to spit you out of my mouth.” (Rev. 3:17)

And there is a good, practical reason for the Bible insistence on this point, one not lost on Christian tradition.

At the beginning of Dante’s famous work, *The Divine Comedy*, the poet stands with his guide, Virgil, before the gates of Hell. They are set to enter. And, as we know, Dante is about to serve as an eye witness to a unique journey through the underworld that none of us would hope to take.

Dante pauses suddenly just as they about to cross the River Acheron. He asks Virgil what might be the source of the horrible cries he hears of those who seem, in his words, to be “conquered by their pain.” Virgil tells his charge that these are the souls of those who lived their lives on earth, as Virgil puts it, “without disgrace and without praise.” They gave themselves to no cause, good or bad, but remained comfortably indifferent, neutral, choosing neither justice nor injustice.

For this reason, we are told, they are now rejected by both heaven and hell, and so cannot enter either. “Both mercy and justice” despise them, Virgil concludes, as he orders Dante to look away and pass on.

Perhaps, at least when it comes to the law, the opposite of love is not hate, but a unworried indifference to the source and principles of justice that must lie at the heart of all laws and decisions rendered based on them.

When the laws of our nation or the decisions of those who execute them threaten the noble principles upon which our country was founded we cannot remain indifferent, we cannot watch quietly from the side. It soon becomes necessary for each of us to play our part, in whatever manner is most suitable and appropriate, but always with conviction and charity, so that justice in the law will be served not only in the legal case before me, but even more so in the system of justice itself, for the long term, for the good of the generations that will come to believe, worship and act after us.

A second characteristic necessary for the prophet of the law, I would propose, is never to forget, to keep always first and foremost in mind, the ultimate source of the law and of the fundamental rights that arise from it, including that of religious liberty. In his recent, historical speech delivered to the German Parliament only two weeks ago, Pope Benedict remarked:

“Unlike other great religions, Christianity has never proposed a revealed law to the State and to society, that is to say a juridical order derived from revelation. Instead, it has pointed to nature and reason as the true sources of law – and to the harmony of objective and subjective reason, which naturally presupposes that both spheres are rooted in the creative reason of God.”

It seems hardly acceptable in our day to suggest in secular venues that the law of our state and nation is rooted in the creative reason of God. Even use of the phrase “natural law,” even without reference to a divine source, is taken as at least archaic or unfashionable, if not as a point of total irrelevance.

But the fact is not swayed by the reaction to it.

We believe in one God, creator of heaven and earth, who created man in his own image, endowing him with reason, and giving to the world in which he lives a natural order that cannot be changed, not even by man, created as he is in the image of God.

If you accept this premise, then there are consequences. If you deny this premise, then there are still consequences, for the legal order as well.

The Church does not seek or promote the divinization of human laws. Theologians should not serve as lawyers, and priests will not sit as such on secular benches. But the Church will never cease proclaiming that a civil legal system that forgets or rejects the ultimate source of all just laws, right reason, the natural order, and the inviolable dignity of the human person, will in the end fail to realize for its people the lofty goals of justice, and the freedoms that flow from them, including freedom of religion and freedom of conscience.

And a third and final characteristic of the prophet of the law.

On countless occasions, beginning early in the Old Testament, we hear the sacred authors speak of God's love, his love for the chosen people, and for individuals in salvation history. And on almost every occasion, God's love is qualified by a very important word. It is always and foremost a *steadfast* love. It is constant, reliable, unchanging. God does not alter his love. He is forever faithful and trustworthy.

In the New Testament, in the Letter of James, we see this as well when we read:

“Every good and perfect gift is from above, coming down from the Father of the heavenly lights, who does not change like shifting shadows.” The nature of justice, and your work as jurists in service to justice, the need to defend fundamental rights, including those associated with religious liberty, to protect the innocent and punish the guilty, to bring peace to contentious situations, all of this demands the same steadfast, constant devotion to the principles of justice enshrined in the laws of our land, interpreted through right reason, and applied always to promote the equitable and good.

If we choose to administer justice in the shifting shadows of public opinion or political necessity, we might claim a victory today, but we will certainly suffer a loss tomorrow and in the years to come.

The steadfast and unswerving devotion to the rule of justice in the law results ultimately in a contribution that extends far beyond the daily work of the judge, attorney or prosecutor. For your just sentence is not important merely because you have brought peace to a previously contested matter, or because you might have made the right decision in the case before you. It is significant because it embodies justice itself; it becomes another piece of the glorious mosaic we build, decision by decision, ruling by ruling, brief by brief, of the right, good, equitable and just for our nation, state, Church, and fellow citizens.

My brothers and sisters, I thank you for your kind attention and for your willingness to hear me speak to a matter of urgency to the bishops of our country. I thank you for considering my own invitation to join them as prophets of the law in promotion of religious freedom for our Church

and country. In doing so, I hope I have also offered you food for thought applicable to your service to the administration of justice.

To heed the words of the Prophet Moses, and so follow justice and only justice, is not always an easy task, to remove all indifference, to stay ever close to the source of law, and to remain constant and steadfast in it. Yet the cause we face is compelling. And so it is time to rise to the occasion of the protection of religious liberty. By doing so we will rise to protect the place of people of faith in our country, of citizens subject to our legal system who will not allow our laws, or the interpretation and execution of them, to become an adversary of the very right to belief and practice that has made our nation so strong from its foundation.

In closing, I thank you as well for the example of dedicated work in service to justice that you carry out on a daily basis. You face challenges and difficulties that others rarely encounter. You are praised and blamed for nearly every decision, and always depending on the person you ask. You must get every decision right, the first time around, and with absolute clarity and precision. You bear the burden of knowing that your decisions affect the lives of all who come before you in significant ways.

But what a noble work: to bring peace where there was discord, to bring justice where there appeared to be none. To heal divisions and offer hope for the future. Perhaps this is why Pope Paul VI rightly referred to “The veneration of justice within the Church as an obligation, [but] one of love,” (Allocution to the Roman Rota, January 28, 1972) and Blessed John Paul II, when speaking to a gathering of judges and advocates, noted to them, “Your mission is first of all a service of love.” (Allocution to the Roman Rota, January 28, 1982).

I thank you for that service, for the witness of love you bring to it, and I pray that God, who is always love, will guide you in truth and light for the fulfillment of justice and the triumph of all that is good.

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General Secretary
United States Conference of Catholic Bishops