

# Evidence of Things Hoped For

## Dialogue in Law and Theology

During the Middle Ages, the term "professional" was reserved solely for clergy, the group expected to provide leadership and service to the public. The term's Latin root, *professio*, referred to the sacred oath taken by monastic clergy.

According to Bruce Kimball, author of *The "True Professional Ideal" in America*, the meaning of "professional" gradually expanded to include parish clergy and lay believers, and it came to refer to the secular calling through which one's spiritual calling was fulfilled.

In the late 18th and early 19th centuries, as the Enlightenment began to erode belief systems and the cultural emphasis shifted from religion to politics, clergy began to lose first place among professionals, and attorneys became the profession of choice. People with disputes to settle began going to court instead of to their local minister, Kimball writes.

Today, the reversal in position persists, at least when it comes to salaries and public status. However, in the important public conversations about values and ethics that take place daily in the public square, on the pages of newspapers, and at the water cooler, both ministers and lawyers bring essential perspectives.

In this feature, three PTS alums who are trained in both law and theology reflect on the Seminary's inaugural conference on faith, ethics, and the law, and on their own integration of law and faith. Larry Stratton brought a law degree from Georgetown when he came to PTS to study theology in 1999. Nancy Conklin, too, was a lawyer (Seton Hall Law School, 1989) before she came to seminary. Peter Suzuki, PTS Class of 1985, earned his law degree from Rutgers School of Law *after* seminary. They are just three of the more than 50 alums (some pictured to the right) who "profess" both law and theology. And the numbers are increasing.



Photo: Joshua Sutherland

"Christ Our Advocate," the sermon that Larry Stratton preached during the faith and law conference, is available in audio format on the PTS web site. Click on <http://www.ptsem.edu/read/inspire/8.2/features/1/>.

### Partnering Law and Faith

by Larry Stratton

Quoting from his new book, *Where the Evidence Leads*, former U.S. Attorney General, two-term Pennsylvania governor, and U.N. undersecretary general Dick Thornburgh concluded his address to a packed PTS audience on October 14 with these words: "Although I seldom commented publicly about religious feelings that I consider basically private, my Christian beliefs have permeated my life."

Noting the significance and sustenance of prayer in daily life and its solace in times of stress, Thornburgh referred to a yellowed newspaper clipping that his wife, Ginny, a PTS trustee, posted on their kitchen wall. It asked, "If you were arrested for being a Christian, would there be enough evidence to convict?" The distinguished lawyer and former government prosecutor said, just prior to receiving a standing ovation, "My fondest hope is that the evidence presented in these reflections would be at least enough to get to a jury."

Thornburgh's speech was the keynote address in the Seminary's innovative conference, "Faith, Ethics, and the Law: Legal Issues and the Church" (October 14–15, 2003). Forty-plus lawyers, legal scholars, ministers, theologians, and ethicists discussed their perceptions of the relationship between law and faith. A number were among the 50 known Seminary alumni/ae who also have law degrees. In a first for a PTS continuing education event, lawyers received continuing legal education credit from the New York and Pennsylvania State Bar Associations.

As the conference opened, Thomas R. Johnson, a partner at the law firm of Kirkpatrick & Lockhard LLP in Pittsburgh and a Seminary trustee, posed several questions about the interplay among faith, law, and ethics that the conference would address: "How does our Christian faith inform our activities as professionals?" "How does faith influence the role of public servants and lawyers in their decision-making?" "How do we handle situations where there appear to be conflicts between personal faith and professional obligations?"

Debate on these central questions infused the conference's four sessions: "Law and Faith," "Current Issues in Constitutional Law," "Law, Ethics, and Medicine," and "Current Ethical Issues in Business Law." Each session featured a three-person panel that included a distinguished lawyer, a prominent legal scholar, and a member of the Seminary's ethics faculty. Sessions wrestled with often-contentious issues like end-of-life support, corporate ethical scandals and executive compensation, the separation of church and state coupled with the rule of law, and the U.S. Constitution's framework for representative government.

As William J. Byron, S.J., president emeritus of Catholic University, contended, there is no separation between religion and American society, notwithstanding the First Amendment's non-establishment clause. Byron argued for intensified moral discussion in American society to promote a greater appreciation of natural law (and, by implication, theology) in public discourse, thereby transcending the specific beliefs of various religious and cultural groups.

Pennsylvania Superior Court Judge Justin M. Johnson, also a PTS trustee, said that his involvement as a leader in his local congregation (Bethesda Presbyterian Church in Pittsburgh, where he is an elder), his active leadership in the Presbyterian Church (including service on the Permanent Judicial Commission), and his numerous activities with charitable and educational institutions, have never compromised his role as an impartial jurist. In fact, as a Christian his commitment to justice has influenced positively his judicial decision-making. He cited a case example in which he believed that a mechanical application of "black-letter" (legalese for strict legal rules) sentencing standards undercut the goal of justice: to rehabilitate the defendant in the case. He urged his appellate court colleagues to reduce the consecutive, six-to-twelve-year, maximum-security incarceration of a defendant convicted of unsuccessfully attempting to shoplift

a carton of cigarettes and a pair of designer jeans. Despite Johnson's objections, his judicial brethren affirmed the sentence.

Thornburgh, too, finds his faith and his practice of law inextricably linked. He told conferees of his commitment to pro bono legal work as a vocational title, and of his concern to promote legal institutions and the rule of law throughout the world. He reflected on the imperative of "do[ing] the right thing" in the midst of dense legal complexities, such as occurred when, as the newly elected governor of Pennsylvania, he confronted the Three Mile Island near-nuclear meltdown, or when, later in his career, he advised Swiss banks facing claims from Holocaust survivors. Thornburgh is clear that "using law to advance the concepts of justice and fairness for all of God's people—to create a better life, and to contribute to the quality of justice—is what being a good lawyer is all about."

Constitutional law, and especially church-state relations, was a major topic, and PTS could have found no finer lawyer to shape the discussion. Marci A. Hamilton, the Paul R. Verkuil Professor of Public Law at Cardozo Law School (Yeshiva University, New York City), was a former clerk to U.S. Supreme Court Justice Sandra Day O'Connor. Hamilton related her background as counsel for the City of Boerne, Texas, in the landmark 1997 Supreme Court decision *Boerne v. Flores*, which invalidated the Religious Freedom Restoration Act. She also discussed her recent research into more than 500 politically directed sermons delivered in the colonies/states between 1750 and 1820 to demonstrate that Reformed clergy emphasized obedience to the law by all religious bodies without exemption or exception.

Ronald K. Chen, associate dean for academic affairs at Rutgers School of Law, elaborated on the constitutional tension between the First Amendment's mandate of religious neutrality and the guarantee of the free exercise of religion, referring specifically to the policies of the American Civil Liberties Union, of which he is a state and national board member.

The ethicist in the constitutional law triad was Peter Paris, the Seminary's Elmer G. Homrighausen Professor of Christian Social Ethics. He questioned the Constitution's embrace of the "common good" when it sanctioned slavery and the disenfranchisement of women, slaves, and Native Americans. The exclusion of such a large part of the population undercut the text's bold assertion of truly representing "We the People," Paris argued.

A session titled "Law, Ethics, and Medicine: The New Frontier" explored the intertwined legal and ethical issues arising from the increasingly sophisticated use of medical technology. Kathleen Boozang, director and cofounder of the Health Law & Policy Program at Seton Hall University School of Law, surveyed the complicated legal and ethical issues surrounding beginning- and end-of-life controversies, including nutrition, hydration, and respiration. She drew on her background in Roman Catholic moral theology and its natural law tradition. The panel also discussed cloning and stem cell research.

Former Florida Judge Cecilia Martin Moore, now a Presbyterian Christian educator, discussed practical legal issues surrounding end-of-life litigation, citing an ongoing dispute in Florida centering on the continued life support of Terri Schiavo. The heavily litigated and appealed case has drawn national publicity and the legal intervention of Florida Governor Jeb Bush. Nancy J. Duff, associate professor of theological ethics at the Seminary, examined these medical questions from a Protestant ethical perspective, arguing that biblical views of life and death are distinct from the analysis of natural law and natural theology.

In the session "Current Ethical Issues in Business Law," Stephen M. Waters, a founding partner of Compass Partners International L.L.C., former co-chief executive officer of Morgan Stanley Europe, and member of the PTS Board of Trustees Investment Committee, surveyed the culture of Wall Street and American business in the wake of the Enron, WorldCom, Tyco, and other recent financial scandals. He reviewed legislation, such as the 2002 Sarbanes-Oxley Act, meant to curb such abuses.

Karol Corbin Walker, president of the New Jersey State Bar Association and partner at the law firm of St. John & Wayne (Newark, New Jersey), focused on the importance of having an "ethical compass" in the practice of law and described her ongoing determination to communicate this commitment to young lawyers through addresses at New Jersey law schools. She also shared with participants the importance of daily prayer and meditation in both her personal life and professional practice.

Max L. Stackhouse, PTS's Stephen Colwell Professor of Christian Ethics, called for a renewal of the concept of vocational calling in the thinking of legal, business, and church leaders as they confront the ethical challenges of spiritual and secular life.

Panelists and presenters elicited spirited discussion among conference participants on this rich matrix of topics interweaving law and religion. The exchanges continued into conference breaks, a reception hosted by Seminary President Thomas W. Gillespie and Barbara Gillespie at their Springdale home, and even at a worship service that focused on "Christ our Advocate."

John O'Brien-Prager, director of professional studies and a lawyer himself, concluded the conference with a summary of its themes, noting that the event's interaction among legal, ethical, and theological thinkers and practitioners demonstrated Princeton "at its best." Indeed, the Seminary's Center of Continuing Education envisions this conference as the first in a series to assist alumni/ae in specialized ministries such as mental health, hospital chaplaincy, military service, and then again law.

That the conference was a success is no surprise. Sixteenth-century Reformer John Calvin, the theological father of the Reformed tradition in Protestant Christianity, was himself a lawyer/theologian. Calvin wrote an oft-cited legal treatise about the Stoic philosopher Seneca and the need for clemency by secular magistrates. Many legal and theological scholars have noted the similarities between Calvin's *Institutes of the Christian Religion* and the systematic clarity of legal prose. Marci Hamilton documented the profound influence of Calvinists like John Witherspoon (Presbyterian minister, member of Congress, signer of the Declaration of Independence, and the sixth president of the College of New Jersey, now Princeton University) in providing the pivotal insights for the U.S. Constitution's balanced design, exemplified by its separation of powers.

In examining the ethical and theological questions underlying and woven through society's legal structures and practices, the faith, ethics, and the law conference stood in Calvin's shadow. The Seminary remains true to its original plan to provide Christian leadership to a world yearning for ethical guidance. ■

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### "I Will Give You Another Counselor"

by Nancy Conklin

Every year, in order to retain my official status as "retired but in good standing," I swear to the Supreme Court of New Jersey that I am no longer engaged in the practice of law. And though I am very cautious not to dole out legal advice, throughout my ministry I have been presented with numerous opportunities to realize that the lawyer within me is still alive and well.

Two weeks into my first call as an associate pastor in a large church, a man approached me and asked if I had a moment to speak with him. My heart began to race with anticipation as I realized I was about to conduct my first "real" pastoral visit. I ushered the man into my office and invited him to sit on my never-before-sat-upon couch, purchased for moments such as this. The man began to recount his long and sad tale of having recently undergone five surgeries on his right leg and the possibility of facing one more. I listened and interjected where appropriate using the newly acquired tools

for empathetic listening that I had learned in seminary. As soon as it became apparent that his story was drawing to a close, I began to formulate in my mind the prayer I would offer to send him on his way. Finally, the man stopped speaking, looked directly at me, and asked, "So, do you think I have a case?" Momentarily stunned, I quickly looked around the room to see if I had been beamed back to my law office in Princeton. My first pastoral care moment that never was!

On another occasion, I watched out my study window as a parishioner paced back and forth in the church parking lot. Again I thought to myself that something tragic had occurred, and I said a quick prayer to prepare myself for the ministry of presence. Having finally found his nerve, the man walked into my office and dropped a huge binder of papers on my desk. He had executed a living trust and was worried that he had quite literally signed his life away, and asked if I would take a look at it.

Like most pastors, I have sat with parishioners agonizing over decisions to terminate medical life support for their loved ones. In one scenario, I accompanied a wife through a lengthy ethics committee process to get her husband out of the hospital and released into hospice care. Because healthcare was one of my practice areas as a lawyer, on such occasions I have felt like I was suffering from "role confusion."

It wasn't always so clear who was speaking, the lawyer or the pastor.

Women going through bitter divorces have come to me looking for guidance as they try to negotiate the quagmire that is our legal system. In a recent conversation with

one, I heard myself repeatedly saying, "and as your pastor" in an attempt to tend to her emotional pain. I soon realized that my attempts to shift the focus of conversation were misguided. Her immediate concern was her financial status, understandable given that her husband had left her daughter and her destitute.

And so it has been that throughout my ministry I have often felt like a lawyer dressed in priestly garb—a cloak I spent a good deal of energy trying to shed during the first years of my ministry, so wanting to leave my "old life" as an "Esquire" and establish my new pastoral identity as "The Reverend." Looking back I see that I have been on a journey of integration.

It has taken me some time, but I believe I have finally come to understand the true nature of the doctrine of vocation. Vocation isn't about choosing to be a lawyer versus choosing to be a pastor. Both are needed in the kingdom of God. (As someone once said to me, "You should stay in law; we need more Christian lawyers.") Vocation is whatever God-given talents you possess to be a vessel of God's grace in whatever arena God happens to place you at that moment in your life. In both arenas, the church and the law, I have been called by God to live out my core identity as an advocate for others. ■

*Nancy Conklin is a 1997 PTS alumna and serves as designated pastor of Hillsborough Presbyterian Church in Hillsborough, New Jersey. She graduated from Seton Hall School of Law with the J.D. degree in 1989.*

### The Practice of Law and the Work of the Church: The Healing Professions

by Peter M. Suzuki

Twenty years ago, I was a first-year student at Princeton Theological Seminary preparing for the ministry. Back then, the plan was to complete my Masters of Divinity, return to California, and work as a Presbyterian pastor. Things didn't work out that way. Though I did receive my degree, I never made it back to California; I never even left; I became a lawyer. The best-laid plans do sometimes go awry.

Many people find it difficult to imagine that a person of faith could practice law. A friend of mine jokes that I went from working for God to working with people who *think* they're God. Others would argue that faith has no place in the practice of law. I am not convinced that faith can or ought to be so limited. I have been practicing law for almost 15 years, and everyday I feel

prompted, in one way or another, to find where my faith and law practices join hands.

The church has an interest in the practice of law because the legal profession, more directly than any other profession, deals with the establishment of justice in society. I once heard the practice of law described as one of the three healing professions; namely, medicine, divinity, and the law. It is said that these work

toward healing the body, the soul, and society, respectively.

Indeed, society is no less in need of healing than are the first two. There are some healthy societies where people treat each other civilly and fairly and where differences can be worked out without resorting to violence. Other societies are unhealthy, where people mistreat each other and disagreements are often settled by force. According to this "therapeutic" view of the legal profession, the practice of law is about healing society by establishing justice and fairness within it. If the law is the instrument through which justice is established and maintained in society, then the church should certainly have an interest.

I believe that the church's interest in justice would be well served by focusing on the role of law in society. The church stands to improve its social ministry by helping its lawyer members see how the church's mission might be accomplished, or contributed to, through their legal practices.

I feel that lawyers would enhance their law careers and find more meaning in their

work if they adopted a broader vision of their work as ministry. Recently I served on a committee that was conducting research about the future of the legal profession. The goal was to identify trends that are likely to affect society and the legal profession in the future, and to address those trends.

Some important trends we identified were an increased use of technology and the Internet, consolidation of businesses, and globalization. During our discussions, it occurred to me that we had not identified religion as figuring significantly in the conversation. I suggested that religion might be a powerful force in the future.

Everyone around the table acknowledged to the group that religion was important in theory, but we were not able to identify specific examples of how religion might affect society and the practice of law in the future. It seems that lawyers don't do much thinking about religion, and, even if they viewed as a strong factor in their vocation.

Bringing faith to bear on the practice of law is not easy. It's not something we are taught in law school, or in the law firm, or in the church. Yet the church and the legal profession should be able to find common ground for discussions that will be mutually beneficial. I hope that Princeton Seminary will continue its outreach to the legal profession. The conference was a helpful step in bridging the gap between faith and the practice of law. ■

*Peter Suzuki (pictured center), PTS Class of 1985, graduated from Rutgers School of Law and practices business law in New Jersey.*



Photo: Joshua Sutherland